



**MIDDLEBURG TOWN COUNCIL**  
**Regular Monthly Meeting Minutes**  
**Thursday, April 25, 2024**



**PENDING APPROVAL**

**PRESENT:** Mayor Trowbridge M. Littleton  
Vice Mayor Chris W. Bernard  
Councilmember Pamela Curran  
Councilmember J. Kevin Daly (left early)  
Councilmember Morris E. "Bud" Jacobs  
Councilmember C. Darlene Kirk  
Councilmember Peter A. Leonard-Morgan  
Councilmember Cindy C. Pearson

**STAFF:** Danny Davis, Town Manager  
Martin Crim, Town Attorney  
Rhonda S. North, MMC, Town Clerk  
Deputy Town Manager William M. Moore  
Police Chief Shaun Jones

The Town Council of the Town of Middleburg, Virginia held their regular monthly meeting on Thursday, April 25, 2024 in the Town Hall Council Chambers, located at 10 West Marshall Street. Mayor Littleton led Council and those attending in the Pledge of Allegiance to the flag. The roll was called at 7:00 p.m.

**Public Comment**

Donna Strama, 10 Orange Drive, questioned whether the Town had any control over the EV charging station that was installed at the Middleburg Library. She noted that they had so few parking spaces and she wished the station had been installed at the Town Hall instead.

Mayor Littleton advised Ms. Strama that she would need to speak to the County about that. He further advised that there was an EV charging station at the Town Hall.

**Special Recognition by Mayor & Council**

**Council Approval** - Resolution in Memory – Talbot C. Mack

Mayor Littleton advised that Middleburg lost one of the greatest educators and kindest human beings and noted that Talbot Mack taught for decades at The Hill School. He expressed his sympathies to Mrs. Mack and the Mack family. Mr. Littleton advised that Mr. Mack's contributions to the community would live on forever. He read the resolution in memory of Mr. Mack aloud and noted that it would be presented to Mrs. Mack during the upcoming memorial service.

Councilmember Pearson advised that it was a pleasure to work with Mr. Mack at The Hill School. She described her memories of him.

*Councilmember Pearson moved, seconded by Councilmember Daly, that Council adopt a resolution in memory of Talbot Chambers Mack for his support of The Hill School and its students, as well as his service to the greater Middleburg community.*

Vote: Yes – Councilmembers Bernard, Curran, Daly, Jacobs, Kirk, Leonard-Morgan, and Pearson  
No – N/A  
Abstain: N/A  
Absent: N/A  
(Mayor Littleton only votes in the case of a tie.)

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**Public Presentations**

Annual Report – Middleburg Arts Council

Mary Ann Burns, Chair of the Middleburg Arts Council (MAC), reviewed their membership and noted that they recommended the appointment of three individuals to fill vacancies. She reminded Council that their biggest event of the year was Art in the Burg, which would be held on May 11<sup>th</sup>, and noted that they had room for forty-one artists, with more than sixty applying. Ms. Burns advised that they would also have wine and beer vendors and seven food vendors. She reviewed the activities scheduled for that day. Ms. Burns advised that another large project that they worked on was Foxes on the Fence, which was not a Town project. She reviewed the details of this fundraiser, which supported the Middleburg Beautification Committee. Ms. Burns advised that MAC also assisted with the Oktoberfest event, as well as the Christmas Carol event. She reported that the members were talking about developing additional events that would occur during the less busy months, including January, February, March, July, and August. Ms. Burns advised that they were also looking to make better use of The Hill School’s amphitheater and would like to launch a junior artist program that would engage the youth to be a part of Art in the Burg. She reported that the Committee may seek additional funding to support some of these proposed events and activities. Ms. Burns noted that Councilmember Curran was their new Council representative and advised that they looked forward to working with her. She expressed appreciation for the assistance of Town Clerk North, Town Manager Davis, and Business Development & Community Partnerships Director MacIntyre throughout the year.

Councilmember Curran noted that the Committee was a caring group and advised that she was excited to work with them. She questioned whether volunteers were still needed for Art in the Burg and encouraged the audience to volunteer.

Vice Mayor Bernard noted that the Arts Council not only did a good job of representing artists who painted, but also performing artists. He advised that it was pleasure to watch the members work.

Mayor Littleton advised that the events and activities that the Arts Council brought to the town were fantastic. He expressed appreciation for their hard work.

**Public Hearings**

Mayor Littleton reviewed the rules for how the public hearings would be conducted. He advised that each application would be handled individually and explained that if someone wished to comment on each application, they would have to stay for the entire meeting. Mr. Littleton further explained that the Council would review each application using a two-step process, with the first step being to determine whether the applicant met the requirements to be able to apply for a special use permit. He advised that if they did, the Council would then discuss the merits of the application.

Special Use Permit 24-01: Short-term Rental – 800 Old Saddle Drive – Salamander Farms, LLC

Deputy Town Manager Moore reviewed the details of the application for a special use permit for short-term rental use. He noted the property was located in the R-1 District in the Middleburg Residences, which contained larger lots. Mr. Moore advised that this was the only home constructed to date in that section and reported that this particular lot was over 50,000 square feet. He advised that since the Council was last updated on the application, the applicant’s representative filed a property owners’ statement, which represented this application as well as the following two. Mr. Moore further advised that Sheila Johnson, the managing member of Salamander Farms, LLC, submitted a declaration which requested the number of guests that would be allowed under the short-term rental use be increased from the original request for eight to a maximum of ten. He explained that through the declaration, the application was amended to propose a more intense use with more

guests. Mr. Moore reminded Council that during its initial review of the application, the staff raised concerns about the lack of clarity as to whether the application met the requirement that the dwelling would be used primarily for residential use in order to be considered for short-term rental use, which under the ordinance was one hundred eighty-three (183) or more days per calendar year. He reported that the applicant filed a statement that she intended for the property to be used for residential occupancy for one hundred eighty-three days or more per calendar year, "in accordance with her understanding of the definition of residential occupancy". Mr. Moore expressed concern with this statement, in particular when grouped with the applicant's representatives' statements, in which they made an argument that defined "residential use" in a way that was other than how the Town defined it. He explained that when considering this and the verbal statements made by the applicant's representatives during the Planning Commission meeting, there really was no occupant intended for the residence; therefore, it was his suggestion that the application did not demonstrate the home would be used primarily as a residence as required under the ordinance. Mr. Moore noted that in reviewing additional materials provided by the applicant's representative since the Council's April 11<sup>th</sup> meeting, he found that the covenants and a document titled "The Rules for the Middleburg Residences", which was identified as being supplemental to the Declaration of Covenants, prohibited owners and permitted users from parking in the driveway of their lot, provided that limited parking of up to two cars was allowed in the driveway for not more than sixty days per year. He invited the applicant's representative to explain this; however, he advised that it raised the question as to whether the application met the zoning requirement for providing off-street parking for not only a single-family dwelling but also for the special use that was being requested. Mr. Moore reported that the Town received a late submission earlier in the day in which the applicant made the voluntary concession that if the property were transferred in the future, the special use permit would not transfer with it.

Deputy Town Manager Moore reminded Council that, following the public hearing, they could approve the application, approve it with conditions, or disapprove the application. He noted that they were not obligated to act during this meeting and could table consideration of the application if they needed more time to deliberate.

Scott Little, Managing Director of the Salamander Resort, appeared before Council representing the application. He requested that Council approve it. Mr. Little noted Salamander's history of quality and citizenship, as well as their excellent community relations. He opined that nothing in the application changed the way Salamander performed in the community, in its operation of its business, and in being a good community citizen. Mr. Little advised that he and his management team were dedicated to continuing that tradition. He further advised that he had a robust team assembled to control, manage, accommodate, and oversee any occupancy in the houses for which short-term rental applications had been submitted. Mr. Little opined that they were dedicated to ensuring nothing in the applications would detract from that mission.

Prem Devadas, President of the Salamander Collection, advised Council that the resort had maintained a positive, trusting relationship over the years with the Town and community. He further advised that they participated in many things that make the town special. Mr. Devadas noted that they tried to be the best citizens they could be and were responsive to requests from their neighbors. He expressed appreciation for the Town's support. Mr. Devadas noted that during the last meeting, he asked McGuire Woods to assist them with the interpretation of the law and to help find a path forward; however, he acknowledged that this was not the way it worked. He suggested it was not unusual for there to be different interpretations of things legally; however, he noted that he had no interest in conflict. Mr. Devadas advised that he wanted to continue to have a wonderful relationship with the Town. He acknowledged the strong concerns that were expressed during the April 11<sup>th</sup> Council meeting, as well as during the Planning Commission meeting, about the transference of the special use permits and advised that in an effort to allay those concerns, they submitted addendums to the applications allowing for the waiver of that transference. Mr. Devadas explained that Ms. Johnson built this house for her son; however, he changed his mind about it. He further explained that Ms. Johnson wanted to keep the house and use it for her family and friends. Mr. Devadas advised that she also wanted the option to rent it from time-to-time to help defray the costs and ensure it was well maintained under Salamander's rental program. He noted that Ms. Johnson believed Salamander's rental program would allow for the enforcement of the Town's and the property owners association's ordinances and guidelines in order to protect her home and the neighborhood from improper behavior. Mr. Devadas reminded Council that any guest who rented the house on a short-term basis would be required to register at the front desk of the resort. He noted that they had around the clock security and staff to respond to any issues.

Megan Gallagher, 214 E. Marshall Street, thanked the Mayor and Council for their discussion during their last meeting. She also thanked Deputy Town Manager Moore for his memorandums, which provided clarity of the request. Ms. Gallagher asked that Council deny the request, as she believed it failed the residency test and its impact would be too high. She noted the conditions that have been suggested and opined that the one related to providing an annual statement of who stayed there in thirty-day increments could not be achieved by having friends who might be there sometimes. Ms. Gallagher noted the impact of the increase in the size to a maximum of ten guests and advised that ten guests over one hundred eighty days equated to one thousand eight hundred guests per year. She opined that this was not in harmony with the existing community or the zoning ordinance. Ms. Gallagher expressed gratitude that the applicants were willing to waive the transfer provisions; however, she opined that because the applicant did not meet the requirements for consideration, there was no need to go into conditions. She noted the representatives' comments related to the North Jay Street special use permit for short-term rental use and reminded Council that the application only involved a maximum of two guests for a total of three hundred sixty guests a year. Ms. Gallagher suggested that in order for this application to be treated the same, they would need to reduce the number of nights down to thirty-six at ten guests per night. She noted that what was being asked was five times the amount as the Jay Street permit and suggested this was not the equivalent. Ms. Gallagher reiterated that its impact on the community would be much higher. She asked that Council deny the request, as it did not meet the residency test.

John Ross noted that there was a lot about this request that he did not understand and expressed appreciation for the Council's diligence in reviewing the application and asking questions. He opined that this and the other applications had the potential to set a precedence for virtually any residential property in the town to be turned into a "party house" for one hundred eighty days per year. Mr. Ross expressed concern and questioned the number of days that constituted a single period of continuous short-term rental use. He also questioned the number of days of primary occupancy by the owner or a long-term lease holder that would constitute residential occupancy. Mr. Ross noted that the General Assembly recently enacted a bill that would take effect on July 1<sup>st</sup> related to short-term residential use and questioned how that would impact the Town's ordinance. He opined that the impact of the short-term rental use was at odds with the Council's vision for Middleburg as a peaceful residential community, as opposed to as a resort community. Mr. Ross questioned what action the Council must take prior to the effective date of the new State Code provisions. He urged the Council to limit the short-term rental use to no more than sixty nights per year for any single residential property and to grandfather the usage for the currently allowed special use permit on Jay Street.

Donna Strama, 10 Orange Drive, advised that her gut feeling was that this was a bad idea. She noted that there were only ten houses in the Middleburg Residences and questioned what would happen when all forty-nine homes were built if this application was approved. Ms. Strama opined that the property owners would pay for their houses through short-term rental use, which would require the town residents to bear the brunt of the use, and asked that the Council consider what this would do to Middleburg. She questioned why Ms. Johnson, who was a billionaire, needed to rent her house out at all. Ms. Strama asked that the Council not approve the short-term rental applications.

Julie Callen, 606 Stonewall Avenue, advised Council that her home backed up to the Middleburg Residences. She advised that, like Ms. Strama, her gut told her this was wrong. Ms. Callen advised that once the short-term rentals started, it would be hard to stop them. She suggested the Town begin with strict rules and then loosen them. Ms. Callen noted that Middleburg was a small town and expressed concern that as more houses were built in the subdivision, there would be more requests for short-term rental use. She opined that no one brought ten people to a rental for a quiet weekend and suggested they would come for parties and activities that created noise. Ms. Callen advised that the residents on Stonewall Avenue, which backed up to these properties, did not want noise and noted that this was not why they moved to the country. Ms. Callen urged the Council to deny the request.

Liz White, 708 Stonewall Avenue, expressed hope that people who were coming into the community were coming for the same reason the existing residents came. She opined that this was an opportunity for everyone to thrive in a small town, to know the community, and to hear the events that were created because everyone cared about one another. Ms. White advised that she did not want to lose that. She asked that the Council think about all the dynamics that were in play, not just a single thing. Ms. White suggested the need for clarity and questioned the length of the rentals and what would happen if accountability was not present. She questioned who would take care of it if there was an issue that needed to be sorted out. Ms. White also questioned whether there would be a detriment. She questioned who would be held accountable. Ms. White opined that the issue was not about the applicants, but rather was about how things would be set up. She equated this to

setting up the security system for the country and suggested the need to strive to do it well and to hold those who were not following the rules accountable for their behavior. Ms. White questioned how the Council defined Middleburg, what they valued and what they wanted to continue to value. She opined that people came to Middleburg based on what the town was about and because it was a town they could identify with. Ms. White noted that the applicant's representatives spoke about responding to their neighbors and being trustworthy; however, she had multiple examples of their untrustworthiness, including something as simple as not having the streetlights on in the subdivision they managed. She questioned who was accountable for that, as well as the mowing of the lawns where there was tall grass. Ms. White advised that she did not get the accountability she needed and opined that Salamander was not as credible as she would like them to be.

John Pittman, 12 Piedmont Drive, expressed concern about the precedent that would be set for the entire community. He noted the need for fair and equal treatment of all residents in Middleburg and suggested the Council needed to be prepared to approve a special use permit for everyone if they approved this one.

Kathyjo Shea, 21854 Foxcroft Road, advised that she remembered these arguments from when she sat on the Council in 2018 when the ordinance was adopted to limit short-term rentals in private homes. She expressed disappointment that Mr. Devadas and Ms. Johnson were requesting an exemption for Salamander. Ms. Shea expressed appreciation for what Ms. Johnson did for the town; however, she noted that it had rules. She encouraged the Council to apply the rules and to look at whether the town could afford to help every citizen in the way they were being asked to help Ms. Johnson.

Mike Welch, 105 S. Madison Street, opined that this was about an ordinance that was passed by the Council that laid out the special criteria for short-term rentals. He further opined that this was not about Council's opinions, but rather was about what had already been passed for the community. Mr. Welch expressed an understanding of the concerns of those in the room; however, he advised that he expected the Council to behave by the law. He further advised that he did not expect someone to pull the law out from under him if he complied with it as it was written. Mr. Welch suggested that if there was a debate about the law, that was for a future meeting.

There being no further public comment, the public hearing was closed. (Councilmember Daly left the meeting at 8:50 p.m.)

Mr. Little advised that with regard to the parking issue that Deputy Town Manager Moore raised, there was a legacy comment in the original documents that was written when they contemplated there would be more garages, which was before the development was approved. He explained that the idea was that cars should not be parked in the driveways, but rather should be parked in the garages. Mr. Little reported that the Board of Directors amended Section 5D of the document to replace the term "not permitted" with the word "permitted" so the residents would be able to park in their driveways. He noted the comments regarding parties and opined that the renters would more likely be a family of multiple adults and their families. Mr. Little opined that their covenants and restrictions were significant and addressed things like where the trash was to be placed and noise that exceeded the ordinances.

Mr. Devadas opined that there was no basis to characterize these as party houses and advised that there was nothing to suggest that Salamander had ever allowed that kind of environment. He opined that this was an opportunity for generational families to enjoy each other by staying in an accommodation that would allow everyone to be together in a five-star level environment. Mr. Devadas advised that a party house was not something Salamander had ever done and suggested that the kind of people who wanted that did not come to Salamander. He advised that that was not what they were about and that they had ways to control it. Mr. Devadas noted his relationship with the Town over the past nineteen years and advised that he did not want anything to happen to it. He suggested that if anyone had concerns about who would stay in the houses, how they would act or how Salamander would control it, they contact him.

Mr. Little advised that in response to Ms. White's comments, he was aware of the streetlight and mowing issues and noted that they were on his radar.

Mayor Littleton noted that this was the first application of three that were related to the Salamander Resort. He further noted that there was a fourth application that was not. Mr. Littleton opined that a lot of the discussion the Council would have on the first application would feed into the others. He suggested there would be a robust discussion of this application.

Mr. Littleton advised that the Town Attorney was going to give the Council advice from his perspective, which would provide a baseline setting for the Council of the ordinance, including its legal meaning.

Town Attorney Crim explained that a special use permit was a legislative action that was guided by certain rules that were set out in the ordinance. He advised that the grant of authority for special use permits came from the General Assembly and noted that this authority allowed a locality to approve a special use permit with the appropriate safeguards and regulations. Mr. Crim noted that the Council could impose individualized regulations and requirements for properties that were subject to a special use permit, if it granted one at all. He advised that it was a legislative decision as to whether the Council would grant a permit and noted that this had been upheld by the courts, as long as there was some basis in the record that made a denial fairly debatable. Mr. Crim advised that violating someone's constitutional rights required a high standard of review and strict scrutiny; however, a legislative decision in a land use case like this was at the lowest level of judicial review. He noted that the courts provided the greatest of deference to the legislative decision. Mr. Crim advised that in this particular case, the Council was looking at whether the application met the minimum requirements, one of which was whether it was in compliance with or consistent with the Comprehensive Plan. He noted that the Town's Comprehensive Plan had a lot in it with regard to short-term rentals and advised that if an application was not consistent with it, that would be grounds for denial. Mr. Crim noted the references in the Comprehensive Plan to maintaining the character of the town and opined that this would be a valid basis for finding that an application was not consistent with the Comprehensive Plan. He reminded Council that there were also five specific points in the short-term rental ordinance. Mr. Crim noted the applicant's materials asserted that residential occupancy was based on some definitions in the State Code; however, he advised that the issue was whether the short-term residential occupancy was residential use for the purposes of the one hundred eighty-three days required for minimum residential occupancy in the Town's ordinance. He advised that this was clearly not the case and explained that the way the ordinance was written required someone to be a resident, which required at least thirty days occupancy at a time so the one hundred eighty-three-day requirement could be satisfied. Mr. Crim noted that this could be achieved through a number of ways, such as one person for one hundred eighty-three days or five people for thirty days and one person for thirty-three days. He advised that the issue was then how the Council addressed this given the applicant's statements in their submittals. Mr. Crim suggested that one way would be to require that the person(s) who were satisfying the one hundred eighty-three-day requirements be there for at least thirty days at a time and make that a condition of the special use permit. He questioned how the Council could handle long periods when they were gone and advised that this was an enforcement issue that was difficult to say in the abstract. Mr. Crim suggested that if there was a period when no one was living there and there was no clear date as to when the person would return, it would look like the house was not occupied. He suggested the need for consideration of this. Mr. Crim addressed the fact that other applicants have been approved or may be approved in the future and reiterated that special use permits were individualized and were legislative decisions. He further reiterated that the Council was specifically authorized to address individual locations and circumstances that made an application different from others. Mr. Crim advised that the courts have recognized that it was reasonable for localities to say "this property is different from that property" and noted that it did not require a great amount of evidence. He advised that courts were not competent to evaluate that evidence and only had to determine there was some basis for the locality's decision. Mr. Crim advised that the claim that there was discrimination against one person because they did not get the same deal as someone else was defeated by pointing out the important distinctions between the properties, which would include the zoning district; the size of the parcel; the neighbors; and, the character of the area the property was in and the location, such as whether it's a quiet residential area or on a busy public street. He explained that those things all made a difference. Mr. Crim addressed the point about short-term rental use being a commercial use and noted that it was one in the sense that the property owner had to get a business license and pay the commercial transient occupancy tax. He noted that there was a gray line between a hotel and a house that someone lived in all the time and advised that someone had to draw the line. Mr. Crim further advised that drawing the line was a legislative action to identify how far something could go, beyond which, the character would change. He advised Council that the courts were not going to second guess localities, as they were not in the business of drawing lines, only whether someone had stepped over them. Mr. Crim addressed the declaration of the applicant that the property would be used for residential use by "my understanding of the definition" of residential and noted that this was a mental reservation, which was unacceptable. He questioned whether there had been a meeting of the minds and whether the Town and the applicant had the same understanding of the definition of "residential". Mr. Crim advised that based on the first point of whether short-term residential occupancy was residential, this was not the case, which was a flaw in their application. He opined that the mental reservation was setting the situation up for conflict in the future.

In response to an inquiry from the Council as to whether he was saying the application did not meet the ordinance requirements because it was not a residence, Town Attorney Crim advised that that was not exactly what he was saying. He explained that if the Council found the application did not comply with the intent of the Comprehensive Plan, then it did not meet the minimum standards. He further advised that if they found it did meet the Comprehensive Plan, they could make individualized decisions about how many people and how long the property could be occupied for short-term rental use, as well as impose other conditions that would mitigate the impacts of the occupancy as a short-term rental residence.

Mayor Littleton noted that he had some foundational questions. He advised that he re-read the Comprehensive Plan, looked at the application, and had a lot of reservations and major concerns not just about one thing, but about multiple things. Mr. Littleton noted that his biggest concern was whether the application met the qualification for residential occupancy. He reminded Council that the Comprehensive Plan was replete with commentary that the community did not want Middleburg to become a resort town or a transient town. Mr. Littleton advised that Middleburg was a community town of people who lived here full-time or mostly full-time and where families were raised. He noted that the Comprehensive Plan talked about multiple housing options so that all walks of life could make Middleburg their home. Mr. Littleton advised that the word “community” was in the Comprehensive Plan almost eighty times and pointed to the fact of what the Town’s goal was and the sentiment and feeling of the community. He reminded Council that the Comprehensive Plan was only adopted in 2019. Mr. Littleton advised that they looked at the overall approach to meeting the residential occupancy requirement. He noted that Mr. Little stated earlier that Salamander removed the sixty-day parking limitation; however, until he saw it in writing, it did not count. Mr. Littleton reminded Mr. Little that they were asked to provide all their materials by April 15<sup>th</sup> and expressed frustration that they were bringing in major rule changes at the last minute that the Council had to consider on the fly. He read a statement from Salamander’s general rules that stated that “the hotel property and the project, including the lots, residences, and common areas, were integrated physically and operationally as one resort and that all portions of the resort must be operated and maintained consistent with the resort standard, and these rules shall be implemented”. Mr. Littleton opined that the rules that every homeowner was required to live by were based on the fundamental principle that the homes were integrated as the resort and were not individual homes on their own. He advised that this was very concerning and noted that it was an attitude and view of how the homes were viewed and how they were to be operated as a part of the resort, which was not the intent the Town had for its short-term rental ordinance, nor was it in alignment with the Comprehensive Plan. Mr. Littleton noted that Salamander’s rules and covenants prohibited a homeowner that entered into the resort rental program from furnishing their own home and required them to pay Salamander \$600,000 so they could choose the furnishings. He advised that this did not make it feel like these were an individual person’s home. Mr. Littleton opined that the covenants prohibited a person from making it feel like this was their home by putting their own character in it. He noted that each home had an owner’s closet where they locked up their personal items during rental use and opined that it was interesting that this was included in the fundamental design of every home. Mr. Littleton opined that it was already integrated into the architectural planning that the homes would be rented out as a part of the resort. He noted that there had already been discussion of the driveways, which was concerning. Mr. Littleton advised that something that put a cloud over the whole question of short-term rentals was that the covenants said the Salamander Resort had the right of first refusal whenever someone sold their home. He questioned how the homes would ever be residences if Salamander bought them and they were corporate properties. Mr. Littleton opined that based on the \$3,000/night charge, the homes would not be affordable for someone like a jockey and suggested they had become a pure business activity. He advised that another concerning thing was that the rules would never apply to Salamander, as they contained an exemption to properties they acquired. Mr. Littleton noted that Salamander’s representatives talked about all their wonderful rules; however, they would not apply if the resort owned the property. He advised that the totality of these items created a vision that was concerning. He questioned how the Town would have confidence that the one hundred eighty-three days of residential use would ever occur unless someone bought a home and Salamander passed on purchasing it. Mr. Littleton noted that during the last meeting, in response to his inquiry, Mr. Devadas stated that there had been no marketing of the rental program; however, he followed up with a letter confirming that folks have said something a couple of times. He read a quote from Mr. Devadas during the Middleburg Residences groundbreaking ceremony, when he said “We are creating a Salamander vacation rental experience that will allow our guests to experience the resort in different ways. It will be the same five-star expectation, the same five-star experience, but more geared toward families. I think that is something that is going to be great, not just for the resort, but also for the town”. Mr. Littleton noted that there was no mention of residential use, but rather it was all about creating a Salamander vacation rental experience. He advised that in a press release issued earlier this year, it stated that they were excited to be the representative for the resort and, for those who choose to do so, owners had the option of including their home in Salamander’s voluntary luxury rental program. Mr. Littleton opined that the notion that the use of

the homes as short-term rentals had not been put into the public domain and pushed to some degree was not wholly accurate. He noted that he had received calls from perspective purchasers stating that they did not realize there was a zoning ordinance and that it was very directly discussed with them that the rental program was something that was very important to the resort. Mr. Littleton expressed appreciation that Messrs. Little and Devadas spoke to how they would focus on parties and make sure things were kept in order; however, every comment they made was that “the resort was going to do this or maintain this”. He noted that the resort was not applying for the special use permit and advised that the Council needed to hear from Ms. Johnson about how she was going to do those things. Mr. Littleton noted that some five-star resorts no longer existed and advised that no one could give assurances that Salamander would be in Middleburg in perpetuity. He reiterated that it was incumbent upon the property owner to provide the assurances, not a corporate entity. Mr. Littleton reiterated that the Salamander Resort was not party to the application. He advised that these were his concerns and suggested it would be great if Messrs. Little and Devadas could address them. He noted that he felt the application had not met the bar of one hundred eighty-three days of residential occupancy.

Mr. Little responded to the Mayor’s comment about the residences being included in the resort and confirmed this was correct. He explained that it was about control of behavior, design, standards, architecture, vehicles, parking, and all of things in that section of the rules. Mr. Little advised that it was not in the context of the residences and joining the resort in its business activities. He reiterated that it was about control and management. Mr. Little advised that their documents were about ensuring that any short-term rental house or, in the greater context, all of the residences were under the auspices and control of a much more robust set of standards than the town had for the properties outside of the Salamander property.

Mr. Devadas expressed an understanding of the concerns that had been expressed. He opined that it was important to understand that the things Mayor Littleton cited did not just apply if Salamander operated the short-term rental, but rather applied to all the houses with regard to control of the common areas. Mr. Devadas explained that it had to do with the quality of what Salamander had established from an architectural standpoint, a design standpoint, a service standpoint, and a cleanliness standpoint. He further explained that it was a matter of ensuring the houses in the Middleburg Residences, which people equated to Salamander Middleburg, were always going to be at the quality level they defined. Mr. Devadas noted that this was the purpose of the rules; however, he expressed an understanding of how they could be read in a different way. He reminded Council that ten houses had been sold to date, with three of them applying for short-term rental use. Mr. Devadas advised that of the remaining seven, a couple had people who were living in them full-time. He noted that the remainder had not chosen to put their homes in the rental program. Mr. Devadas addressed the rule related to the furnishings for the house and opined that having to pay \$600,000 for furnishings would be a deterrent to having someone rent out their house. He opined that Salamander was not making it easy for them to do so. Mr. Devadas advised that the issue of the owner’s closet was forward thinking and noted that people frequently wished they had a closet, not only for rental purposes, but for when they had friends stay at their home. He noted that while the things the Mayor read looked like Salamander was wanting to rent every home, that was not the reason they included them. Mr. Devadas reiterated that Salamander wanted to ensure their unique neighborhood was always going to be the same quality as the resort and that if someone rented out their house as a short-term rental through the resort, the person would receive the same promise of quality that the resort was known for. He advised that it was never their intention to incentivize. Mr. Devadas noted that he corrected the record with regard to his statements about marketing. He apologized for his comments during the groundbreaking ceremony and advised that he was not trying to hide anything.

Mayor Littleton noted that it was not an issue of whether they were trying to hide anything, but rather was that there was a corporate vision that rentals were high on their priority list. He reiterated that there was no mention of families and neighborhoods during the groundbreaking ceremony – only that it was a great rental experience. In response to a comment from Mr. Devadas that seven of the ten property owners had no interest in renting their properties, Mr. Littleton noted that they had no interest today; however, Mr. Devadas could not guarantee that would be the case in perpetuity, nor could he make that guarantee for every future owner. He suggested the need to stop saying it was only three of ten. Mr. Littleton advised that while the homes had only existed for a year, thirty percent (30%) of them already wanted to be in the rental program. He questioned what would happen in five, ten, twenty-five or thirty years. Mr. Littleton noted that the Comprehensive Plan explicitly stated that the Town did not want a concentration of short-term rentals in new neighborhoods, which meant there were limits.



Mr. Devadas noted that this application was the one they were talking about. He reminded Council that this was an unusually large lot, which was removed from others, and was closer to the commercial hotel than to the core of the town and the Residences. Mr. Devadas asked that the Council consider it the same as the Planning Commission did.

Mr. Little addressed the issue of the right of first refusal and advised that there were a myriad of reasons for it, including to help protect property values. He advised that this was the genesis for Salamander's retaining the opportunity.

In response to an inquiry from the Mayor as to whether a property would become a commercial activity if Salamander bought it, Mr. Devadas advised that Salamander had no interest in owning the houses. He suggested that if there were things that would give the Council comfort in the future, similar to the applicant's waiving the transfer of the special use permit upon the sale of the property, he would be happy to discuss them. Mr. Devadas reiterated that it was never their intent to own the houses they were trying to sell and advised that they only wanted to be able to step in and control the selling process of the homes.

Mayor Littleton expressed an understanding of this; however, he noted that Mr. Devadas would not always be at Salamander. He noted that his successor may be wide open to buying houses as an extension of the resort.

Mr. Little advised that with regard to parking, they would be happy to provide the document that was changed. He noted that Deputy Town Manager Moore's diligence in reviewing the documents was what brought this to the attention of their attorney. He advised that the change was voted upon during a Board meeting yesterday.

Vice Mayor Bernard inquired as to the process for changing the rules and noted that it appeared that the parking rule was changed very quickly. He further noted that the Town was leaning heavily on the rules controlling what went on in the Middleburg Residences.

Mr. Little advised that a board of directors (for the homeowners association) and appropriate governance was required by the Commonwealth of Virginia. He further advised that they had a licensed administrator, who was the resort's property manager. Mr. Little noted that the guidelines were not negotiable regarding property owners associations and advised that theirs was in conformance. He explained that the processes and protocols were controlled by the Commonwealth of Virginia. Mr. Little reminded Council that the Town requested the documents, which were provided, and advised that the declaration identified the parameters for making significant modifications. He advised that changes were not something Salamander could do without bringing in the neighborhood and the members. In response to an inquiry from the Council, he confirmed the property owners must come in to make the changes and that the Board of Directors, which were all property owners, could change the covenants and declarations. He confirmed they were in the deed and could not be changed once they were on the record. Mr. Little advised that the homeowners association was structured to be tied to the obligations that were tied to the declaration.

Councilmember Curran noted the discussion about intent. She advised that while she was fairly new to Middleburg, it was her understanding that the intent was that the Town would have forty-nine new neighbors who would shop and dine in Middleburg, as well as the guests of the one hundred sixty-eight room resort. Ms. Curran suggested that what she was hearing did not align with the Comprehensive Plan. She acknowledged that Salamander could control what went on in the resort; however, she questioned how they would control traffic, noise, and people in the subdivision. Ms. Curran questioned what changed with Salamander's intent and noted that the forty-nine homes with neighbors was not the same as short-term rental use.

Mr. Devadas advised that the number of rooms at the resort had not changed and noted that there was never any interest in changing it. He explained that the forty-nine homes were allowed by-right when the property was acquired; however, when Salamander went through the resort's approval process, it proffered a new residential plan that limited the maximum size of the homes on a square footage basis. Mr. Devadas further explained that they ended up creating an R-1 and an R-3 District, with different sized lots and footprints in each. He reported that the first owners of one of the homes spent a lot of time in Middleburg, and even opened a bookshop here, and were assimilating into the community. Mr. Devadas advised that the second home was owned by a full-time resident who traveled a lot. He noted that there were other people who owned homes that were not full-time residents because they lived elsewhere, but who enjoyed their Middleburg homes

whenever they could. Mr. Devadas advised that Salamander understood that the most important thing about the short-term rental ordinance was that if someone was going to rent their home out through Salamander, they had to focus on making sure they were complying with the ordinances of the Town for the good of the neighborhoods. He further advised that Salamander would apply all its resources to do that.

Councilmember Curran noted that she had heard from residents and former members of Council who said they supported the Residences originally because of their intent; however, that was not where they were now.

Mr. Devadas noted that Salamander had come to the Council with two applications and advised that they had not had a change in intent. He opined that there may be a misunderstanding with a lot of people and advised that he would be happy to discuss that with Councilmember Curran.

Councilmember Kirk expressed disappointment with Salamander. She opined that the intent was clear that the resort was to have one hundred sixty-eight rooms. Ms. Kirk further opined that the Council, at that time, made it clear that the homes were to be homes, not rentals for the resort, which was what the first application represented. She opined that, if approved, it would allow ten more people to be brought into the four rooms in the house and advised that this was not what the Council intended. Ms. Kirk advised that they wanted people to live in the houses. She further advised that she would not agree to allow up to ten people for up to one hundred eighty days to rent the property and suggested that would not be conducive to anyone who lived around it. Ms. Kirk noted that Salamander's representatives mentioned other private agreements and questioned whether there were other agreements of which the Council was not aware that they should know about before voting on the application. She opined that it sounded like things were being hidden.

Mr. Devadas confirmed that nothing was being hidden. He advised that when Salamander entered into an agreement to manage a rental, it had obligations and the owner of the house had obligations. Mr. Devadas explained that the agreement was what facilitated those and advised that it was a private agreement. He further advised that the owner's obligations were to have absolute responsibility to follow the statutes.

Mayor Littleton noted that if Salamander had a private lawn cutting contract that was fine; however, he noted that it was the Council's job to evaluate the application based on the elements. He further noted that the applicant's representatives provided documents that had not been previously seen, including by the Planning Commission. Mr. Littleton advised that there was a substantial amount of information that affected the Town's review of the application. He noted that the applicant's representatives were saying the Planning Commission got it right; however, they did not have all the details. Mr. Littleton advised that those elements really mattered.

Mr. Devadas expressed sorrow that Councilmember Kirk was disappointed and advised that they had not misled anyone. He opined that once passed, the short-term rental ordinance applied to every home in Middleburg and that Salamander would apply it in the same way as anyone else.

Councilmember Kirk opined that Salamander was going back on its word when they previously said the houses were going to be homes and now, they were not.

Mr. Devadas opined that they were homes and noted that not all of them were applying to be short-term rentals. He advised that most of the homes were being used as homes.

Councilmember Jacobs noted that he voted against recommending approval of the application during the Planning Commission meeting and advised that he had not heard anything that would make him change his vote. He agreed the Town and Salamander's relationship was wonderful; however, it was not relevant to this discussion. Mr. Jacobs further advised that the potential damage to a property owner from not getting a special use permit and, therefore, not being able to defray some of the expenses associated with the purchase of a home was also not relevant to the Council's consideration. He explained that the Council had to look at the ordinance and determine the facts as they applied to the ordinance. Mr. Jacobs advised that the ordinance did apply to every home in Middleburg and noted that there was no carve out, either way, for the resort. He noted that he had planned to bring examples of research about the detrimental impact of short-term rentals on communities around the country, in particular on small communities; however, he did not feel the need after listening to

the residents during the public hearing. Mr. Jacobs opined that the residents knew what was at stake and noted that they participated in the drafting of the Comprehensive Plan. He advised that the residents expected the Council to uphold the ordinance and the Comprehensive Plan. Mr. Jacobs encouraged the Council to move to a vote and reiterated that he would vote “no” on the application.

Mr. Devadas explained that the resort’s relationship with the town was how he arrived at recommending the applicants waive their right to have the special use permit transfer with the property when it was sold. He advised that based on the last meeting, he thought that was the most important issue that was posed. Mr. Devadas suggested that if there were other issues, he would appreciate the opportunity to continue to have a conversation.

Councilmember Leonard-Morgan noted that every member of Council was a resident of the town. He opined that those who moved here did so for the small-town community feel. Mr. Leonard-Morgan noted that the members of Council knew their neighbors. He acknowledged that Salamander was a wonderful partner with the Town and a great place to go; however, he advised that the Council’s job was to find the right balance. He noted the ordinance, which stated that special uses should not endanger the public health, and advised that a lot of anxiety, emotions, concern, and worry had been expressed, which could manifest itself into mental health issues. Mr. Leonard-Morgan advised that he would like to find out more about the impact of short-term rentals on the mental health of residents. He noted a recent example of fifty Lamborghinis that flew through town and did burnouts and opined that this could happen more frequently because of having very wealthy people renting and staying in the houses every weekend. Mr. Leonard-Morgan noted the number of children and animals in the neighborhood and expressed concern about the public safety and public health of the residents. He suggested the need to know more before voting on the application. Mr. Leonard-Morgan noted that the applicant’s representatives had constantly compared their application to the Jay Street one; however, he advised that that only involved two people staying for one hundred eighty days per year, compared to ten people staying one hundred eighty days. He further noted that the Jay Street property was located in the commercial area of town. Mr. Leonard-Morgan reiterated the need for more information before he could vote on the application.

Mr. Devadas advised Council that he would love the opportunity to provide more information, to answer questions and to figure out a way to allay the concerns. He opined that Salamander took it for granted that they knew how to manage the issues and that they would manage them at the highest level because of the resources they had and because of their commitment to doing things right. Mr. Devadas advised that he would like the opportunity to discuss this further, even if it took more time. He noted that he wanted to move forward with no conflict, misunderstandings, remorse, or regrets and to get to a solution that made people comfortable.

Vice Mayor Bernard noted that Mr. Devadas had said multiple times that he would love to talk to the Council about the application. He reminded him that they were the ones who applied for the special use permit. He noted that it was up to them to put their best foot forward and up to the Council to vote on the application. Mr. Bernard advised that no one had reached out to him to ask him what he or his neighbors thought.

Mayor Littleton noted that since the last discussion of the application, the applicant was asking for more, not less. He further noted that the applicant’s representatives heard the concerns that were expressed during the last meeting that the use was too much and too intense, yet they asked for more.

Mr. Devadas advised that they requested more to conform to the ordinance. He noted that he did not realize this was a pressure point and advised that he would make it eight in a second. Mr. Devadas advised that he took it for granted that they should come to the meetings and have a public discourse. He further advised that he didn’t seek a private one, as he didn’t want to be viewed in a different way. Mr. Devadas noted that he was willing to do so. He advised that what he heard the most during the April 11<sup>th</sup> meeting was the transference issue and noted that he spoke with the property owners about it and responded. Mr. Devadas advised that he was happy to schedule meetings with individual members of Council.

Mayor Littleton expressed appreciation that Mr. Devadas did not want to do things in secret; however, he noted that property owners met with members of the elected body all the time. He further noted that Salamander had meetings with individual members of Council when they were planning the resort. Mr. Littleton opined that this was not something to be concerned about.

Mr. Devadas noted that the Gillespie’s reached out to him and they met to discuss their application. He further noted the application currently before the Council and advised that he was happy to have follow-up conversations about it. Mr. Devadas opined that during the prior meeting, there were three major concerns raised, including whether the application met the definition of residential occupancy. He suggested that the only thing that was different between the Council and the applicant was whether they intended to use the property for residential use as they understood the definition.

Mayor Littleton noted that the Town received the legal memo from McGuire Woods as to what they thought “residential use” meant. He acknowledged that the transference issue was a major discussion item during the last meeting. Mr. Littleton advised that the third concern was the intensity of the use in terms of days, size of the homes, and number of vehicle trips and noted that this was absolutely discussed. He advised that the Council disagreed with Messrs. Little and Devadas when they compared their applications to the Jay Street one, which only involved two people. Mr. Littleton noted that it was not simply that all that was brought up was the transfer of the license. He noted that he did not vote unless there was a tie; however, from the outset, he had said that he didn’t believe the application satisfied the one hundred eighty-three-day residential occupancy requirement to even be considered for a special use permit.

Mr. Devadas noted that their attorney submitted an explanation for the one hundred eighty-three-day requirement. He asked for the opportunity to briefly summarize that position.

Mayor Littleton noted that the Town Attorney disagreed with their attorney. He advised that the Councilmembers had read their memo, as well as had the staff’s input.

Councilmember Kirk clarified that her comment about not wanting the Salamander houses to be treated differently referenced the original conversations about the houses being houses and becoming a part of the neighborhood.

*Councilmember Jacobs moved, seconded by Councilmember Kirk, that Council disapprove SU 24-01 for the following reasons: (1) the development will not comply with all requirements of this ordinance - specifically, the applicant has not demonstrated that the dwelling will be used primarily for residential use - used for residential occupancy one hundred eighty-three (183) days or more per calendar year – as required in Section 61.A of the Ordinance; (2) the development will not be in harmony with the area in which it is to be located – specifically, the intensity of the use as requested, with as many as ten transient occupants for as many as one hundred eighty (180) nights per year, would not be in harmony with the surrounding residential area; and, (3) based on the reasons stated in the record of the public hearings and others meetings of the Council and the Commission on this application, including the Town’s 2019 revisions of the Comprehensive Plan.*

Vote: Yes – Councilmembers Bernard, Curran, Jacobs, and Kirk  
No – Councilmembers Leonard-Morgan and Pearson  
Abstain: N/A  
Absent: Councilmember Daly  
(Mayor Littleton only votes in the case of a tie.) (by roll call vote)

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Special Use Permit 24-02: Short-term Rentals – 606 Martingale Ridge Drive – Alexander Perdikis

Deputy Town Manager Moore reported that the Town received supplemental materials from the applicant’s legal counsel since the Council last discussed the application. He noted that the staff originally had concerns about the threshold requirement for the residential occupancy and advised that there was one verbal statement made by the applicant’s representative during the Planning Commission meeting that the owner intended to use the residence in compliance. Mr. Moore cautioned against relying upon one verbal statement. He advised that there was nothing in the written materials that mimicked the verbal statement; however, there was a declaration signed by the applicant that included the same statement as was included in the previous application about intending to use the property for residential occupancy one hundred eighty-three days or more per calendar year in accordance with his understanding of the definition of residential occupancy. Mr. Moore advised that this applicant was a party to the joint property owners’ position statement in which the applicant’s counsel made their case for defining “residential use” in a manner that was not consistent with the way the Town defined

it. He reported that the declaration also increased the intensity of the use to ten guests per night, versus the original application that requested eight guests. Mr. Moore reminded Council that this application was for a smaller lot in the R-3 District of the Middleburg Residences subdivision. He noted that the lot exceeded the minimum requirement for consideration. Mr. Moore advised that it was surrounded to the east, west and south by existing houses and one that was under construction.

Scott Little, Operations Manager of the Salamander Resort, advised Council that Salamander did not require anyone in the short-term rental program to purchase furniture through Salamander; however, there was a quality standard that was required. He noted that he was not aware of what furniture was in the Perdikis or Gillespie homes. Mr. Little advised that the Perdikis' said they were a busy family. He further advised that they bought the home because they loved Middleburg, wanted to be a part of the community and would do so as often as they possibly could. Mr. Little advised that they envisioned being there a couple of weeks a year and hoped to be able to defray some of their costs through the rental program.

Prem Devadas, President of Salamander Hospitality, emphasized that Salamander would exercise the highest levels of managing the ordinance. He advised that this application was different than the previous one in that Ms. Johnson was not going to live in the home for one hundred eighty-three days a year, nor was her family. Mr. Devadas noted that this was not the case with Mr. Perdikis.

John Walburn, an attorney for McGuire Woods, appeared before Council representing the application and advised that he wanted to address some of the Town Attorney's comments. He acknowledged Section 61 of the zoning ordinance with regard to residential occupancy and opined that the question was what "residential occupancy" meant. Mr. Walburn noted that Town Attorney Crim and Deputy Town Manager Moore stated that it was defined in the ordinance; however, he opined that the definition did not exist. He further opined that what Mr. Crim said was the definition was a test that was almost impossible to meet. Mr. Walburn noted that Mr. Crim indicated it was one hundred eighty-three days of occupancy by a resident, and that the only days that counted were thirty consecutive days of occupancy. He opined that Mr. Perdikis could live in the home for three hundred twenty days a year and still not qualify as a resident under Mr. Crim's definition if he left every weekend. Mr. Walburn reiterated his opinion that the definition did not exist in the ordinance, but rather said that the residential use had to be one hundred eighty-three days of residential occupancy. He advised that the Virginia Supreme Court had addressed this and noted that he cited two cases. Mr. Walburn noted that in the first case, the court looked at the question of short-term rentals and whether they were a commercial or residential use and advised that they said that short-term rentals were a residential use, not a commercial one. He advised that the Supreme Court also addressed the question in a similar case out of Fairfax in 2021.

Mayor Littleton noted that the Council saw the cases and read the memo provided by Mr. Walburn.

Megan Gallagher, 214 E. Marshall Street, asked that the Council disapprove the application and opined that it failed to meet the requirements with regard to occupancy and the uses' impact. She further opined that the impact would be even worse with ten guests. Ms. Gallagher advised that she drove by the property and noted that it was twenty-two feet away from the bedroom in the adjacent home. She acknowledged that it was a larger lot; however, she noted that it was in a denser neighborhood. Ms. Gallagher further noted that ten guests for one hundred eighty nights per year equated to one thousand eight hundred people. She noted the statements that it would not be rented the whole time; however, she opined that there was no promise to that effect. Ms. Gallagher thanked the Council for their last vote and asked that they repeat it.

Liz White advised Council that she was a mental health professional and noted that she looked up the mental health aspects of short-term rentals. She reported that one of the aspects of living next door to a home that was in a state of rental was the unpredictability with regard to the sense of unsafeness of the unknown. Ms. White noted the psychological impact of knowing your neighbors, even if you were not close friends. She advised that the uncertainty of not knowing who was in the house next door could cause young children to develop more social anxiety because of the lack of a familiar person. Ms. White acknowledged the safety sense that came from knowing one another.

Mike Welch, 105 South Madison Street, disagreed with the previous speaker. He noted that he lived next door to a busy restaurant; however, he knew what he was moving next to. Mr. Welch expressed an understanding of what some of the speakers were saying. He suggested that for those who recently moved to Middleburg, they knew they were moving next

to the Salamander Resort and the subdivision that was being built. Mr. Welch acknowledged the understanding from twenty years ago; however, he advised that time moved on and things changed. He suggested this was about controlling the change and making sure it was done in a good, coherent way.

Donna Strama, 10 Orange Drive, advised that she still had a bad feeling about this. She questioned whether this application was for the home that had been unoccupied for an entire year and opined that it was. Ms. Strama questioned whether the residents who paid over \$1 million for these houses knew the next-door neighbor was going to want to use them as a short-term rental. She agreed with the concerns regarding safety. Ms. Strama questioned why the houses were built to be so large and opined that they had been thinking about short-term rentals for a while.

Karen Jackson, 500 Stonewall Avenue, noted that she had lived in Middleburg for thirty-four years and owned a business in town. She advised that she was opposed to the request. Ms. Jackson noted that when she looked out her back, she could see the two houses that were being proposed for short-term rental use, including their swimming pools, hot tubs, and barbecue grills. Ms. Jackson opined that they would be used as “party houses” and noted that the girls who visited her shop were here for parties and reunions. She opined that they were not sleeping four to a room at the resort, but rather were all piled into one room. Ms. Jackson expressed concern that this could happen in these cases as well given the expensive rent. She noted that they would hold dinner parties and advised that there was no way of knowing who or how many people would come. Ms. Jackson opined that there was no way that Salamander or the police could control it. She advised that the people who came here didn’t say they loved the zip line or restaurants, but rather said they loved the town and the people. Ms. Jackson opined that short-term rentals would change this. She noted that the road to the Salamander subdivision went through her backyard and advised that she did not know whether she could take one thousand eight hundred vehicle trips per house. Ms. Jackson opined that this would not just be three houses. She advised that the houses were not selling as fast as Salamander envisioned and expressed concern that they would end up being investment houses. Ms. Jackson noted that Salamander was selling them to make money; whereas, the town wanted neighbors, which was what they were told it would be. She advised that she did not want a bachelor party occurring in her backyard every Saturday night.

Mary Gillespie, 601 Martingale Ridge Drive, noted that the previous speaker said her swimming pool was visible from her backyard and opined that this was incorrect, as her house was not directly behind the speaker’s home. She noted that the road was included in the plan. Ms. Gillespie questioned why any of this was being debated and suggested that all of it should have been debated before the ordinance was adopted. She acknowledged the comments related to mental health and safety concerns and noted that Salamander’s guests had been in town for ten years. Ms. Gillespie further noted that they walked through her neighborhood, as did the residents from Ridgeview. She advised that she did not live in fear because there were strangers there from the Salamander Resort, nor was she worried about the mental health aspect of not knowing people who walked through town. Ms. Gillespie noted that this was the fifth meeting where she had listened to public concerns and advised that she would talk about how she had tried to address them when her application was under consideration. She noted that there was an ordinance in place. Ms. Gillespie agreed that many of the concerns that had been raised were valid; however, she suggested they be debated when the Council reconsidered the ordinance. She noted that her application was submitted four months ago under the current ordinance. Ms. Gillespie advised that she respected the comments from the residents and hoped to become friends with many of them. She questioned why things were being considered that did not specifically apply to her application.

There being no further public comment, the public hearing was closed.

Mr. Little advised that he could not respond to the question of whether the house had been unoccupied for a full year, as he had only been with Salamander for three months. He noted that there was a house that was under construction that had not been finished for some time due to indecisions related to furnishings. Mr. Little advised that there were families with children who lived in the subdivision, including the Gillespie, Morrow, and Perdakis families. He noted that as to the comments about the hot tubs, there was a tremendous amount of screening going in. Mr. Little advised that he had already responded to several inquiries from neighbors about their views and how Salamander could help. He noted that he was fully engaged with the residents along Stonewall Avenue, who had legitimate and sometimes not legitimate questions. Mr. Little advised that they were still addressing their concerns. He noted that Salamander only had a handful of suites that contained sleep sofas and advised that they would never allow anyone to have more than two people in a king bed. Mr. Little advised that Salamander had nothing to do with the Lamborghini parade that occurred. In response to inquiries from

the Council, he advised that he could not say when the Perdikis' took occupancy of their house. He noted that they were picking furniture. Mr. Little advised that he could not say how many nights the Perdikis' have spent the night in the house since the occupancy permit was issued. He noted that there was an issue recently when some of their guests who occupied the house mistakenly used the wrong driveway. Mr. Little advised that he did not know whether the Perdikis' have ever actually spent a night in their house.

Deputy Town Manager Moore advised Council that the Perdikis' were issued an occupancy permit on April 27, 2023. In response to an inquiry from the Council, he confirmed they had had the home for a year.

Councilmember Kirk noted that the applicant's representatives indicated that the Perdikis' wanted to rent the house to help defray the costs, which she understood; however, she suggested that no one would buy a house they could not afford to pay for. She opined that it was wrong if they bought it thinking they would rent it so they would not have to pay the entire cost.

Councilmember Jacobs advised that he was troubled by the application because there were key questions to which the Town did not have any answers, the most important of which was whether it even qualified for consideration of a special use permit due to the residential occupancy question. He noted that he did not know whether it would be better to table or disapprove the application.

Councilmember Leonard-Morgan advised that while he was not required to be in attendance, it would have been nice if Mr. Perdikis had been present so the Council could meet him. He noted that when talking to someone in person, it was about the neighborhood. Mr. Leonard-Morgan expressed shock that the occupancy permit was issued a year ago and no one had lived there. He advised that he was not comfortable with the residency piece of this application and opined that it did not feel like this was ever going to be a real home.

Mayor Littleton advised that he and Vice Mayor Bernard walked by the house often and had never seen anyone there. He further advised that he was not comfortable the burden of the residential occupancy had been met. Mr. Littleton noted that the Council could either table action or vote upon the application.

Councilmember Kirk questioned why the Council should table action on the application. She noted that the Perdikis' had owned the house for a year, and no one had lived in it.

Mayor Littleton noted that the Council did tell the applicants they wanted to give them a disposition during this meeting.

*Councilmember Leonard-Morgan moved, seconded by Councilmember Kirk, that Council disapprove SU 24-02 for the following reasons: (1) the development will not comply with all requirements of this ordinance – specifically, the applicant has not demonstrated that the dwelling will be primarily for residential use, i.e. used for residential occupancy one hundred eighty-three (183) days or more per calendar year, as required in Section 61.A of the Ordinance.*

Vote: Yes – Councilmembers Bernard, Curran, Jacobs, Kirk, Leonard-Morgan, and Pearson

No – N/A

Abstain: N/A

Absent: Councilmember Daly

(Mayor Littleton only votes in the case of a tie.) (by roll call vote)

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Special Use Permit 24-03: Short-term Rental – 601 Martingale Ridge Drive – Mary & Tom Gillespie

Deputy Town Manager Moore reported that the property was located in the R-2 District, which was on a smaller lot relative to the large lot section of the Middleburg Residences. He advised that the lot was 25,000 square feet and noted that the minimum lot size was 10,000 square feet. Mr. Moore reported that this particular lot was the largest one in the R-3 section of the subdivision. He advised that it was buffered on the east and south sides by the homeowners association's open space. Mr. Moore noted the seventy-five-foot open space buffer between the rear of the lot and the rear of the lots on Stonewall Avenue. He reported that the applicants included an enhanced landscape plan for their property as a part of their application

materials. Mr. Moore noted that this was important because the property backed up against an existing developed area of the town, which was subject to a higher scrutiny under the Comprehensive Plan. He opined that the applicants had gone to great lengths through their enhanced landscape plan to mitigate the impacts of the short-term use through the buffering of their backyard area. Mr. Moore noted that while the previous two applications lacked clarity with regard to the intended use of the property as a residence, the owners have confirmed in the updated application materials that they would meet the requirement that the house be occupied residentially at least one hundred eighty-three days per year. He advised that while they enjoined in the joint owners statement filed by McGuire Woods regarding the definition of residential use, the applicants sent an email, which was included as an attachment to their application, stating that regardless of the memo submitted by McGuire Woods, they intended to satisfy the residential usage requirements even without the points cited in that memo. Mr. Moore opined that they were saying they would not rely on a different interpretation of residential occupancy than the Town had and would meet the requirement as the Town defined it. He advised that they have also offered two additional amendments to their application, which were to reduce the number of guests from ten to eight and to reduce the number of nights of short-term rental use from one hundred eighty to one hundred twenty per year.

Tom Gillespie, 601 Martingale Ridge Drive, introduced himself and noted that he also read the Town's Comprehensive Plan.

Mary Gillespie, 601 Martingale Ridge Drive, noted that she and her husband lived in Great Falls, Virginia; however, they liked Middleburg. She advised that they were excited to transition their lives from being parents to empty nesters in two years so they could live in Middleburg full-time. Mrs. Gillespie noted that they got their occupancy permit last summer and advised that it was their intention to be in Middleburg as much as they could with friends and family. She advised that this was not a money making operation for them and explained that they just wanted to cover some of their costs while they transitioned to Middleburg. Mrs. Gillespie opined that this was the intention of the short-term rental ordinance and advised that when they closed on their lot, they believed they met the criteria. She noted the staff memo that indicated they did meet the criteria. Mrs. Gillespie advised that as far as community, they had enjoyed meeting people in Middleburg and had hosted a few gatherings with people they met through the Middleburg Community Center. She offered to volunteer at Art in the Burg if extra hands were needed. Mrs. Gillespie noted that they intended to and were already investing in the community aspect of their residency. Mrs. Gillespie advised that while they had every confidence the resort would do a good job of managing their property, they went with another firm, Loudoun Stay, who had a track record in Loudoun County of providing concierge level services. She noted that they knew the kind of clientele they were looking to host in their home and would personally vet the people based on criteria she and her husband had set. Mrs. Gillespie advised that they did not want partying to occur in their home, nor did they want a lot of wear-and-tear on it. She further advised that they wanted to be good members of the community. Mrs. Gillespie noted that Loudoun Stay would meet their guests at the door and advised that there would be a decibel monitor installed in the home to ensure any noise was not too intrusive. She explained that Loudoun Stay would be alerted if the decibel consistently went above a certain level. Mrs. Gillespie advised that they were members of the homeowners association, which included security services to keep their community safe and to ensure a peaceful community. She noted that they also saw members of the Middleburg Police Department on Martingale Ridge Drive often. Mrs. Gillespie offered to share her telephone number with her neighbors in case there was an issue and advised that she was not looking to attract guests who would cause one. She advised that Loudoun Stay would conduct a background check on any potential renters. Mrs. Gillespie noted that they decorated their house with the help of a local resident and assured Council that her budget was nowhere near \$600,000. She reminded Council that since they submitted their original application, they removed the right to convey the special use permit with the transfer of the property; reduced the number of nights of short-term rental use by thirty percent; and reduced the number of guests by twenty percent. Mrs. Gillespie noted that they were assured their application would be reviewed based on its own merits. She advised that she was also told there were concerns that short-term rentals would have an adverse impact on the community, which must be considered before an application could be approved. Mrs. Gillespie questioned what an adverse effect was and whether limiting the number of days of short-term rental use and the number of guests would remedy those effects. She advised that they were trying to address the community's comments, as well as those heard during their individual meetings with the Mayor and a member of Council. Mrs. Gillespie noted that of the forty-nine homes that were approved in their subdivision, it was presumed that they would have families and people in them who would use Town resources. She advised that the forty-nine homeowners were taxpayers. Mrs. Gillespie opined that if they all lived in the homes, they would put more of a strain on the community than the scenario she and her husband presented.



Mr. Gillespie expressed an understanding that there was a lot to consider in general. He noted the talk about the character of the town, which they understood and advised that they were in alignment with that. Mr. Gillespie noted the existing ordinance and advised that when they bought their house, they understood the criteria in it. He reminded Council that they agreed from the beginning to voluntarily agree to not convey the special use permit to the next owners of the house. Mr. Gillespie advised that after hearing the community's concerns during the last meeting, they voluntarily agreed to reduce the number of people from ten to eight and to reduce the number of nights of short-term rental use from one hundred eighty to one hundred twenty. He asked for approval of their application with the conditions they suggested, which were based on previous discussions.

Mrs. Gillespie noted the staff's memo, which contained potentially new conditions for the Council's consideration. She further noted that one of them would require that they provide an annual report listing the individuals who stayed in their home as a part of the residential use requirement. Mrs. Gillespie advised that they were willing to do that; however, she questioned how far things were going when she had to say when her twenty-year-old daughter was using her home.

Megan Gallagher, 214 E. Marshall Street, advised Council that she was supportive of the application with the conditions as recommended. She expressed gratitude to the Gillespie's for having engaged at multiple levels with the Council and Planning Commission. Ms. Gallagher acknowledged that they offered to roll back the numbers; however, she opined that there was still a disconnect with regard to the question of scale. She noted that even at eight guests for one hundred twenty nights, this equated to nine hundred sixty different guests unless the same people rented it over and over. Ms. Gallagher suggested the number of nights be reduced to thirty. She advised that she had no problem with the homeowners attesting to the residency and opined that what was being asked was being overstated. Ms. Gallagher noted the Gillespie's desire to help cover the costs of the house and suggested they do so through a long-term renter for thirty days.

Linda McKenna, 105 South Madison Street, disagreed with the previous speaker. She opined that the Council needed to consider the ordinance and not feelings. Ms. McKenna noted that the Gillespie's were lovely people and advised that when she saw her for the first time, her mental health was not disturbed. She opined that people were speculating. Ms. McKenna reiterated that the Council should consider facts, not feelings. She advised that she supported what they were asking for.

Donna Strama, 10 Orange Drive, agreed the Gillespie's were lovely people and advised that she was glad they were moving to Middleburg. She opined that it made a big difference that the people who owned the house would come stay in it. Ms. Strama agreed with Ms. Gallagher that the approval should contain a lot of stipulations. She noted that she grew up in a house with a swimming pool and advised that, buffer zone or not, people on vacation wanted to have fun in the pool even if it was 10:00 p.m. Ms. Strama noted that when Mrs. Gillespie spoke during the last meeting, she was nervous when she talked about having spent \$30,000 on additional parking. She asked that the Council reconsider voting for this application and advised that she thought it should be denied.

Julie Callens, 606 Stonewall Avenue, noted that her house backed up directly to the rear of this one. She advised that she hoped there would be no late-night pool parties. Ms. Callens expressed hope that Salamander would replace some of the dead trees in the backyard that were intended to provide a buffer. She questioned the number of nights the Gillespie's had spent in the house since they moved in last summer. Ms. Callens expressed appreciation that they were representing their application in person. She noted that this question was up to the Council; however, she still felt the same way about the application.

Gary Nickelson, 23334 Chimneys Lane, thanked the Gillespie's for appearing in person and noted that it made a difference versus sending a lawyer, who didn't understand Middleburg. He noted that he was a big supporter of personal rights, including property rights; however, he understood the community's concerns regarding short-term rentals. Mr. Nickelson advised that almost every house that had been sold in his area had become a short-term rental and advised that there was a pattern in that people came in on a Friday night and wanted to have a bonfire before going off to do whatever they did on the weekend. He noted that he had animals on his farm and occasionally, someone would come onto his property to look at them, which he had to deal with. Mr. Nickelson noted that the Salamander Resort was a great partner with the non-profit he was associated with and acknowledged that while that was not a part of the special permit application, he believed it was something that should be considered. He advised that as to property rights, there should be a compromise and suggested the number of nights be somewhere between sixty and ninety. Mr. Nickelson noted that the short-term rental ordinance

came about because the Town needed something on the books and that the Council included one hundred eighty days with the thought of reviewing it later. He suggested that later was now. Mr. Nickelson further suggested the need to consider what the future would hold. He advised that whatever the Council decided, he would support; however, he believed sixty days was probably what should be approved.

There being no further public comment, the public hearing was closed.

Mr. Gillespie expressed an understanding of some of the passions that had been expressed; however, he noted that people were assuming the worst intentions and outcomes. He advised that he didn't know how he could prove a negative. Mr. Gillespie asked that the Council understand his point of view, which was that he didn't know how to counter what had been said. He advised that the assumption was that everything would go completely wrong and reiterated that there was no way to counter that. Mr. Gillespie advised that if his family of five lived in the house year-round that would be one thousand eight hundred twenty-five people, which was more than nine hundred sixty people resulting from eight guests for one hundred twenty nights. He questioned the difference in terms of intensity.

Mrs. Gillespie explained that the reason they made their driveway larger was because it was a one-lane driveway and because they had the biggest lot in their area, so they had the extra space to enlarge it. She further explained that the cost was worth it from a resale value and because their children had cars. Mrs. Gillespie noted that she had met two neighbors behind her and advised that she would like to meet Ms. Callens. She apologized that the construction of her swimming pool was so loud. Mrs. Gillespie advised that they were not going to allow people to do cannonballs in it at 10:00 at night and noted that there would be strict rules about its use. She suggested the Council revisit the short-term rental ordinance and prohibit pools. Mrs. Gillespie noted that they built the pool for their family and potentially some renters to enjoy. She volunteered to give the neighbors her telephone number and advised that she never wanted there to be disturbances behind them.

Mayor Littleton responded to Mr. Gillespie's comments regarding intensity of use and explained that the issue was that it was a multivariant. He further explained that people knew their neighbors and their habits; however, when the house was occupied by a short-term renter, they did not have those considerations. Mr. Littleton opined that one hundred eighty days of occupancy by short-term renters was very different than one hundred eighty days of occupancy by a family. He expressed appreciation to the Gillespie's for reaching out to and meeting with him. Mr. Littleton agreed that their plan was to meet the one hundred eighty-three-day residency requirement and to move in full-time once their youngest child left. He opined that the issue before the Council was what was the right level of short-term rental use. Mr. Littleton expressed appreciation that they volunteered to reduce the number of guests and number of nights of short-term rental use; however, he noted that the Council needed to be thoughtful and careful when making their decision. He advised that some of the members conducted a lot of research. Mr. Littleton noted that for him, the goal was to get it right. He advised that as to the ordinance, the number of days was up to one hundred eighty and advised that every application was based on its own circumstances. Mr. Littleton expressed appreciation for the way the Gillespie's had conducted everything.

Councilmember Kirk noted that she had lived in Middleburg her entire life, as did her parents and grandparents. She advised that it meant a lot to have the Gillespie's appear before the Council in person. Ms. Kirk explained that her concern was the number of people per night and the number of nights the house would be used as a short-term rental. She advised that if it was a lesser number, she would vote in favor of it.

Councilmember Jacobs agreed with the comments of Mayor Littleton and Councilmember Kirk. He acknowledged the frustrations of the Gillespie's about the number of meetings and noted that he was frustrated as well; however, nothing about the process had been dilatory. Mr. Jacobs reminded Council that he voted in the Planning Commission meeting to recommend approval of this application and noted that this was still his position. He advised, however, that he had a problem understanding some of the conditions, which he felt were unnecessary. Mr. Jacobs questioned whether it was possible to table action on the application to work out some of the issues, but to not have the Gillespie's wait an additional two weeks to get a decision from the Council.

Town Attorney Crim explained that due to the State Code provisions that went into effect last year, the safest course of action would be to re-advertise the public hearing and then make the changes. He advised that the Council could not hold a special meeting, as advertising was required for the public hearing.

Deputy Town Manager Moore explained that in order to meet the advertising timelines, the soonest the Council could hold another public hearing and consider the application would be the second meeting in May.

Mayor Littleton reminded Council that if they did not vote on the item during this meeting, they would have to hold a second public hearing because of the new State Code requirements. He noted that there was not enough time to meet the advertising requirements to hold the public hearing during the Council's next meeting.

Councilmember Jacobs suggested the Council review the proposed conditions to determine if any of them could be struck or amended. He advised that he was having difficulty with the one hundred twenty days as requested and opined that it was still too much. Mr. Jacobs questioned whether the Gillespie's would be willing to accept a fewer number of days.

Councilmember Leonard-Morgan thanked the Gillespie's for participating in person and noted that they were clearly the homeowners. He further noted that they clearly had a plan and were going to look after the property. Mr. Leonard-Morgan advised that he could accept ninety days and opined that not all the conditions were needed. He noted the buffer the Gillespie's were providing behind their house. Mr. Leonard-Morgan agreed the application was not perfect. He opined that the rentals would be well managed under Loudoun Stay. Mr. Leonard-Morgan noted that the Gillespie's did not want big parties in their home and opined that the neighbors would make sure of that.

Vice Mayor Bernard agreed with Council that the Gillespie's had demonstrated through their application and statements that they were a part of the neighborhood and would meet the residential use requirement. He noted, however, that a family of five would not be living in the home because of their plan to be empty nesters.

Mr. Gillespie opined that they would not be renting the property for one hundred twenty nights.

Vice Mayor Bernard advised that he still felt this was more intense than what the Council was looking for and opined that there was a way to find something that would work.

Councilmember Pearson expressed an understanding of what the Gillespie's were saying and of their needs; however, she noted that the Comprehensive Plan language recommended that overarching consideration should be given in each case to the mitigation of potential adverse impacts on the neighboring properties and established neighborhoods. She acknowledged that the Gillespie's had done things to try to protect them. Ms. Pearson advised that she would have liked to have tabled the first application and discussed it further. She suggested the need for a plan. Ms. Pearson opined that there needed to be a way to make short-term rentals work without disturbing the neighbors. She expressed appreciation for what the Gillespie's had done and opined that they were a great addition to the town. Ms. Pearson suggested that if it all worked out in the long run, it was unknown as to what the next year would bring. She noted the need to think this through further.

Councilmember Curran agreed with the remainder of Council regarding the issues of residency and community. She questioned whether the Council could approve a certain level of short-term rentals with conditions and then revisit their decision after a period of time.

Mayor Littleton opined that the Council could approve a lesser number of days and then reconsider whether they wanted to increase it later. He noted, however, that it would require a new application and public hearing. Mr. Littleton advised that the applicants could return and ask for an additional thirty days, which the Council could consider and approve if they chose. He noted that a new fee would have to be paid. Mr. Littleton also noted the public comment received earlier regarding the mental health aspect of short-term rentals. He advised that he conducted some research and found a study that indicated that established neighborhoods that never had short-term rentals had a very high degree of comfort with their neighbors; whereas, once strangers were introduced all the time, it became discomfiting and disquieting. Mr. Littleton further advised that the study also found that once there was a certain level of short-term rentals, crime went up. He explained that it was not because burglars were renting the homes but because the character of the neighborhood changed, and people became disassociated and disconnected because there were not full-time residents living there all the time. Mr. Littleton advised that the study found that very established neighborhoods that had abnormally low rates of crime went to a crime level that was seen in a typical neighborhood in Fairfax or Arlington. He noted that it was things like that that the Council was wrestling with.

Mr. Gillespie noted that when he and the Mayor met, it was clear that each application would stand on its own. He advised that he could not speak to large scale studies on mental health issues related to short-term rentals; however, he acknowledged that it was something the Council had to grapple with. Mr. Gillespie advised that he didn't know how their application related to mental health and opined that it seemed to be a bit far afield of what they were talking about with their application.

Mayor Littleton noted that it was difficult that the Council was looking at four applications at once and advised that they were not just looking at this from a micro level. He explained that the Council had to look at it from a big level. Mr. Littleton agreed the Gillespie's application was their application. He questioned whether the Council felt the application met the requirements for consideration for a special use permit, which the members agreed it did. Mr. Littleton noted that the next question was whether the Council wished to impose any conditions on it. He advised that there were some conditions that did not relate to nights or the number of guests, such as the monitoring reports. Mr. Littleton questioned whether the Council wanted to impose conditions related to the number of nights or other restrictions that dealt with the intensity of the use.

Councilmember Leonard-Morgan opined that crime was not an issue and suggested this was a different environment.

Mayor Littleton noted that he wasn't saying it was and explained that he was pointing out that there were a lot of things the Council had never dealt that it was now having to wrestle with.

Mrs. Gillespie advised that in terms of maximum number of days, there were thinking the worst-case scenario. She opined that it would be great to have one hundred twenty days with eight people every night; however, she suggested that was not how it would work. Mrs. Gillespie advised Council that their guests would not be using the school system. She noted that she could lease her home for a year to a family of six and advised that they would use the Town's resources. Mrs. Gillespie advised that she did not see a distinction between her family using the resources and her guests using them. She opined that many of the things that had been discussed should be discussed when the Council revisited the ordinance and suggested it was going to do so. Mrs. Gillespie advised that they bought their home based on the current ordinance, which did not say anything about having to go through public hearings. She suggested that information needed to be added to the ordinance to help avoid confusion.

Councilmember Jacobs explained that the public hearing procedures were State Code requirements. He suggested Mrs. Gillespie allow the Council to deliberate on her application.

Mrs. Gillespie explained that she was trying to address the confusion that was created by their situation.

Councilmember Leonard-Morgan noted that if the Gillespie's rented their home to a family for a year, that family would feel like members of the community. He further noted that the neighbors would have the opportunity to get to know them.

Mrs. Gillespie noted that she could rent her home for thirty-one days.

Mayor Littleton advised that there were different rules for short-term rentals versus long-term ones and noted that it was because they had different impacts. He further noted that this was in the law. Mr. Littleton advised that to say a five-day rental was the same as a six month one was not the case. He explained that the reason there was an ordinance was because short-term rentals had different impacts. Mr. Littleton reiterated that there were two questions before the Council, the first of which was whether the application met the requirements for consideration of a short-term rental use and noted that the Council felt it did. He advised that the second was whether the Council felt any conditions were warranted. Mr. Littleton noted that there were two sets of conditions that were recommended – one that related to level of intensity, including number of nights and people, and one that related to other things like reporting requirements.

Councilmember Jacobs suggested the Council strike the recommended conditions that they felt were unnecessary. He further suggested the condition that any occupancy of fewer than thirty continuous days not be counted toward the one hundred eighty-three days of residential use be struck. Mr. Jacobs suggested the requirement to report the names of those counting toward the residential occupancy also be struck.

Councilmember Pearson suggested the need for the numbers, but not the names.

Mayor Littleton agreed; however, he noted that the issue was how to prove they had non-short-term rental occupancy of one hundred eighty-three days. He explained that this condition was a policing mechanism. Mr. Littleton suggested the permit holder would need to report on their short-term rental usage, as well as their non-short-term rental usage. He opined that the goal of this condition was to get something in writing from the owner confirming there was residential use for at least one hundred eighty-three days.

Councilmember Jacobs reiterated that the requirement for the names of the individuals was unacceptable to him.

Mayor Littleton suggested it would be fine if they attested to the numbers each year. He acknowledged the reasoning behind the recommendation and advised that he did not think it was that onerous. Mr. Littleton inquired as to Councilmember Jacobs' thoughts on the matter.

Councilmember Jacobs advised that he was not a fan of self-certification and opined that, in this case, it did not add anything. He opined that someone could send a note saying they were in the home for three hundred sixty-five days and it would be meaningless. Mr. Jacobs noted that Council had not yet discussed code enforcement, which was extremely difficult. He advised that rather than imposing a nonsensical requirement, he would prefer to approve the application and urged the Council to strike that suggested condition as it was unnecessary. Mr. Jacobs suggested the condition that the owner submit an annual certification of the short-term rental use also be struck unless the Deputy Town Manager (Zoning Administrator) felt it would be useful. He noted that the Gillespie's had already waived the right for the permit to transfer upon the sale of the property and questioned whether it was necessary to list it in the conditions.

Vice Mayor Bernard opined that it was.

Deputy Town Manager Moore advised that he felt it was important that the owner provide a certification of the short-term rental use annually. He noted that this would provide Council with information in the future as to how the short-term rentals came to fruition. Mr. Moore advised that the Jay Street special use permit had been raised and reported that while the permit was approved for one hundred eighty days, their annual report for 2023 showed it was only used as a short-term rental for seventy-six nights. He opined that this information would be helpful. Mr. Moore advised that he did not have concern about striking the other two suggested conditions and noted that they were recommended by the Town Attorney.

Town Attorney Crim explained that the suggested condition related to occupancy of fewer than thirty days not counting toward the one hundred eighty-three day residential occupancy requirement was intended to address the erroneous argument that the short-term rental itself would count toward the residential occupancy. In response to an inquiry from the Council, he confirmed that if a rental was for fewer than thirty days and if the owner was paid a fee for the use, it did not count toward the residential occupancy number.

Town Manager Davis opined that the Town was trying to litigate legal items in conditions and opined that adding the extra clause would not add anything different than what the State Code already said in that anything under thirty days for a fee was a short-term rental.

In response to an inquiry from the Council, Town Attorney Crim confirmed he recommended this condition in response to the McGuire Woods memo. He advised that he did not have a strong feeling about the suggested condition that the owner provide the names of the residents whose occupancy counted toward the one hundred eighty-three-day residential occupancy requirement and explained that he was simply trying to identify a mechanism for enforcement.

Vice Mayor Bernard questioned whether the first two recommended conditions (that the use be in accordance with the application and emails and shall comply with all ordinances and imposed conditions) were necessary. He opined that they were self-explanatory and redundant.

Town Attorney Crim opined that they were important and noted that the Council could not be too careful. He advised that the Council did not want to have any arguments in the future if they had to terminate the special use permit.

The Council reviewed the recommended conditions that they felt should be struck and agreed that thus far, two of them should be deleted.

Mayor Littleton inquired as to the Council's thoughts regarding the intensity of the short-term rental use. He reminded the members that the applicants asked for eight people for one hundred twenty nights.

Vice Mayor Bernard opined that something in the range of thirty to sixty nights felt right to him.

Mayor Littleton thanked Deputy Town Manager Moore for coming up with an objective calculation of how to look at intensity of use that could be applied equally to everyone and opined that it was important to have an objective method.

Councilmember Pearson acknowledged that the Planning Commission recommended ninety nights; however, they did not do anything with regard to the guest count. She suggested the number of nights be sixty to ninety.

Councilmember Curran suggested the Council start with a lower number and noted that they could always increase it in the future. She suggested they start at thirty days/nights, which would give them a chance to see the impact of the short-term rental use on the neighborhood.

Councilmember Kirk advised that she would be willing to go with thirty or sixty days. She further advised that she would be willing to go to ninety days if the number of guests was even less, such as four or five.

Councilmember Jacobs advised that ninety days and eight guests were acceptable to him. Councilmember Leonard-Morgan advised that this was acceptable to him as well.

In response to an inquiry from the Council as to how a lower number of days would impact them, Mr. Gillespie advised that it would not be helpful. He noted the Planning Commission's recommendation and opined that it was thoughtful. Mr. Gillespie advised that he would prefer, at a minimum, to stick with their recommendation. He noted that they had no idea what the market was like or how much they would be able to rent their house for. Mr. Gillespie advised that he did not know whether he could rent it for fewer nights at a higher price in order to get to where they needed to be. He reiterated that he would like to abide by the Planning Commission's recommendation.

Councilmember Curran expressed a willingness to approve a number that was higher. She noted the discussions of what short-term rentals would do to the neighborhood, including crime. Ms. Curran advised that this was not about the Gillespie's but rather was about who they would be renting to. She suggested the Council either thought this would be a problem or they didn't.

Mr. Gillespie advised that he could not solve the broader question of short-term rentals in Middleburg. He expressed an understanding of what was being said; however, he opined that it was a bigger discussion than his application. Mr. Gillespie opined that this discussion was about his application.

Mayor Littleton explained that what the Council was wrestling with was the cumulative effect of short-term rentals over time, which was why conditions were imposed. He advised that while the Gillespie's application stood on its own, the Council could not look at it in a vacuum. Mr. Littleton opined that one hundred twenty nights felt like it was too much and questioned what the right number was. He explained that the hard part was that if the Council got the number wrong, it could not undo their approval. In response to an inquiry from Mr. Gillespie as to whether the Council had a way of addressing it if things played out the way people suggested, Mr. Littleton explained that there could be impacts even if the Gillespie's followed the rules and conditions. He further explained that if it turned out that short-term rentals were harmful to the community, the Council would not be able to rescind their approval.

In response to an inquiry, Deputy Town Manager Moore confirmed that if the Gillespie's were in compliance with their special use permit, including any conditions, the Council would have a difficult time justifying a revocation of the permit. He suggested it may be possible if there were obvious public safety issues coming out of it; however, he opined that unless there was direct violation of the permit, the Council could not revoke it.

Mr. Gillespie questioned how the Council would determine whether the intensity was too much. He further questioned whether there was a way to measure what was being discussed. Mr. Gillespie noted the equation related to number of nights and questioned how the Town would determine if there was an adverse impact.

Mayor Littleton opined that this was what came out of a zoning change. He suggested that if an application was approved, there could be more accidents, noise disturbances, property damage or theft. Mr. Littleton advised that he was not saying there would be, but if the Town started to see those things happen after it approved short-term rentals, it would then be seeing the negative impacts. He advised that in those cases, no one would be violating their permits, it would just be the impacts of them.

Mr. Gillespie questioned how the Town would tie it back to a property. He further questioned how they would metric the impacts and say that the Gillespie's were not living up to what the Council thought.

Vice Mayor Bernard explained that the Council couldn't, which was why it needed to be diligent on the front end to make sure they got it right. He further explained that it would be difficult to tie something like that back to their property and advised that the Council could not then say, "we made a mistake" and reduce the number of days to thirty.

In response to an inquiry from the Council as to whether it would be difficult to tie negative impacts back to a specific property, Mayor Littleton advised that there would have to be things like police reports of noise disturbances.

In response to an inquiry from the Council as to whether they could impose conditions on the number of people who could stay or just the number of nights, Deputy Town Manager Moore advised that they had the ability to impose conditions on both. He cautioned Council about getting too much into the enforcement side and noted that it would be much more difficult to enforce the number of guests.

Mayor Littleton opined that the Council was debating between allowing the use for sixty or ninety days.

*Councilmember Leonard-Morgan moved, seconded by Councilmember Jacobs, that Council approve SU 24-03 subject to the following conditions: (1) the use shall be in accordance with the materials package submitted April 18, 2024 and with the applicants' email dated April 18, 2024, except as may be further conditioned below; (2) the use shall, at all times, comply with all Ordinance requirements and all imposed conditions; (3) if use ceases for a period of two years, the permit is subject to revocation; (4) the owner shall submit an annual certification of the short-term rental use in a form acceptable to the Administrator; (5) the special use is restricted to the applicants and is not transferrable upon the sale of the premises to other parties, with such condition voluntarily offered by the applicants; and (6) the maximum number of days, cumulative, allowable for such use during any calendar year shall be ninety (90) days.*

Vote: Yes – Councilmembers Bernard, Curran, Jacobs, and Leonard-Morgan

No – Councilmembers Kirk and Pearson

Abstain: N/A

Absent: Councilmember Daly

(Mayor Littleton only votes in the case of a tie.) (by roll call vote)

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Special Use Permit 24-04: Short-Term Rental – 700 W. Washington Street – Doree Goodman

Deputy Town Manager Moore reported that there had been no updates to this application since it was discussed on April 11<sup>th</sup>. He reminded Council that the application met the threshold requirements for residency.

Doree Goodman, the applicant, reminded Council that she was a resident of Middleburg. She agreed with the speakers during a previous hearing about the mental health perspective and expressed appreciation to her neighbors for checking on her since she was a single person living alone. Ms. Goodman disagreed with the comments that Middleburg was not a resort town and advised that when she purchased her home, she knew she was buying property that was only three blocks away from the Salamander Resort. She asked that the Council vote in favor of her request and noted that she met the minimum requirements and was willing to impose restrictions on her guests. Ms. Goodman reminded Council that she agreed she would not transfer the special use permit upon the sale of her property and that she was willing to limit the number of short-term rental days/nights to ninety. She advised that anything less than ninety days would not make it worth her while financially. Ms. Goodman noted that while she could afford her home, she only had one income and noted that her expenses had changed. She advised that her neighbors planned to rent from her when they had family coming into town and needed more beds. Ms. Goodman reported that she had one more parking space than required. She advised that her property manager, who had attended every meeting related to her application, lived in town, would greet the guests, and would check the house frequently when she was traveling. Ms. Goodman reminded Council that she agreed to limit the number of guests to six. She advised that she would only rent out her home when she was traveling for work.

Megan Gallaher, 214 E. Marshall Street, advised Council that she was not opposed to this application. She opined that one hundred eighty days was too many.

Linda McKenna noted that she would be the property manager. She advised that two people lived in her house and suggested that at times, they made more noise than eight people did. Ms. McKenna advised that she walked past Ms. Goodman's house often when she was out of town to check on it. She further advised that she lived around the corner so there would be no noise or parties going on in the house. Ms. McKenna noted that she would provide her telephone number to the neighbors so they could call her. She advised that she had a vested interest in the community and would handle any problems.

There being no further public comments, the public hearing was closed.

Ms. Goodman reported that she spoke with her neighbors and advised that she gave them some reassurances because they had heard some things. She noted that they constantly stayed in touch. Ms. Goodman advised that they have told her how they felt. She reported that her neighbor to the left had approved her application. Ms. Goodman noted that the Mayor's parents lived across the street and advised that she spoke with them earlier in the evening and opined that they seemed great with her application. In response to an inquiry from the Council, Ms. Goodman advised that her neighbors fully supported her application with apprehension. She advised that one of the neighbors told her he would call the Mayor and let him know he supported it with reservation and nervousness. Ms. Goodman noted that he said he felt better knowing she could not transfer the permit with the sale of the property and that Ms. McKenna would be the property manager. In response to inquiries from the Council, she confirmed she had agreed to limit the use to ninety days. She advised that she had not spoken with the Dodson's, who lived behind her, and noted that she rarely saw them.

Councilmember Pearson noted that the short-term rentals were considered a business. She further noted that this home was located in an older community and expressed concern about people coming and going on a regular basis. Ms. Pearson advised that the neighbors knew the noise level that Ms. Goodman made and would know if something was wrong. She expressed concern about having this use in an older community.

Ms. Goodman noted that there was a big buffer between her house and the back house in the form of a storage garage. She advised that she didn't even feel like her rear neighbors were her neighbors because she was so far away from them. Ms. Goodman noted who she considered to be her neighbors. She acknowledged the concern and opined that no one ever saw her or her family.



Councilmember Jacobs noted that Ms. Goodman planned to run her short-term rental through Airbnb and advised that this was not encouraging. He explained that a great deal of the research the Mayor conducted suggested that substantial amounts of negative impacts could be seen in small towns, particularly when people used Airbnb as their booking agent. Mr. Jacobs noted that Council denied two applications earlier in the evening that had an actual vetting process for their guests. He further noted that Airbnb did not vet guests. Mr. Jacobs advised that he was not entirely comfortable with this; however, he liked the property manager. He opined that Ms. Goodman had a potential problem with the booking end of her undertaking and suggested she give it more thought.

Ms. Goodman advised that she could speak from experience. She noted that she lived in Florida for twenty years and advised that seventy percent of the community she lived in was rentals. Ms. Goodman suggested that Airbnb did vet guests in a way through their star rating program. She advised that she could choose to not let someone rent from her if there were any complaints from previous property owners where they stayed.

Councilmember Jacobs opined that the star rating system was meaningless and cited examples of other star rating programs that added little value to whether someone considered using them. He reiterated his suggestion that Ms. Goodman reconsider her booking agent.

Mayor Littleton noted that the Gillespie's were using a firm that looked at every single applicant and compared them to Middleburg and the community. He noted that Salamander controlled everything that went into their rentals. Mr. Littleton advised that someone could not rent on the open internet, which was a positive for those applications. He opined that everyone had challenges with Airbnb. Mr. Littleton noted that this was not something the Town could control and suggested it was only a concern.

Councilmember Jacobs advised that it was a concern for Ms. Goodman, not for the Council. He further advised that he was in favor of the application; however, he expressed concern that this could be an issue in the future, given Airbnb's history.

Councilmember Leonard-Morgan expressed appreciation for Ms. Goodman's attendance. He noted that he did not know enough about Airbnb to comment on it. He advised that he was familiar with the property, as he was a real estate agent. Mr. Leonard-Morgan noted that he was encouraged by her property manager and opined that the house would be well watched.

Councilmember Curran questioned whether Ms. Goodman only planned to rent to people with a five-star rating.

Ms. Goodman advised that she would not rent to anyone if she saw anything that raised a red flag for her. She confirmed she would only rent to those who had a five-star rating.

Councilmember Curran noted that this house was located in the Ridgeview area. She further noted that there had been horrible experiences with short-term rentals in Ridgeview. Ms. Curran suggested the Council start with a lower number of days/nights and noted that Ms. Goodman could return seeking more. She explained that she was looking at the history in Ridgeview.

Mayor Littleton noted that a few people sent in letters of concern. He opined that there was a clear difference between the Ridgeview and the Salamander areas. Mr. Littleton noted that Salamander was a new neighborhood, whereas Ridgeview was an established, older one. He advised that the Comprehensive Plan talked about that. Mr. Littleton explained that there had been instances of Airbnb rentals in the past, which did not have the required permits, that had not gone well. He advised that these rentals did have an adverse impact on the older established neighborhood.

Ms. Goodman noted that no one had mentioned that to her before. She advised that she would not tolerate that. Ms. Goodman noted that the rent she would charge would be expensive. She opined that the owners who rented those houses through Airbnb were not full-time residents. Ms. Goodman advised that this was her full-time home and noted that she would be protective of it. She advised that she loved her community and wanted her neighbors to love her. Ms. Goodman opined that ninety days was fair for her and her neighbors and asked that this be the number to start.

Mayor Littleton opined that ninety days was too much and noted that this was in an older, established neighborhood with older neighbors. He reiterated that he had heard concerns from people who called him.

Ms. Goodman noted that it would cost her \$2,000 to re-apply and she would have to go through the public hearing process again to increase the number if she did not get ninety days initially.

Mayor Littleton explained that the Council was evaluating the impacts of the use. He noted that for Ms. Goodman, it was an issue of affordability; however, that was not something that was relevant for the Council as it reviewed the application. Mr. Littleton reiterated that it was about the fact that Ridgeview was different. He advised Ms. Goodman that the average age of a resident in Middleburg was fifty-two versus thirty-six in Loudoun County. Mr. Littleton noted that Middleburg was an older community of retirees and was different. In response to a comment from the Council, he agreed that Ms. Goodman qualified for consideration of a special use permit and advised that the question was whether there were any conditions that should be imposed because of concerns. He questioned whether the Council was comfortable allowing the use for sixty or ninety days.

Ms. Goodman asked that the Council trust Ms. McKenna to manage the use for ninety days per year.

Mayor Littleton explained that the Council was looking at the big picture and trying to understand what the implications were.

Councilmember Curran explained that this mattered because Ridgeview was a different neighborhood than Salamander's. She advised that a neighbor located across the street had written the Council a letter and noted that there was not one hundred percent support for the application. Ms. Curran explained that the issue was not Ms. Goodman as everyone knew who she was, but rather was that this was an older neighborhood that had had bad experiences with short-term rentals. She explained that the issues were with the quality of the renters. Ms. Curran advised that she did not know how the Council could reduce the number of nights if they found the use created an adverse impact on the neighborhood.

Vice Mayor Bernard noted that the Council kept talking about it being an older neighborhood; however, he opined that the issue was proximity and density. He reminded Council that these were smaller lots that were more closely clustered together; therefore, there was more potential for the impacts of a short-term rental use to be felt, maybe even more intensely, by the neighbors. Mr. Bernard explained that this was where he came from with regard to the issue of the number of nights.

The Council discussed the number of nights, with different members suggesting different numbers.

*Councilmember Curran moved, seconded by Councilmember Leonard-Morgan, that Council approve SU 24-04, subject to the following conditions: (1) The use shall be in accordance with the materials package dated February 29, 2024 except as may be further conditioned below; (2) the use shall, at all times, comply with all ordinance requirements and all imposed conditions; (3) if use ceases for a period of two years, the permit is subject to revocation; (4) the owner shall submit an annual certification of the short-term rental use in a form acceptable to the Administrator; (5) the special use is restricted to the applicant and is not transferrable upon the sale of the premises to other parties, with such conditions, voluntarily offered by the applicant; and, (6) the maximum number of days, cumulative, allowable for such use during any calendar year shall be sixty (60) days.*

Vote: Yes – Councilmembers Bernard, Curran, Jacobs, Kirk, and Leonard-Morgan

No – Councilmember Pearson

Abstain: N/A

Absent: Councilmember Daly

(Mayor Littleton only votes in the case of a tie.) (by roll call vote)

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**Consent Agenda**

- A. Council Approval – March 25, 2024 Regular Meeting Minutes; April 2-3, 2024 Strategic Planning Retreat Minutes
- B. Council Approval – Renewal of Contract – Swagit, dba Granicus
- C. Council Approval - Resolution Authorizing Application for Wellhead Protection Grant
- D. Council Approval – Proclamation – Arbor Day

*Councilmember Leonard-Morgan moved, seconded by Councilmember Kirk, that Council accept the consent agenda as presented.*

Vote: Yes – Councilmembers Bernard, Curran, Jacobs, Kirk, Leonard-Morgan, and Pearson

No – N/A

Abstain: N/A

Absent: Councilmember Daly

(Mayor Littleton only votes in the case of a tie.)

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**DISCUSSION ITEMS**

**Police Officer Recruiting Efforts**

The Councilmembers noted that they had read the Chief’s memorandum and had no questions related to it.

In response to an inquiry from the Council, Chief Jones reported that he had received two applications in the last week based on his posting on Indeed Jobs and noted that he received a third submission while the meeting was in progress.

Councilmember Pearson suggested that the advertisement also include the part-time position in case a retired officer was interested in filling in. She suggested that two part-time officers could be hired in lieu of a full-time one.

Mayor Littleton asked that Chief Jones send a copy of the advertisement to the members of Council.

**INFORMATION ITEMS**

Mayor Littleton thanked Messrs. Devadas and Little and Mrs. and Mrs. Gillespie for sitting through the entire Council meeting and for all the work they did related to their applications. He opined that they were probably disappointed in the outcomes and invited them to talk to the members of Council. Mr. Littleton advised that the Council would work with them to see how to get these done “in the right way.” He also thanked the community for attending the meeting.

There being no further business, Mayor Littleton declared the meeting adjourned at 11:35 p.m.

APPROVED:

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Trowbridge M. Littleton, MAYOR

ATTEST:

\_\_\_\_\_  
Rhonda S. North, MMC, Town Clerk

## April 25, 2024 Middleburg Town Council Meeting

(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 of the meeting that is on the Town's website – [www.middleburgva.gov](http://www.middleburgva.gov))

**Rhonda North:** Mr. Mayor, we are live. [off mic]

**Bridge Littleton:** All right. We'll call the meeting to order. First item is the Pledge of Allegiance.

**All:** I pledge allegiance to the flag of the United States of America, and to the Republic for which it stands. One nation under God, indivisible, with liberty and justice for all.

**Bridge Littleton:** All right. Next item is the roll call.

**Peter Leonard Morgan:** Peter Leonard Morgan.

**Bud Jacobs:** Bud Jacobs.

**Darlene Kirk:** Darlene Kirk.

**Bridge Littleton:** Bridge Littleton.

**Chris Bernard:** Chris Bernard.

**Cindy Pearson:** Cindy Pearson.

**John Kevin Daly:** John Kevin Daly.

**Pam Curran:** Pam Curran.

**Rhonda North:** Rhonda North, Town Clerk.

**Danny Davis:** Danny Davis, Town Manager.

**Bridge Littleton:** All right. First item is public comment. So I know there's a lot of folks here, probably for the applications. So if you plan to speak during the public hearing for the applications, wait till that to do so. But if anybody from the public would like to address Council on any other matter you are free to do so. The floor is yours for three minutes.

**Donna Strama:** I was wondering why I was. Hi. Donna Strama, 10 Orange Drive. I was wondering if you had any control over the electric car plug ins at the library. There's so few places at the library to park. I wish they had done it here. You all had no control over that, obviously. Okay. Never mind.

**Bridge Littleton:** Yeah. The easy answer is talk to the county. Yeah. What's that? No. I know we have a electric charger here at the town office, but there's also a couple at the library. Anybody else wish to address Council on any other public matter? Okay. We will close the public comment. And the next item we're going to go to is Council approval for a resolution in memory of Tal Mack. So I think Mrs. Mack is here. Hello, Mrs. Mack, how are you? So earlier I guess where, at the end of last year the Middleburg community lost one of its. Well, probably one of the greatest educators. One of the dearest men, kindest human beings, and a friend to everybody. After a incredible fulfilling, wonderful, giving life, Talbot Mack, who had been a teacher at the Hill School for decades taught me sixth grade, taught me a lot. And we are, you know, deeply saddened by the loss of such a person to our community. Our sympathies go out to his beautiful wife

and the entire family. He is an individual who always had a smile. And more than that, he always had a hug. I mean, every time he would see you, he would give you a hug and Tal and I had sort of it was interesting the way he would hug me because it went longer than a normal hug. So the first five seconds was meaningful and wonderful. The second five seconds started to become awkward. [laughter] And the last five seconds started respiratory problems. No. No, he just he embraced and but he was just an unbelievable, he was a one of a kind soul and fully and totally embodied what makes our community special. And I know we're all going to miss him. And, you know, I have said this when Mary Woodruff passed away, he left his mark on so many souls. So his contribution to this community will live on forever. So we will deeply miss him. And the town felt it was appropriate to do a resolution in memory of Tal. And there's going to be a memorial service at 2:00 on Saturday at the Hill School. For those of you who don't know we will officially present this to Mrs. Mack and her family at the memorial service. But we did want to also read into the record and vote on it here. And again, thank Mrs. Mack and her family for coming. I do have to tell one more story. In sixth grade, it's amazing the things we remember. Mr. Mack was talking about. I think it was your youngest daughter. Lauren. It was Lauren. They were at dinner the night before, and the next morning, sort of everyone's getting ready for class and said, yeah, my daughter said the most interesting thing last night. And, you know, we had a small class. There was only eight of us and everyone's, you know, what is it? We were having dinner and just having fun, as we normally do at the dinner table, and it was time for Lauren to go to bed. And so my wife sort of, you know, motioned to her that it was bedtime. Lauren leans back in her chair, puts one hand behind her head and says, but the night is still young. [laughter] And that was just the great sense of humor, that and fun that Tal had. So let me do this. I want to read the resolution of memory and then Council will vote on it. And again, Mrs. Mack if you'd like to say anything, you're more than welcome as well. And we'll officially present this to you all on Saturday. So resolution in memory of Talbot Chambers Mack. Whereas Talbot Chambers Mack was an integral part of the Middleburg and Hill School community for decades and made an indelible mark on the town, the school and its students through his work and service. And whereas for more than 30 years, Mr. Mack was a legendary teacher. Having served as a sixth grade homeroom teacher, having taught English writing in history, having founded the Calliope, the school's literary magazine, and having coached sports at the Hill School, and Whereas, in addition to serving the Hill School community, Mr. Mack served Loudoun County as a soccer coach and referee for decades. And Whereas, during the summers, Mr. Mack could be found running long distances on the back roads around his farm, weeding his vegetable garden, or sitting in his kitchen table with a cup of coffee, revising a draft of his most recent poem. And whereas, prior to his service of youth as an educator, he served his country in the United States Navy as a first lieutenant on a minesweeper. And whereas, the Middleburg Town Council deemed it appropriate to posthumously express its gratitude to Mr. Mack for his personal dedication and exceptional service to the Hill School, the Middleburg community and our country, and for his kindness and caring and for the kindness and caring he brought to so many. Now, therefore, be it resolved, that the Mayor and Members of the Town Council of Middleburg, Virginia, recognize and express our sincere appreciation to Talbot Chambers Mack for his support to The Hill School and its students, as well as for his service to the greater Middleburg community as a soccer coach. Be it further resolved that the Mayor and Members of the Town Council express our deepest condolences to his family and friends. Anybody like to add anything? Cindy.

**Cindy Pearson:** I had the pleasure of working with Talbot Hill School and two of my children survived his class. [laughter] And is it the Rosetta Stone? Is that what it was? Yes, the Rosetta Stone. And I think every child that went through Hill School and had Tal remembers the marks and the notes in the column and whatever. And the other thing that I always remember is him having everyone tuck their shirts in. That was and also the piece, if you didn't have a belt, which there was a time that you had to wear a belt while you were in school, he'd go get a piece of rope or a tie or something. So you would have a belt on. [laughter] Many memories. Could go on forever, but I'll stop there. Wonderful person.

**Bridge Littleton:** Okay. Would anyone like to make a motion?

**Cindy Pearson:** Okay. I move that Council adopt a resolution in memory of Talbot Chambers Mack for his support of the Hill School and its students, as well as his service to the greater Middleburg community.

**John Kevin Daly:** Second.

**Bridge Littleton:** Any discussion? All those in favor say aye.

**All of Council:** Aye.

**Bridge Littleton:** Opposed? Abstentions? Okay. [laughter] So, Mrs. Mack, like I said, we'll present this to you on Saturday. But if there's anything you'd like to say, you're more than welcome to say.

**Catherina Mack:** I'm just glad that he's not here, as he would have been so embarrassed. [laughter]

**Bridge Littleton:** Well, he will. Like I said, he'll be deeply missed. Okay. The next item we have is a public presentation. It is the annual report for the Middleburg Arts Council. Mary Ann Burns.

**Mary Ann Burns:** Here we go. Thank you all. It's a pleasure to be here. And I'm sure everybody's here to hear this report, so I will make it brief. But this is our chance to tell you all what the Middleburg Arts Council is doing. I will, first of all, I'll tell you that the members of the Arts Council are listed on the slide. We have lost three members in 2023 and early 2024. So we've been a little underrepresented. But we have three new candidates that I think the Council will consider in May and we'll be full strength and the new candidates are very exciting. So we're very happy about that. Our big event of the year, of course, is Art in the Burg, which takes place this year on Saturday, May 11th from 10 to 6. I hope to see you all there. We have a record number of artists that applied. We have room for 41 artists, but more than 60 applied. So it's we're full. We also have wine and beer vendors. We have seven food vendors. We have kids activities. We have a charity component Art Can Help that builds sculptures with cans and then donates it to Seven Loaves. And then, of course, we, the NSLM, the Middleburg Library and Artists in Middleburg are also represented. So we have two stages. We have one on Madison Street with we've broadened Art in the Burg to not only include fine arts and photography and ceramics and all those kinds of exhibits, but we've added events on the stage. We have storytelling, a tribute to mom. We even have a Paws & Picasso Fashion Show, and that's paws as in dogs. We have a cooking demo by Salamander. We have two dance groups. We have Dance King Studios coming from Leesburg to do some interactive swing dancing with all of you. And we have Jupiter Theater from Purcellville doing the Wizard of Oz. No, Alice in Wonderland. I've got my fairy tales mixed up. And then we have a dance group from India, and we will be awarding a People's Choice award. The federal street stage is all music and that is takes place in the wine and beer garden. So that's Art in the Burg. The next our other big project for this year is foxes on the fence coordinates that every other year. This is not a town project. The proceeds from this event go to the Middleburg beautification Committee. But we ask from up to 50 artists to select a hound, hare or fox and do whatever artwork they, we pair them with a sponsor and then they come up with a piece of art, we hang it around town, and then we auction those figures off. Last year we are or in 2022 we raised \$32,000. So that's been a great event for the town and for the artists to display their works. This year we're going to we want to plan an artist day where the artists come and talk about their character, their critter. And we want to have a thank you party for all of them, because no they don't charge us. They do it for free. And then we want to have some docents from the Council. Each of these pieces has a really fun story that goes with it. So we want to have some docents around town telling the stories of the fox, hounds, and hares. Other activities include we organize the art boosts and kids activities for Oktoberfest, and we contribute a theater performance of A Christmas Carol, Street performers, dancers and carolers for Dickens Christmas in Middleburg. We've already started collecting ideas from our new members, as well as our existing members and some of the things that we're talking about for the coming months and the next year are events in the less busy months of January, February, March, July and August when things in Middleburg are not quite as hectic. We are talking about creating a cherry blossom trail in Middleburg in March. There are quite a few cherry blossoms in town, including at the Hill School, Middleburg Community Center, and Foxcroft. Again, the idea is to bring people to town, and then in July, August, we would also like to focus on events for the community in the surrounding area, in Middleburg and the surrounding areas. And we're looking at making better use of the Hill School Amphitheater, perhaps during the week, doing some performances on the amphitheater at the Hill School. And then we would like to try to launch a junior artist program in the coming months to engage kids in, you know, be part of Art in the Burg, maybe have displays at Art in the Burg from younger artists. That's what we're up to. I think there may be a request for additional money at some point to support some of these activities. And I just want to add that Pam is our new rep from the Council. And we look, we are enjoying working with her very much. I also want to thank the staff. Rhonda's very patient with me and answers all my questions and Danny. Both have been very supportive of the Council and of course Ali works with us side by side to get things done. Any questions?

**Bridge Littleton:** Pam. Oh. I'm sorry.

**Pam Curran:** No, that's. No. No, sorry. I was about to.

**Bridge Littleton:** I saw Rhonda's red light, and I thought it was yours.

**Pam Curran:** Oh, well, I just want to say it's a small group, but it's mighty, and they're very caring. And I'm really excited to be part of the work. Do we still need volunteers for Art in the Burg this coming up?

**Mary Ann Burns:** We can always use volunteers.

**Pam Curran:** I think we've got a lot right here last year, but doing a great job.

**Mary Ann Burns:** Excellent.

**Bridge Littleton:** You know what? I'm going to take the opportunity right now. Who would like to volunteer to help with Art in the Burg on May 11th? [laughter] Raise your hand. [off mic]. Oh, okay. It's a qualified yes. Okay. It's noted who didn't raise their hand?

**Pam Curran:** I see some in the back. I need to talk to you over there. [laughter] Okay.

**Bridge Littleton:** All right. Any other questions for Mary Ann?

**Chris Bernard:** Yeah. Just thank you, guys. Everything you do is obviously it's beautiful because it's art, right? But you guys do a good job representing not just the painters, but the, you know, the people that do the plays and all the and music. And everything you guys do is just so well laid out and it's just it's a pleasure to watch you guys work.

**Mary Ann Burns:** Well thank you. I appreciate that.

**Bridge Littleton:** Yeah, I think the only thing I'll say is what you guys have been. I mean, Art in the Burg always done a lot of great stuff with the fox sculpture in front of the Community Center. Travel day. But, I mean, all the stuff you guys have brought to the table in the last couple of years with, you know, the Dickens and now doing a Cherry Blossom, really taking the Art in the Burg and expanding it in the way you have. It's fantastic. So we know you're paying handsomely for all the work, and we really appreciate it. [laughter]

**Mary Ann Burns:** Yeah. You put me in the next tax bracket.

**Bridge Littleton:** Exactly. Yeah. [laughter] You mean the first one? Any other questions? Okay. Mary Ann, thanks a lot.

**Mary Ann Burns:** Thank you.

**Bridge Littleton:** All right so next on the agenda. Let's see here. That's public presentation. Yeah. Is public hearing on and related action items. So. I'm sure that's why most everybody is here tonight. So here's what we're going to do and how we're going to run this. We have four applications for short term rentals. Three are in the Salamander Resort and one is on Washington Street. And where's Will? Is Will here? Yeah. Will make sure you keep me honest. And if we can bring Martin on, that would be great. Excuse me. We're going to handle each application one at a time. So we will dispose of the first application from the input from the applicant to public comment to then discussion by Council. Act on that, and then we'll go to the next application and we'll do the exact same process. It'll be, you know, the applicant gets to present their materials. Will give his staff briefing. The public will be able to comment. So if you do and intend to provide public feedback on all the applications, it will be one. So, you know, just you'll have to be here the whole time. But you know, that's the way we have it by our process. Will correct me if I'm wrong. Our process is you will deliver your brief. The applicant will have ten minutes. Is it 10 or 5? Is it 10. Yeah. Ten minutes to make a presentation to the Council. At that point, we then open for public comment. For that, we open the public hearing so anybody can speak on the application. And if you do want to speak, you have to speak on the application only if it's something else. You had your chance ten

minutes ago. Once that's been exhausted, we'll close the public hearing. The applicant will have an extra five minutes. If they'd like to provide any other feedback. And then the Council will deliberate, ask questions of the applicant. See if we want to do how you want to go forward and all that kind of stuff. So. That's basically the rules of the road. One thing I do want to outline sort of here at the beginning. And the way we're going to handle the review of each one of these applications is this is for a special use permit. And there's sort of it's a two-step process in reviewing it. The first question that the Council has to determine is, does the applicant meet the requirements in the ordinance to even be able to apply for an application for a special use permit? Right. So as an example, if there was a special use permit to build an oil storage tank and it required you to have 50 acres and the person only had 30 acres, they don't even qualify. So that's the first piece. We will look at each application and with the help of staff and everything else make a determination if the person qualifies for the application or you know meets the minimum qualifications. If they do, then the discussion will go on to the actual merits of the application. Right? Are there concerns? Are there mitigating factors? You know, should we impose restrictions, you know, things like that. We will do that two-step process for every application. So again, this is getting a little technical in the zoning kind of stuff. You know so I just want to make sure everybody has that basic foundation. So I think we'll go ahead and get started. So Will on the first application, which is special use permit 24-01.

**Danny Davis:** Did you did you want Mr. Crim to add any further information?

**Bridge Littleton:** I mean, yeah if Martin's got any you know, information to provide? Sure.

**Danny Davis:** What's up?

**Bridge Littleton:** Are you talking about from the earlier discussion? Oh, there he is.

**Martin Crim:** Mayor, I will just hold off until after the public hearing, if that's all right.

**Bridge Littleton:** Yeah. No, that's great. Great.

**Martin Crim:** Thanks.

**Bridge Littleton:** And, Martin, I think what we should do is. Did we lose him?

**Martin Crim:** No. I'm here.

**Bridge Littleton:** Okay. So I think what we should do is we'll have the public hearing. The applicant will have another five minutes, and then we'll, you know, it'll sort of, I guess, comes back to Council and then you can provide your feedback. And then we'll take it from there.

**Martin Crim:** Super.

**Bridge Littleton:** Okay. Will you're up first.

**Will Moore:** Thank you, Mr. Mayor and Members of Council. The first application, SU 2401 the applicant, Salamander Farms, is applying for the special use permit for a short term rental at 800 Old Saddle Drive. So old Saddle Drive 800 is in the R-1 zone section of the Middleburg Residences. Middleburg Residences is the legal subdivision name for the Residences at Salamander. These are the larger lots that are in the western portion of the subdivision. This is the only home constructed to date in that section. It is on a sizable lot over 50,000ft<sup>2</sup> in area. And I believe you had the benefit of review of some of the vicinity map in your, in your report as well as some aerial photography at the last meeting. I want to give you an update mainly on additional information or changes or clarifications that have come in since your last discussion on April 11th. So in this case, the applicant's representatives have filed a property owner's statement. Owners plural, in support of their applications for the special use permits. So the representative is representing this application as well as the two following. But that is filed that document was included in your materials. It consists chiefly of responses to some of the discussion that took place at your April 11th meeting. And again Mr. Crim may weigh in on some of this after the hearing. In addition for this particular application, a declaration of by Sheila Johnson, who is the managing



member of Salamander Farms LLC, was also filed. That document is in many ways duplicative of some of the original application materials in that a large portion of it is dedicated to going line by line through section 61 of the ordinance. That's the section that has the specific requirements for short term rentals. So again, it's duplicative in many ways. However, there are a couple of new pieces of information that were included in the declaration which now supersede the original materials. One of those is regarding the maximum number of guests at the home. So in the original materials, they were limiting it to a maximum of eight guests. Our ordinance actually for a four bedroom, excuse me, unit would allow for consideration of up to ten guests, but again, the original application materials specified a maximum of eight guests. The new declaration now is requesting a maximum of ten guests. So the application has been amended to actually propose a more intense use with more guests. A second piece of information that was included in this application. And it was I think somewhat in response to concerns that staff had raised from the initial review of this application by the Planning Commission beginning in January. And that was lack of clarity on whether or not the application would meet the requirement that in order to be considered for short term rental, that the dwelling would have to be used primarily for residential use. And that is further qualified in our ordinance as to be used for residential occupancy 183 days or more per calendar year. So again, the original application materials lacked clarity on that. We attempted to get the applicant's representatives to provide more clarity on that during the Planning Commission review. We were unsuccessful in getting additional supplemental materials from them to further clarify in this case, the materials that have been filed since the April 11th meeting. Do include a statement and I'll read this, it's quote, which is I intend for the property to be used for residential occupancy for 183 days or more per calendar year, in accordance with my understanding of the definition of residential occupancy. That statement is of concern to staff. Especially when you group it with the property owner's statement in support of their applications, which was filed. Because within that document, the applicant's representatives make some arguments for defining residential use in a way other than we would define it. And both residential use and occupancy. So while we appreciate a response to what we've been asking for months and providing a written statement regarding the use that was more clear than before. We're very concerned with the portion where again, and I highlighted this in my memo, where she states, in accordance with my understanding of the definition of residential occupancy it's not an applicant's understanding of the definition that matters it's our definition in the ordinance. So again we have some concern with that. Marry that to some of the verbal statements that were made by the applicant's representatives during the Planning Commission review which indicate that there really is no occupant intended for the residence. It was to be used according to the applicant's representative. At first it was going to be her son and his family that would occupy the residence. But The son in his family decided a kind of at last minute they did not want to be located here in Middleburg, so this seemed to be a pivot and we'll find a different use for it. And those verbal statements that were made, and I included some of those in the report tend to make it sound like the primary use would be to be used on occasion for friends and family to use maybe for special occasions, but that there would not be planned to have a regular occupant. So I give you a good bit more analysis of that in the staff report. But staff suggests that the application does not demonstrate that the home would be used primarily as required by that section of the ordinance. One other piece of information that we encountered in our review one of the additional pieces of material that were filed by the applicant's representative since your April 11th meeting included the covenants for the subdivision, as well as a document titled The Rules for the Middleburg Residences, which are identified as being supplemental to the Declaration of Covenants and a very, very curious provision that we found in this document that was voluntarily provided to us was a rule that the and sorry, I shake my head because I find it very curious. Owners and permitted users are prohibited from parking in the driveway of their lot. Provided, however, that limited parking of up to two cars is allowed in the driveway for not more than 60 days per year. So if you read that on its face, it says that the owner of a lot and or their permitted users can't park in their own driveway. But further, you can do it for 60 days a year, but no more. And it's a very curious provision. I will invite the applicant's representatives to respond with more clarity on that but it raises question from a zoning standpoint as to whether or not they would actually meet the requirement for providing off street parking that is included not only for the single family detached dwelling which requires parking, but the additional parking that is required for the special use that's being requested as a short term rental. Finally, I will add to you that you have a paper copy on your desk. We did receive a late submission today from the applicant's representatives in which the owner makes a voluntary concession that if the property were to transfer in the future, that the SUP would not transfer with the property. So the applicant has offered that at the late hour. So with that for this application and for all following applications within the recommendation section, you will see a number of possibilities for you to take this evening. You may choose, after the public hearing to vote, to approve, approve with conditions or disapprove the application, but you're not obligated to. You can you do have the option of tabling the application, if you need more time to deliberate on it, to consider public input, to consult with Council, those things. I will note for this particular application that if you were to give it favorable consideration there is a

draft motion for conditional approval if you were to go that route. On the paper copy, I've added some notes in red. There would be an additional condition that I would ask you to add simply reiterating the voluntary concession to terminate the SUP on transfer. But that's if you were to give it favorable consideration when you get to that point. With that, that's all I have. Happy to answer any questions once the hearing is over after the applicant has made the presentation and the hearing. Okay.

**Bridge Littleton:** Well, thanks. All right. We'll now invite the applicant or their representative to take the floor, and you have ten minutes. Rhonda's got the magic lights up there, so.

**Scott Little:** Got it. Good evening, Mr. Mayor, Council Members and staff, thank you so much for having us here tonight. My name is Scott Little. I'm the Managing Director of Salamander Resort, and I'm at 500 Pendleton here in Middleburg. Tonight I'm representing Salamander Farms LLC on this application for the special use permit. And I would ask you to approve it. And we have a number of reasons that we'll talk through in addition to what Mr. Moore spoke about this evening. Given Salamanders history of quality and citizenship excellent community relations, I'd suggest that nothing in these applicants applications change the way that salamander has always performed in the community and in operating its business and in being a good community citizen. Myself and our team of management and roughly 400 employees are dedicated to continuing that tradition. We have a very robust team assembled to control, manage, accommodate and oversee any occupancy that would come about in these few houses that are in the applications this evening. Truly dedicated to ensuring that nothing in these applications detracts from that mission. I'm joined tonight by Prem Devadas the President of the Salamander Collection, and I will yield to his time. Thank you.

**Prem Devadas:** Thank you, Scott, and thank you, Mr. Mayor. Council and I'm going to continue along the lines that Scott started. You all have the applications. Mr. Moore has recapped them, and I'm sure that there will be questions. So I would like to continue on by saying that the resort has maintained a very positive, very trusting relationship over the years with the town and the community, and we worked together on many, many things, big and small. We participate in many things that make this town special, and we proudly participate. We try to be the best citizens that we can be, and we are always responsive to the requests from our neighbors. And we always try to find a solution. And we have always appreciated the town's support of Salamander. And you have always been responsive to our requests as well. I want to mention that in the last meeting, as I stated, I asked McGuire Woods to come and assist us in trying to help us to clarify the interpretation of law and to understand the details involved with short term rentals. And it was my hope, frankly, that they would be able to help us and help you to find a way, find a path forward, some commonality. Unfortunately, that was not the way that it worked out. And it's not unusual that there are different interpretations of things legally. And with that said I really have no interest in fighting, and I really don't want any conflict. And most importantly, I want to be able to continue to have the wonderful relationship we have and not feel bad about it. So I've been thinking about what we can do to satisfy our applicants to satisfy the town. It was not lost on me in the meeting in April 11th that there was a very strong concern expressed about transference of the SUP and that came from a number of you, not just one person. And by the way, that comment was made during the Planning Commission meeting as well, when we were recommended for this property. And I have also noted that the current permit holder on Jay Street and current applicants have volunteered that they would waive that transference. So in an effort to try to allay any concerns related to that, we did submit this afternoon applications from or addendums rather to the applications as a waiver. And in this applicant's case, in Sheila Johnson's case, I wanted to share with you that she readily agreed to do it and without any hesitation. You know, as I did explain and Mr. Moore did recap Sheila really ended up building this house, presumably for her son. They did change their minds, but she wanted to build the house, ultimately to have it, to keep it, to be able to use it for her and her family and her friends. And that is her primary interest. She does as I also stated want to have the option of renting it from time to time to defray costs, and also to ensure that under our rental program, it's maintained well and cared for. You know, she also believes that within salamanders rental program will diligently enforce the towns and the POA's ordinances and the guidelines, and that will protect the house and her neighborhood from any improper behavior. And you know, it's worth keeping in mind that any guest of this home, if it is rented on a short term basis, will have to register at the front desk. We'll have to check out at the front desk. We'll have available 24 hour security for the house and 24 hour security that responds to any request or any issue. Not only they, but large number of the staff are trained from an emergency standpoint to handle emergency and life threatening situations. And we have 24 hour management staff and 24 hour front desk staff. So I wanted to offer that that is how I arrived at recommending the waiver and why Sheila in this application has moved forward and signed that. And we look forward to answering any and all questions. Thank you.

**Bridge Littleton:** Thanks. Okay. We will now excuse me, open the public hearing for just this application. So and I know I see some folks here and a lot of you sent in letters already this week and you know, Council's gotten them. And we really do appreciate, you know, all the feedback we've gotten from the community, all the feedback. But would anybody like to address Council on the application for. Yeah.

**Rhonda North:** I do have a sign-up sheet.

**Bridge Littleton:** Oh, okay. Well, before we go to the sign-up sheet. You can approach well we'll go to the sign-up sheet first, and then anybody else can come up after that, you'll have three minutes. Give your name, address, and then again, any feedback or comment you have on the application the floor will be yours. So who signed up? Let me guess.

**Rhonda North:** Megan Gallagher.

**Bridge Littleton:** Miss Gallagher. I'd actually be disappointed if she hadn't.

**Megan Gallagher:** Yeah, thanks.

**Bridge Littleton:** I would think there'd be a health issue.

**Megan Gallagher:** First, my sincere thanks to all of you Mayor, Council staff for a really great discussion three weeks, two weeks ago. And a special shout out to the Deputy Town Manager, Will Moore, for the updated memos that provided really a lot of much needed clarity and perspective. I'm going to come right out and ask you to deny this permit outright, because it fails to meet the residency test, and its impact is far too high. There just isn't a way in which an unoccupied house is a residence, as described in the ordinance and in Will's memo. And specifically, I look at the conditions you might look at on the other or in the application, and it says residential means you are in it 138 days and you are 183 days. And you prove that with an annual statement of who stayed there in 30 day increments, it has to be at least 30 days and then cumulative to the total. You can't do that when your friends might be there sometime. Secondly, it's the impact of this size. They went to the maximum size in the last two weeks, ten people. And if you look at ten people for 180 days, they could have 1800 guests nights there in a single year. No community in Middleburg, no residential owners are having 1800 guests per year. And so it is not in harmony with either existing and traditional communities or the zoning ordinance. And I draw that off in the memo. I'm also put out that they put up, you know, they increased the request. I am grateful they're talking, waving. But I think when you miss both of those, you don't have to go to conditions because they missed both of those. They can't meet the other test. Finally, it's my chance to say all these comments that this is not the same as North Jay Street where outlined by Will's chart it North Jay Street was he could have had four people. He only wanted two that got approved. He waived the permanency and it's three. It's the equivalent of 360 guest nights. For this property to be treated the same as North Jay, they would only be able to have guests for 36 days a year. And I might say when it's ten guests for wait, that's five times two. Yeah, five times the other permit. That's not an equivalency. Its impact is so much higher. So I'm asking you to kind of just say, no, don't prolong this because you can't meet the residency test. I'm not against all the rest of them. Thanks.

**Bridge Littleton:** Thank you. Rhonda, was there anybody else?

**Rhonda North:** John Ross.

**Bridge Littleton:** Mr. Ross.

**John Ross:** Mayor, Council. First of all before I begin my comments, I want to make clear that there's an awful lot about all of this that I don't understand and that I probably will never understand. And I'm really I really think the clarity in the ordinance and in the description of the ordinance that laypeople can read and understand would be extremely useful. I appreciate the Council's diligence in reviewing the application and question and all others of similar nature. I believe that the pending application and others of similar nature have the potential to set a precedent that virtually any residential property in our town can be turned into a party house. For all of the 180 days, it is not occupied by its owner or long term

lessee. My concerns lie in three areas. How many days constitute a single or discrete period of continuous short term rental use? Is that 30 days? Are we talking 1 to 3 days or are we talking five days or less? Are we talking less than 29 days? Greater than 29. But less than 180. It's unclear also how many days of primary occupancy by the owner or the holder of a long term lease constitutes residential occupancy. Is it 183 days between periods of short term rental. Third, the General Assembly has an act that SP 544, an amendment to the Code of Virginia pertaining to short term rental properties is the amendment, as I understand it, takes effect on July 1st by 2024. How does this act affect our existing ordinance pertaining to short term rentals? Second of all if the impact is substantially at odds with the Council's vision for Middleburg as a peaceful residential community as opposed to a resort community, what action must the Council take prior to the effective date of the amendment as enacted? In closing, I urge the Council to take necessary steps to limit short term rentals to no more than 60 person nights per year in any single residential property. And a grandfather agreeing upon usage for currently that currently allowed at five North Jay Street. Thank you very much for hearing my concerns. Thank you.

**Bridge Littleton:** Thank you. Rhonda, was there anybody else signed up or is it now? No, sir. Open call. All right. It's open mic night. So who would like. Ms. Strama, you were you had a spring in your seat.

**Donna Strama:** Donna Strama, 10 Orange Drive. First of all. We love you Prem. We love Sheila. I don't. I'm not real smart. I have a gut feeling this is just a bad idea. There's only 7-10 houses up there. If you approve this, what's going to happen when we have 49 houses up there and the potential buyers say I can pay for this house on our residents taking the brunt of it. I just don't think it's a great idea. I hope you all really consider what this is doing to our town, Middleburg. I don't know why Sheila Johnson, being a billionaire, would need to rent this out at all. It's her, right, I guess. But anyway, please, please consider this. And don't pass it for these short term rentals. Thank you.

**Bridge Littleton:** Thank you. Anybody else. Yes, ma'am.

**Julie Callens:** Hello, everybody. First meeting, Julie Callens, 606 Stonewall. So I back to this development. Kind of like Donna said, I'm not up here with notes. I'm not real smart. But like she said, my gut, it's just wrong. Once you let the genie out of the bag. You never get it in. Anybody with kids knows if you start with kids strict, you can loosen the rules. You can't tighten the rules as they get older. So this town is a small town. The it's a town that when I moved to town last year, people stopped and knocked on my door, gave me a warm apple pie, said, thank you. That's the kind of town this is. I worry that with each residence, as you said, 40 some residences, it just gets to be more and more. Nobody brings ten people in to a rental for a quiet weekend. They come in for bachelor parties, bachelorette parties, family reunions, that kind of thing. It's noise. And those of us who are on Stonewall and back to all these residences, it's not noise that we want. That's not why we moved to the country. So again, I urge you all to do deny it. Thank you.

**Bridge Littleton:** Thank you. Anybody else?

**Liz White:** Hi, I'm Liz White. I live at 708 Stonewall. Most of you know me. And again, to all of you that come into our community I'm hoping you come in for the same reason so many of us came in. This is a very unique opportunity for every one of us to be able to thrive in a small town, to know its community, to hear the events that are created, that are co-created because we care about each other. I don't want to lose that. So my thoughts are on three areas. One is about thinking about it holistically. And as you sit and listen, I want you to think about all the dynamics that get in play here. So there's not a whole singleton thing. It's all of those intertwined that's important to pay attention to. The other is an issue about having clarity, just like the man that spoke about what is how long is the length, what is the accountability is not there. If someone does have an out of sort issue with the rental that they propose, who's going to take care of that? Is there a detriment? Is there accountability that they lose that ability to have that purpose? It's like baseball throughout. You got three strikes. You're out. You know, why is it that it can be loose? And who's going to hold ourselves accountable? Who's going to be the people in place? Will it be all of us that back up to that those new homes? It's not because we don't like the people. It's about how it gets set up. And if it's not set up with good parameters and good accountability, just like we set up the security system in our country, we strive to do well and then hold those who are not doing following the rules accountable for their behavior. The other thing I want you to know about is how do you define yourselves in this town? What do you value? What do you want to continue to value? Because people come here based on what this town is about. It's not about Hilton Head. It's about coming to a town that they can identify with. These gentlemen spoke about always

responding to our neighbors being trustworthy. I have multiple examples of their untrustworthiness where I have to individually go and try to co-create something. Something as simple as the current issue is, the street lights are not on in the subdivision where they own that are not managed by the town. So for throughout this week we've not had street lights in that area. Who's accountable for that? The lawn mowing. When I came back and I said, okay, I'll start mowing the lawn. My house intersects to the new Chestnut, so nobody was mowing it because this tall. Sorry about that. Oh, it's times up. Okay. Hey. Good luck. Because I don't get the accountability I need. They're not as credible as I would like them to be.

**Bridge Littleton:** Thank you. Would anybody else like to address Council? So going. I was about to count down, John.

**John Pittman:** I know. I know. John Pittman. 12 Piedmont Drive, Middleburg Virginia. My concern would be precedent. Okay, you're setting a precedent for the entire community. And when you do that, you've got to consider fair and equal treatment to all the residents within Middleburg. So if you do it for one, you need to be prepared to do it for anybody that applies for a special use permit and wants to do the same thing, even though the circumstances may be different in each case, and probably will be. That's all. Thank you.

**Bridge Littleton:** Anybody else? Oh. You guys are faking me out.

**Kathyjo Shea:** I'm Kathyjo Shea and I live at 21854 Foxcroft Road. It's been since 2018 that I sat where you sit and I remember these arguments, I remember these discussions. I remember the development of the codes that would limit the use of rentals in private homes. And I have to say, I'm disappointed. I'm not disappointed in what the Council set forth in the hard, hard work we did to be really clear, to be really fair, and to be in alignment with law. I am disappointed that Prem, who I also love and respect, is here again asking for a special exemption for Salamander. And I thoroughly appreciate what Sheila Johnson does for this town. But we have rules. And I encourage you to apply the rules with some judicial looking at whether we can afford to help every citizen in the way that we're being asked to help Sheila right now. Thank you.

**Bridge Littleton:** Thank you. Anybody else?

**Mike Welch:** Hi. Mike Welch 105 South Madison. This is about an ordinance. Simple as that passed by the Council a number of years ago, but it's still black and white print that lays out special criteria passed by this Council. Some of you may not have been voting members at the time, but it is an ordinance. What I'm saying is you pass that ordinance under the ordinance, it's black and white. This is not about our opinions. This is about what the Council has already approved passed for the community. With that what I would say is, I understand there's a number of concerns of everybody in this room that live in this town, including myself. However, I expect to behave by the law. I'm a law abiding [inaudible]. Right? I come out every day. I follow the speed limits. I do what the town expects of me, I pay my taxes and so forth. But I don't expect somebody to pull the law out from underneath me if I comply to the law as it's written today. If there is a debate about the law that's at a future session, not during a person who applies for a special use permit. Thank you.

**Bridge Littleton:** Thank you. Anyone else. All right, I'm gonna do the countdown. Going once. Going twice. Okay. We will close the public hearing on the first application. And at this time, the applicant gets five minutes. If they'd like to add any other input or color. Yeah.

**Scott Little:** Good evening again, everyone. Thank you for the chance to just speak briefly. Just with respect to the parking question, that there was some discussion about that Mr. Moore highlighted. That was definitely a legacy comment that was rendered in the original documents that was actually intended when there were more garages associated and contemplated well before even zoning approved them. Approved the development. And the idea was that parked cars wouldn't, shouldn't park in their driveways. They should park in their garages that has evolved. And just yesterday, the Board of Directors amended that section 5D to replace not permitted with the word permitted that residents are able to park in their driveways consistent with the declaration that restricts things like trailers and boats and oversize vehicles. So just a point of clarification for Mr. Moore. There's been a little discussion around parties and bachelor parties and such. And, you know, the occupancy on any one of these houses, the amount of times that it would actually hit 8 or 10 is more, more likely a family multiple adults and families, that's what we see in the hotel is more children and adult children of

families than we ever do bachelor parties or bachelorette parties. Either way and again, Mr. Moore didn't dive too much into this, but that those covenants and restrictions and the declaration is very robust and very restrictive in every house over there, whether they're in the rental program or not, are subject to very significant restrictions about not just behavior, but where they put their trash bag where how they move and the quiet time that exceeds the ordinances that exist here in Middleburg. Prem, I'll yield to you if you have a few more. So just a few points of clarification. Thank you.

**Prem Devadas:** I have even less than Scott. I did want to reiterate that the characterization of party house to go to that point is, is really there is no basis for that. There's nothing that even that suggests that at Salamander Resort, that there has ever been that kind of a customer or that kind of environment. It is very much what Scott says. It is an opportunity for generational families to be able to enjoy each other, as many of us have in our life, by going and staying in an accommodation where mom, dad, kids, grandkids can all be together and can enjoy it, albeit here in a very, very high, at a very high level, at a five star type of level. So I just want to make sure that you understand that, you know, that party house is not a part of what Salamander has ever done. And it's not the kind of those kind of those kind of people that are looking for that kind of thing they don't come to us because that's not what we're about, and we do have ways to control it. And the only other thing that I'll say is that to you guys, I love you guys. And in all seriousness, I in 19 years and you guys have been friends and I don't want anything to happen with that. And that is my point. And I appreciate I appreciate all the support. So I will tell you that if you have concerns about who may stay there and how they may act and how we control it. Please, like always, come and see me anytime I'm here or I'll come see you. I'm happy to talk you through exactly what we do.

**Scott Little:** Thank you. Thank you. Still got 36 seconds left. And I'll grab it just to speak with to relate to some of Miss White's comments. I just wanted to make you aware that I'm very aware of the streetlight shortage, the short that has switched those lights off, and I was also aware of the mowing situation, the little strip of land along the roadway there that our contractor neglected, and the common area maintenance. It's on my radar now, but. [off mic] Oh, wonderful. Well. Well, wonderful. Okay. Send your address. Okay. Thank you, Mr. Mayor. Thank you.

**Bridge Littleton:** Okay. We'll now go to Council discussion. I know Martin's going to provide some feedback. And I think a couple things I want to start off with is this is the first application of three applications that are related with the resort. And then there's one application which is not, I think a lot of the Council discussion that we have in the first application will, you know, feed right into the second and the third and maybe even the fourth one. So I anticipate to be a robust discussion in this first application and then, you know, the other ones again, it's, almost carbon copy to seeing. Well, not, not exactly, but very, very similar circumstances. So the other thing I want to mention is Martin is going to give from a Town Attorney perspective, some, you know, sort of baseline level setting for us around our ordinances and the legal meaning and all that kind of stuff. Before we get into a discussion. So Martin, are you there?

**Martin Crim:** I'm here, Mayor.

**Bridge Littleton:** All right over to you.

**Martin Crim:** Appreciate that. The [inaudible] thing to understand about a special use permit is that it is a legislative action, and that it is guided by certain rules that are set out in the ordinance. But the ultimate grant of authority for having special use permit comes from the General Assembly, and it allows the locality to approve special use permits with appropriate safeguards and regulations. So you can impose individualized regulations and requirements for properties that are subject to a special use permit if you grant them at all. And it's a legislative decision as to whether to grant them and it is upheld by the courts as long as there is some basis in the record that makes the denial fairly debatable. And the fairly debatable is a very lax. Well, that's not the word I want a very relaxed standard for judicial review. You know, if you violate somebody's constitutional rights that requires a very high standard of review, a strict scrutiny. Most things don't require that level of review and legislative decision in a land use case like this is the lowest level of judicial review. The greatest deference, if you will, by the courts to the legislative decision. That said that's just the kind of 30,000 foot overview for special use permits. In this particular case, we're looking at whether the application meets the minimum requirements. And then if it does, then the ordinance says that you shall grant it. But one of the minimum requirements is compliance or being consistent with the comprehensive plan. And the comprehensive plan has a lot in it. So to the extent that something is not consistent with the comprehensive plan, that would be grounds for denial. So if you have something

in the comprehensive plan that addresses this, and a lot of that is very broad strokes things like you know, maintaining the character of the town. Then that is a valid basis for finding that the application is not consistent with the comprehensive plan. And then there's five specific points. I'm going to jump from the 30,000 foot level down to ground level. Five specific points I want to make about this particular application. The materials that were submitted asserted that short term residency occupancy is residential occupancy based on some definitions in state code. That maybe, but the issue is whether the short term rental occupancy is residential use for purposes of the 183 days required minimum residential occupancy in the ordinance. And clearly that's not the case. The way that the ordinance is written requires that somebody be a resident, which requires that they have at least 30 days in occupancy at a time, and that could be the 183 days could be satisfied. But one person being there for 183 days or by, you know, six people each being there for 30 days and, well, one, five people for 30 days and one person for 33 days. There are a number of ways that you could accomplish the 183 days. But the issue then is how do we address that, given the applicant's statements in their submittals? And one way to handle that would be to, as a sort of belt and suspenders action require that the person who is the person or persons who are satisfying the 183 day residential occupancy requirement, be there for at least 30 days at a time and make that a condition of the occupancy of the special use permit. So that's point number one. Point number two is what do you do when somebody is living there. But they're gone for long periods of time? Maybe they're traveling. Maybe they're have a second home or this is their second home. What is the how do you count that? How so? Obviously, when you leave your house in the morning, you're not abandoning your house and even, you know for any period of time if you come back in the evening, that's your occupancy the building that whole day, even though you were gone during working hours. It's a little bit of a vague issue, I have to say, because how many days gone is really vacating the house? And I think this is going to turn on issues of enforcement that are difficult to say in the abstract. If there is a period of time when nobody's living there and, you know, the there's no clear date that the person is coming back then it starts to look a lot like it's not occupied. So that's a real problem that I think we will need to have some consideration for. The third point I want to make is with regard to the fact that other applicants have been approved or may be approved in the future. As I said at the beginning, the issue with regard to special use permits is that they are individualized. They are legislative decisions. They are specifically authorized to address individual location and circumstances that make an application different from other applications. And the courts have recognized that this is a reasonable thing for the localities to do that they can say this property is different from that property. And it doesn't require a very great amount of evidence. The courts are not competent to evaluate that evidence. All they have to do is determine that there is some kind of basis for the localities decision. And if they find that basis, then they will uphold the decision. So the claim that there's invidious discrimination against one person because they didn't get the same deal as somebody else is easily defeated by pointing out the important distinctions between the properties. Those could include the zoning district, the size of the parcel, the neighbors, the character of the area that the property is in and the location, whether it's in a quiet residential area or on a busy public road. And those things all make a difference. Fourth, I want to make a point about this short term rental use being commercial use, it is in fact commercial in the sense that they have to get a business license, they have to pay commercial transient occupancy tax. They have to have an agent under our ordinance. These are not things that are required of a residential use. They are things that are required, typically of commercial use. And so obviously there's a gray area between a hotel and a house that somebody lives in all the time. And as with a lot of gray areas, somebody has to draw a line and a line drawing exercise is a legislative action to say this is how far where you can go. And this beyond that point it changes character. And again, courts are not going to second guess that they're not in the business of drawing lines. They're in the business of determining whether somebody has stepped over the line. And then the last specific point I want to make is with regard to the declaration by this applicant that the property will be used for residential use. Quote, by the my understanding of the definition, end quote of residential, I think that's a direct quote. The it certainly the gist of the declaration. This is a mental reservation. This is saying, well, I thought that's what it meant and we don't know what the person meant. So that's clearly unacceptable. The question is you know, do we have a meeting of the minds here? Do we have the same understanding of the definition of residential? And, you know, based on the first point I was just making about whether short term residency occupancy is residential. We are pretty sure that that's not the case. So that's a pretty major flaw in this application. And that kind of mental reservation is just setting the situation up for conflict in the future. So with that, I'll take any questions that the Council may have.

**Bridge Littleton:** Anybody have any direct questions on that from Martin? Cindy. Darlene. Sorry.

**Darlene Kirk:** I was talking to him. Oh, I keep trying to get that thing off his coat, too. So basically what you're saying that this doesn't meet our requirements because it's not a residence. Is that what you're saying?

**Martin Crim:** Not exactly. I'm saying that if you find that it doesn't comply with the intent of the Comprehensive plan than it is not doesn't meet the minimum standards, then beyond that, if it does meet the comprehensive plan you can make individualized decisions about how many people and for how long this property can be occupied and other, you know, conditions that would mitigate any of the impacts from the occupancy as short term residence.

**Bridge Littleton:** Thanks, Martin.

**Darlene Kirk:** Thank you.

**Bridge Littleton:** Okay. So I think we're going to take this a little bit like we did the last meeting. I've got some sort of foundational questions and some sort of again, foundational items that I've spent a lot of time in the last two weeks really diving into this. I don't who here has reread the comp plan twice? I set myself up for that one. Teacher's pet. But and so and again, I think a lot of what this discussion will drive into will be directly relevant for the second one, the third one. So we won't have to rehash it. But when I look at the application as it stands I have a lot of reservations and some major concerns. And it's not just it's not one little thing. It's multiple things that have added up when you look at them in the totality that drive this concern. And my biggest concern and there's multiple concerns, but the one for this application, which is of my biggest concern, is meeting the qualification for residential occupancy. I think our ordinance is very clear, and I think Martin and Will's memo put it out very clearly that, you know, and it completely aligns with the comp plan. And the comp plan is replete with commentary that we do not want this to become a resort town. We do not want this to become a transient town. We do not want to become a Vail or Kiawah Island or something like that. This is a community of people who live here full time or mostly full time, where families are raised. And we have it talks all about multiple housing options so that all walks of life can make Middleburg their home. The word community is in our comp plan literally almost 80 times. So I think it really points to the fact of what our goal was and what the sentiment and the feeling of our community was, and our citizens when we wrote it. And it's not that old, it's only 2019. So as I look at the overall approach on meeting this residential occupancy permit residential occupancy requirement, I have a number of questions. And I know Scott or Prem, you know, you guys want to take the questions or have them want to do it. So Scott, I appreciate you telling us tonight that you've removed this 60 day parking thing, but until I see it in writing doesn't count and I really don't appreciate this stuff at the last minute. We asked you guys to have all your stuff in by the 15th. So, you know, that's a little frustrating because that's a major thing, right? It's a major change to your rules and ordinances. And now we have to, on the fly, consider it as you literally drop it on us, you know, as we're trying to figure out what to do. So I'm concerned why it was there. A couple other things. I want to read a statement that you and your all's general rules. Okay? And the statement says this number B under general rules. The hotel property and the project, including the lots, residences and common areas, are integrated physically and operationally as one resort. And all portions of the resort must be operated and maintained consistent with the resort standard, and these rules shall be implemented okay. So all the rules that every homeowner is required to live by is the fundamental principle that the homes are integrated as the resort, not as individual homes on their own, doing whatever they want to do with their life. So that's again, it's not it's not dispositive, but it's very concerning. It is foundational as a attitude and a view of how the houses were viewed and how the houses are to be operated as a part of the resort, which is exactly not the intent that we have for our short term rental ordinances, nor is it in alignment with the comp plan. Second thing. You all's rules and ordinances or your rules and covenants require a homeowner that they're going to enter the resort rental program. They cannot furnish their own home. They have to pay you all \$600,000. And you are the ones who choose the furnishings. That again, does not make it feel like it is that individual person's home. Right? Because, I mean, when we all buy a home, we make it a residency, even if it's a second home. We put our pictures up, we bring in grandma's chest of drawers, you know, we put our own character on it. Your covenants prohibit that. Third every home has an owner's closet where all the personal items in your shaving kit and whatever else can be locked up for rental. What I find interesting about that is it is a fundamental design of every home. So. It was already integrated into the architectural planning of these being substantially rented out as part of the resort. And again, an owner doesn't have an option. We've talked about the driveway. That's concerning. The other thing is, and this isn't necessarily applying to all the applicants. But again, it's one of those elements which puts a cloud over the whole question. Number one, it says that the Salamander Resort has a right of first refusal whenever somebody wants to sell a home. Again, that's traditionally if someone's using it as a home. Your home is your home and you want to sell it how and when you want to sell it. These owners don't have that choice. They have to offer it to the resort first and foremost. And so if someone sells and the resort buys it, how is that ever going to be a residence? It never will. It's now a corporate



property. I mean, unless the resort looks to lease it out for 186 or 183 days a year to a jockey or something, which, you know, I think you guys are planning on charging \$3,000 a night. I don't see how a jockey could afford that. Again, it has become a pure business activity. The other part to that which is really concerning is the rules will never apply to Salamander. So you guys have an exemption in your rules that if Salamander ever acquires one of the properties, all these wonderful rules you talk about don't apply. The resort as an owner of a residence is exempt from any rule. So again, that is a commercial activity. And again, not any one of these little things is in of itself, you know, but you put the totality of these together and it creates a picture and a view and a vision that is really concerning. And it starts to get to the point of unless somebody buys a home and passes on dealing with Salamander at all how will I really have the confidence that it is going to be 183 days or more of residential use? Few other things I want to point out. And Prem when you were here last time, I asked you very specifically if you know there had been marketing of the program. And your point? You said, absolutely not. You followed up with a letter, which I really appreciate. You know, you guys went back and talked. Yes. A couple of times folks have said things. And so I appreciate that, and I appreciate you looking into it and making sure to set the record straight. But I want to read a quote from you at the groundbreaking. And the quote is, we are creating a Salamander vacation rental experience that will allow our guests to experience the resort in different ways. It will be the same five star expectation, the same five star experience, but more geared towards families. I think that is something that is going to be great not just for the resort, but also for the town. No mention of residential use was all about creating a Salamander vacation rental experience. I mean that was directly from you. In the TTR press release earlier this year it says they are excited to be the representative for the resort and all that kind of stuff. And it says, and for those who choose to do so, owners have the option of including their home in Salamander's voluntary luxury rental program. So this notion that it hasn't been put into the public domain and to some degree pushed, I don't think is wholly accurate. So and I have had calls from prospective buyers inquiring about how they didn't realize there was a zoning ordinance, all that kind of stuff. And it was very directly discussed that the rental program was something that was very important to the resort. The last point I want to make is I appreciate Scott and Prem you guys coming up and talking about, you know, how you're going to really focus on, you know, no parties and making sure things are kept in order and all that kind of stuff. My problem with it is this. Every comment you guys provided was that the resort was going to do this. The resort was going to do that. The resort will maintain this. The resort will maintain that. The resort is not the one applying for the special use permit. Sheila Johnson is the one applying for the special use permit. And what I needed to hear was how the owner was going to do these things. And what I needed to understand was because again, businesses come and go. You know, go back 100 years and the robber baron era. These wonderful five star resorts that no longer exist. No one can provide me any assurance that the Salamander Resort will be here in perpetuity. So. You know, it is incumbent upon the owner to provide those assurances, not a corporate entity with a contractual relationship, because we're applying this to the property. And again, you guys are not a party to the application. So and I know other Members of Council are going to have some questions and stuff like that. You know, these are my concerns. I mean, would be great for you guys if you want to address them. Again, I think Will's and Martin's sage legal advice on how we, in our ordinance define residential occupancy and residential use is what applies here. So I just don't feel you've met the bar of the 183 days of occupancy. So that's where I sit. But again, if you guys want to opine or provide, you know, other input, I, you know, now's the time.

**Darlene Kirk:** How about you let the rest of the Council go?

**Bridge Littleton:** No no no no no no. Hold on, hold on, hold on. I put a lot on them.

**Darlene Kirk:** I know you did.

**Bridge Littleton:** So yeah, there's a lot there. And I'm sure the answers would be helpful for you guys as well. But hey, Darlene, this is going to take a while.

**Darlene Kirk:** Oh I know that.

**Bridge Littleton:** So let's just, you know, we're each going to get our moment.

**Darlene Kirk:** Okay.

**Bridge Littleton:** And so I leave it to you guys if you want to, if you want to address anything. And then we'll go around

**Scott Little:** Thank you again, Mr. Mayor and Council Members. Just. I'll take these one at a time under the general rules. You remarked under that general rules provision, it's meant that although it, I think you characterized it as sort of including residences into the resort. It is it is correct. But in that same section. And it has to be viewed in the context a little more accurately, it is about control of behavior, design, standards, architecture, vehicles, parking, all of the things that are in that section. It is not in the context of the residences and joining the resort in its business activities. It's about control and management, the whole declaration of a homeowner's association and all the companion pieces of it and all of the private agreements that are as sturdy, such as the rental management program those are all about ensuring that any short term rental house or in the greater context, all of the residences are under the auspices and control of a much more robust set of standards than the town has in its own set of standards for outside of the Salamander property.

**Prem Devadas:** If I can just we will tag team this [off mic] because there's a lot and in all fairness to Scott, he wasn't here when we started. It does not say and by the way, in the way that you read it and the concerns that you have, I can understand where you're looking at it and from a rental lens, but I think it's very important to understand that those things that you cited, they don't say only if you ran. They applied to all the houses with regards to control of the common areas and the quality and it has to do with the quality of what we have established at Salamander from an architectural standpoint, from a design standpoint, from a service standpoint, a cleanliness standpoint, the way that it works, it is a matter of making sure that those houses that are in that neighborhood that people will equate with Salamander Middleburg are always going to be at that quality level that we've defined. That's really the purpose for them. I understand you can read it in a different way, but also just keep in mind we are today ten homes that actually have been sold. And there are three applications for short term rental out of those ten. What about the other seven? There's a couple of homes that are living there full, full time. They don't have second homes that they're going to. And then the rest are people that just choose not to be put in the rental program. It as an example, the item that you cited with regards to the furnishings and the furnishing package, if you choose to rent, that if anything as you described, is a deterrent for somebody to rent, you mean you're I'm going to have to pay \$600,000 and you're going to tell me what the furniture is. So we're not making it easy. If we wanted to make it easy, we'd say, bring in whatever you want, put in whatever furniture you want, doesn't matter. And that makes. And just rent it with us and that'll be fine. Nothing could be further than the truth. I'm sure there probably are some owners who decided when they bought, I'm never going to rent because I'm never going to want to. I always want to put my furniture in there. That's absolutely fine if you do that. The issue of the owner's closet is very much forward thinking. You know, there I can't tell you how many people have said sometime down the road, I wish I had a closet. And it's not only because the rental it can be when they have guests coming in that may be friends of theirs. They're not charging for it, but they wanted to lock some things up. They didn't want them to be around. So it's just I will tell you that the things that you are reading through while they can look like, oh, they are, they smack of wanting to just rent every home. It's not the reason why we did it. We did it so we could ensure that this unique neighborhood that does about the resort is always going to be at the same quality. And if somebody does decide to rent it short term, and if they choose to rent it through the resort, that the person that is there is going to be the same promise of quality that we are known for at the resort. So I just want to let you know, it absolutely never has been in the intent to incentivize. While I'm speaking, I will just say with regards to the comment about what I said in the groundbreaking and other marketing materials, I did send a letter to you and to the town. I hope that Council Members received it as well. We had the meeting on Thursday. I started researching on Friday. Scott did a lot of research. We reached out to our partners. I think I sent the letter on Tuesday, I believe as soon as I could. With all sincerity, I said that nobody on the selling team is ever supposed to do that. That's not allowed. In the letter, I did point out that the original press release, which happened to be the document that I read from at the groundbreaking did actually say exactly what you said it said. I'm sorry. That was at that time, that press release was that. But we weren't trying to hide anything. And so I just want to make sure that everybody. Yeah.

**Bridge Littleton:** No, I mean Prem. Look, it's the point is not that you guys are trying to hide or anything. I mean, I don't remember what I said last week, much less two years ago. Right when you guys did the groundbreaking it was two years ago. My point of it is, is there is absolutely a corporate vision that rentals are high on your priority list. Otherwise you wouldn't have said that at the groundbreaking you made. You made no mention of families and homes and what we say and neighborhoods, what we say in our comp plan, it was only about the great rental experience, so I just.

**Prem Devadas:** Bridge that's what we do. I mean, once again, we have seven of the ten owners so far. They have no interest in renting.

**Bridge Littleton:** Well, they have no interest today. You cannot guarantee me that will be the case in perpetuity, can you?

**Prem Devadas:** Of course not.

**Bridge Littleton:** Okay. Can you make that guarantee for every future owner?

**Prem Devadas:** Of course not.

**Bridge Littleton:** So let's stop saying that it won't happen because it's only seven or it's only three today.

**Prem Devadas:** No, I'm just pointing out a fact. It is. It is a fact.

**Bridge Littleton:** And you guys have only been open for a year and you've already sold. You've already got 30% of the homes wanting to be in the rental program wanting to be rentals 30% in the first year. I can argue at the exact opposite way. What's it going to be in five years? What's it going to be in ten years? Well, we've got to wrestle with is what's this going to look like in 25 or 30 years? And will every owner or potential future owner potentially want to go and rent their house? I mean, our comp plan explicitly states in new neighborhoods we don't want a concentration. Right. So what that means is there's some limits.

**Prem Devadas:** So we are talking about this application.

**Bridge Littleton:** I understood.

**Prem Devadas:** Which as Mr. Moore pointed out is an unusually large lot. It is removed from others, it is distant from others, it is closer to the Commercial Hotel than it is to the core of the town and residences. This is the application that we're speaking of.

**Bridge Littleton:** Correct.

**Prem Devadas:** It is very, very removed from everybody else. I would hope that we would consider that as Planning Commission did.

**Bridge Littleton:** I mean, the reason I bring it up is because you brought up it's only three of seven, which has nothing to do with this application. So we can move on.

**Prem Devadas:** Okay.

**Bridge Littleton:** We'll stick to this application.

**Prem Devadas:** Well let's continue.

**Bridge Littleton:** Yeah, yeah. So Oh, okay. Go ahead. Sorry.

**Scott Little:** You just. There's a couple others.

**Bridge Littleton:** Yeah. Go ahead.

**Scott Little:** Just to speak to briefly for example, the right of first refusal. You know you're very savvy with real estate as well Mayor. And there are a myriad of reasons why there's a right of first refusal is kept, including to help protect property values. And there has been in my study in my short time with this program it the amount of robust work to do just that this was contemplated that that was a genesis reason to retain an opportunity was the protection of the neighborhood and the residences.

**Bridge Littleton:** So, Scott let me ask you a question.

**Scott Little:** Surely.

**Bridge Littleton:** So if the Salamander bought this residence down the road. Doesn't that just make it it's now a commercial activity.

**Scott Little:** Mr. Mayor, Mr. Moore holds all the power.

**Bridge Littleton:** Not my question.

**Scott Little:** Violate the short term permit.

**Bridge Littleton:** Not my question, not my question.

**Prem Devadas:** I think I understand the question. And I actually wrote it down when you said it. Putting that clause in there was not so that we can buy the houses. We have no interest in owning the houses. It was today.

**Bridge Littleton:** But the next Salamander might.

**Prem Devadas:** Well, listen, if there's a discussion to be had about things that would give the Council comfort in the future, similar to our applicants signing the waiver on this house, we are happy to have that conversation. Absolutely. That what I'm speaking to is intent is not the intent. And it's never would be the intent of us to own the houses we're trying to sell, but we would want to be able to step in and control the selling process of that home.

**Bridge Littleton:** Understood. My concern is you won't always be there. And the next Prem their intent could be to use that wide open authority to buy it and being an extension to the resort. And you can't say that's not and that's not illegal. That because a right of first refusal is not about your intent, it's the right of first refusal. So Yeah. So anyway, Prem I understand again, these are my concerns. So let me.

**Prem Devadas:** Can we clarify just a couple more things that you brought up specific to your comment?

**Bridge Littleton:** Yeah. Just in a minute or less or less.

**Scott Little:** It says ten here. No, one minute.

**Bridge Littleton:** We can unplug that.

**Scott Little:** Just with regards to the parking. Very happy to provide that that didn't that question wasn't raised before the 15th. Mr. Moore and his due diligence located that and highlighted it and brought it to the awareness of our attorney. And we were as surprised, I think, as everyone else and very quickly put that on the record. And it's effective today. It was distributed today and voted on by the board yesterday in a Robert's Rules meeting.

**Prem Devadas:** So we are sorry about the last minute nature of the delivery, but it is something that we just.

**Bridge Littleton:** Okay. I'm going to go down this way and I'll go down this way for any questions.

**Chris Bernard:** I actually just have a quick follow up on parking or related to the parking. Can you walk us through the process by which the rules can be changed? It sounds like you very quickly changed the parking rule. And we're leaning very heavily on your rules controlling what goes on there.

**Scott Little:** I will say that there's a Board of Directors and appropriate governance that is required by the Commonwealth of Virginia. We have a licensed administrator, you know, in our property, our Resort Manager, Gemma Brown, is an administrator who has passed that licensing. And the guidelines are not negotiable about property owners associations. They're in conformance to that. So the process and protocol is not in our control. It's in the Commonwealth's control that this particular rule is in a nonpublic document that Mr. Moore requested the documents. So we gave them the documents or you all requested the documents. So we provided them. The declaration is a public document, and it is the parameters around making any modifications on that are significant. I'm not a lawyer. You know, if John wanted to speak to what that looked like. But it's not something that we can do without bringing in the neighborhood and the members. In the case of.

**Bridge Littleton:** So all the owners will have to come in.

**Scott Little:** That's correct.

**Bridge Littleton:** Okay.

**Scott Little:** So on the declaration.

**Bridge Littleton:** So the rules are Board of Directors. The covenants and declarations are all owners?

**Scott Little:** Correct.

**Bridge Littleton:** Okay. Yeah.

**Scott Little:** They are very, yeah we can't do anything to change those once they're on the record. In this piece.

**Bridge Littleton:** They are part of the deed.

**Scott Little:** Correct. And, there's connectivity between the two because the homeowners association that is structured under Commonwealth laws is they're tied to the obligations are tied to the declaration. So in on one side.

**Bridge Littleton:** I think we got it.

**Scott Little:** Okay. Very good.

**Bridge Littleton:** The question was how you do it. Board of Directors HOA. Got it. Okay.

**Scott Little:** Yes.

**Bridge Littleton:** Is that what you need? Okay. You got anything else? [off mic] Cindy. [off mic]. Mr. Daly. Ms. Curran.

**Pam Curran:** So you were talking about intent a few minutes ago and, you know, being relatively new to Middleburg, I've heard a lot about the intent originally when the homes were built, and the intent was that we'd have 49 wonderful new neighbors that would shop and eat in our restaurants. And then, I don't know, 116 rooms at the resort. I think it was.

**Prem Devadas:** 168.

**Pam Curran:** 168. What changed? Because I you know what I'm hearing and what doesn't align with the comp plan, right, is, you know, yes, you absolutely can control what's going on in the resort, but how do you control the cars in our neighborhoods and the noise and the pollution and little kids on bikes with cars coming down and, you know, walking our dogs. But I'm just I just for my own sake Prem, I'm just wondering what changed with your intent because 49 homes with neighbors is not the same as short term rentals for us. You know, you're not they're not neighbors there.

**Prem Devadas:** Sure.

**Pam Curran:** Yeah. So what changed on your end?

**Prem Devadas:** Well, first of all, the 168 rooms have not changed. And we made a commitment to that. And that has not changed and has never been any interest in changing that. The 49 homes actually were by right when the property was acquired. So there was already a right to the 49 homes. When we went through the approval process for the resort. We actually proffered a new residential plan with 49 homes that would be limited in maximum size of square footage, because what existed was the ability to build out roughly half of those lots to any level that you wanted. I mean, huge mega mansions, which we didn't want. So that is what happens specifically is that we ended up carving. We ended up creating with the town being R1, R3 districts with the two different lot sizes and the two different footprints that were the maximum of what we can do. There really was no change. You know, again, today we are very first owner of a home. It is actually their second home, but they spend an enormous amount of time here, and they opened up a beautiful bookshop, and they're very much assimilating into the community, and their kids do come out to visit them, and they have family gatherings. We have another second home that is a individual who is a full time resident here, travels a lot, but is a full time resident. We have other people that are not full time residents because they live in other areas, but they want to enjoy their home whenever they can, and they have no interest today in renting. And then they're I've explained this applicant's situation and their desire to do what they wanted to do. Under what we have understood to be the ordinance. And, you know, I think we and what may have changed is I think we missed what the greatest interest was and the greatest emphasis from town and community. We thought that the most important thing was that if somebody was going to rent their home in a short term basis through us, that we had to focus on making sure that they were complying with the ordinances of the town for the good of the neighborhoods, and that we would apply all the resources that we have to do that. That's what we focused on. And we've talked about that in every meeting that we've had.

**Bridge Littleton:** And I'm the culprit of this. I sucked a lot of time out of the room. It's almost 9:00. I just want to make sure. Was that helpful?

**Pam Curran:** Yes, it was helpful except I've heard from residents and even former members who have said on the Council that they supported originally what the intent was. And now this is not where we are. So that's it. That's it. But thank you Prem.

**Prem Devadas:** Sure. We've come with two applications and believe me, it's not. It's not a change of intent. It certainly may be a misunderstanding with a lot of people. And I'd be happy to talk to you about it further. Yeah.

**Bridge Littleton:** Okay. Go down this way, Darlene. Are you good?

**Darlene Kirk:** Well, no I'm not. I have to say, I'm really angry and. Thank you guys. Upset and disappointed in all this. I mean, the intent was very clear. We kept upping the number of rooms until we got the 168. And you all were happy with that. And we made it very clear we wanted these to be homes, not rentals for the hotel. And that's what this first one is. It's basically you can bring it in ten more people and you've got four rooms for that. And that's not what we intended. We wanted people, normal people living in the houses. And both Kathyjo and Bunny can back me up on this. They were there and it just makes me really angry. And I'm not going to agree to 180 days with up to ten people in the place. That's just not going to be conducive to anyone who lives around that. I just don't see that happening. And the other thing, I had a question for you. You said when we were talking about you were talking about the agreements that you had with Salamander Oh was the owners there. You've mentioned other private agreements. What is that? Are there a lot of other agreements we don't know about that we should know about before we vote on this? Because it sounds like a lot of things are being hidden.

**Prem Devadas:** Well, the fact is, no, there's nothing being hidden, for example. Straight answer is when we enter into an agreement to manage a rental we have obligations, and the owner of a house has obligations. And that agreement is how that facilitates that. That's a private agreement. It's not on the record. And those obligations always to Mr. Mayor's point revert back to the owner having the absolute responsibility to follow the statutes.

**Darlene Kirk:** Okay. Are there any other private agreements we don't know about with the houses or the sellers or anything?

**Bridge Littleton:** Well, so, Darlene, real quickly, in fairness.

**Darlene Kirk:** I know.

**Bridge Littleton:** That's none of our business. [off mic] No no no no, no.

**Darlene Kirk:** [off mic] On us it is.

**Bridge Littleton:** We are evaluating the application as it stands, what they're bringing forward and what they're doing if.

**Prem Devadas:** Yeah.

**Bridge Littleton:** Hold on, Prem. If they've got a private lawn cutting contract that's fine. Right. It's I understand I know, I know what the question is, but our job is to evaluate this on just the elements. So but I understand your point. I mean, you guys providing the covenants and all the rules which we hadn't previously seen and the Planning Commission hadn't previously seen. So I do actually want to make a note that is a substantial, you know, amount of information and detail that has affected our review of the application. Visa V the Planning Commission. So when you guys look at the Planning Commission, say, oh, they got it right. Well they didn't have all the details. And these things, these are all elements that really, really matter.

**Prem Devadas:** So we're not saying that. Darlene let me just finish by saying I'm sorry that you're disappointed. We never to mislead anybody. The short term rental ordinance that was passed, we thought applied to every home in Middleburg. Certainly not just the Salamander, certainly not just to Jay Street or any other neighborhood. We thought that it applied to every other ordinance and that we would be we would apply in the same way. So I never would want to disappoint you because you have supported you supported us in the beginning. I appreciate it, and I'm sorry.

**Darlene Kirk:** But you are sort of going back because they were going to be homes and they're not going to be homes.

**Prem Devadas:** No, but there are homes. It's not all of them. In fact, most of them are homes.

**Bridge Littleton:** So I got it. [off mic] No, I got it. No, no, it's okay, it's okay. No I mean it's move on to Bud.

**Bud Jacobs:** Thank you for coming tonight. It's been enlightening discussion for me. I voted against approving this application in the Planning Commission or rather, I should say I voted to recommend disapproval to Town Council. And I don't think I need to adduce the reasons. I do have to say that I haven't heard a single thing tonight that would make me change that vote. The fact that you stated earlier Prem about the resort's partnership with the town is absolutely true in my view. It's been wonderful. I hope it continues. However, it's not relevant for this discussion. Similarly the potential damage, I guess, is the word that might occur to one of your residents for not being able to get a special use permit and therefore not being able to defray expenses associated with the purchase of a home is also not relevant for our consideration. We have to look at the ordinance, and we have to determine the facts as they pertain to that ordinance. The ordinance, by the way, does cover every home in Middleburg. There's no carve out, either positively or negatively, for the resort. I was going to bring examples of some of the research that has been uncovered on the detrimental impact of short term rentals on communities around the country and particularly on small communities. And listening to people tonight, and particularly listening to our residents, I don't feel the need to go through those facts. People in this town understand what is at stake. People in this town participated in the hundreds in the drafting of our comprehensive plan. People in this town know what's in the plan. People in this town also expect us to uphold the ordinance and to uphold the plan. And because that is our role, our mission. I'm going to, first of all, urge that we move to a vote. And secondly, speaking only for myself, obviously, I'll be voting no on this application, but I appreciate you guys coming here to talk about it.

**Prem Devadas:** Yeah. Thanks for explaining. And again my reference to the relationship with the town was really about how I arrived at asking recommending to the applicants to waive their rights, which coming out of the last meeting, I thought was at that time the most important issue that was posed to us. I appreciate that. So similarly, I would say if there are other issues that are concerns and there obviously are now, I would appreciate the opportunity to continue the conversation, because I think that there are many other aspects of our management for those owners and the nature of the homes and the distance between the homes that are positives relative to the ordinance. And so if there are certain things that we can work on in order to make people comfortable, I would like to continue to do that.

**Bridge Littleton:** No, I appreciate it. Peter.

**Peter Leonard-Morgan:** Well, thank you very much, Mr. Mayor. And thank you, gentlemen, for coming as well. The first thing I want to say is that every member of this Council is a resident of the Town of Middleburg. So we moved here, or some of us were born here, I believe, and been here since the 18th century. [laughter] [multiple speakers] We moved here for the small town community feel, which we love and enjoy. We have our neighbors, we know our neighbors, we walk our dogs. And Salamander has been a wonderful partner. It's a great place to go to. And you've done a wonderful job, but our job here is really to find a balance, the right balance, whatever that is. And we've all got different thoughts and opinions. But there's also we have an ordinance which states facts. It states what should be done, for example, not endanger the public health. There's a ton of anxiety here, a lot of emotion, a lot of concern and worry. And that to me is that could manifest itself with mental health. And I'm not a mental health specialist. I don't think any of us are. And I would really want to find out more about what the impact of short term rentals on a larger scale, which this is, would have to the mental health of our residents, not to mention a lot of cars we had recently 50 Lamborghinis fly through town. I don't know if it's anything to do with Salamander, but we were all and I used to work for Lamborghini, by the way, when I was much younger, and it scared the heck out of me. And they were doing burnouts in town, and I don't know what sort of speed they were doing, and none of us knew about it. And I can only see that we're going to have more of that because we're going to have very wealthy people renting and staying at these beautiful houses, you know, potentially every single weekend of the year. Plus We have kids walking around. We have dogs running around on leashes. The safety of the residents is a big concern to me, and that is right here and not endanger the public health or safety. So I really do need to know more about that before I even think about voting on it. I do also want to just mention well, in that the parking issue I spotted early on and you addressed that, and that's interesting. The five North Jay Street, you've constantly gone about comparing and wanting to be compared, you know, wanting to be the same playbook, but it is only two people for 180 days a year. And if you balance it back and you've gotten for 180 days a year, it's a completely different number. It's also, I believe, on the almost on the commercial side of the town there. So there's really a lot more that I need to know because I don't want to just say yes or no without knowing all the facts that could impact my family, these families, your families in town.

**Prem Devadas:** I appreciate that very much. And I think that I would say the same thing that I've said to a couple of other people, I would love the opportunity to be able to provide more information, to answer more questions, to figure out, just like our coming to the belief that the waiver is going to give the town some comfort to be able to talk about other conditions that might allay those concerns. That's a legitimate concern that you're talking about. We take it for granted that we know exactly how it is that we're managing those, and that we manage them at the very, very highest level, that any other rental, any other rental program can do or any other owner can do in renting their property because of the resources we have and because of our commitment to doing things right. So I would likely the opportunity to be able to discuss it further. If that does take us some more time to do that it's worth it because, I mean, what I said I want us to have moving forward no conflicts, no misunderstandings, no remorse, no regrets, and really to be able to talk through all these things and get to a solution that makes people comfortable is the key. We're willing to do that.

**Bridge Littleton:** So sorry. So Prem I appreciate that, Chris I think you have one quick, you had a question?

**Chris Bernard:** A little bit of a follow up to that. So, I mean, you've said 5 or 6 times so far, I'd love to talk to you. I'd love to talk to you further. We'd love to talk about this more. I mean, we didn't ask you guys to come here and apply for a short term rental. You called this meeting?

**Prem Devadas:** Yes.



**Chris Bernard:** We're here to have a public hearing for you guys.

**Prem Devadas:** Yes.

**Chris Bernard:** To put your best foot forward and for us to vote on your application. So I don't understand. I mean, yeah, no one has ever reached out to me. What do you think? What do your neighbors think?

**Bridge Littleton:** Or me.

**Chris Bernard:** So I'm a little confused by that.

**Bridge Littleton:** And again, in fairness between the last application now you're asked you want more, not less. You heard the concerns from everybody that it was too much, too intense, but you want more.

**Prem Devadas:** I think it was really trying to conform with what it is that the ordinance speaks to, which is for a four bedroom house, cannot aid. It's not wanting.

**Bridge Littleton:** And it's a maximum of [multiple speakers].

**Prem Devadas:** I will tell you that would be one that tomorrow, as a great example, I'd say I didn't realize it was a pressure point. I'd make it eight in a second. Chris, you are right. We absolutely took it for granted that we should come to these meetings. We should have public discourse and frankly, not private discourse because I didn't want that to be viewed in a different way. But I'm 100% willing to do that. And again, I'll just emphasize, we came out of the meeting on the 11th and what I heard the most and what was talked about the most was this transference issue. And we responded to it, had to talk to the owners, but we responded to it so similarly other things and I am based on what you said and with everybody else's blessing, absolutely happy to schedule meetings throughout the rest of the week with individuals or with two people to understand all those things. Not a guarantee that we'll be able to figure it out, but I hope that we would.

**Bridge Littleton:** So I appreciate that dialog is always the best way to get to any solution. I appreciate the comment that you don't want to do things in, you know, to make it seem like it's secretive, but I mean, we've all been in planning and zoning a long time. You know owners meet with members of the elected body all the time. You know, you guys had meetings with Council when you were, you know, one on one when you guys were putting the resort forward. So I appreciate the point, but I don't think, you know, that's something to be concerned about here. If there is something you want to ping one of us on, call us, ask us.

**Prem Devadas:** Sure. Sure.

**Prem Devadas:** I mean, the Gillespie's reached out to me and wanted to meet and it was great, you know, so it was very, very constructive.

**Bridge Littleton:** But where we are tonight is we have an application to move on one way or the other. So you know, again, happy to have follow on conversations, but we're here, public hearings done. We've had our conversation. And, you know, like I said, for me, well, two things. At the prior meeting there was three major concerns that were brought up. Number one. Do you actually meet the definition of residential occupancy? Of the 183 days, and the only thing we got different was I intend to use it for 183 days, as I understand what the definition means to me. That's no Prem [multiple speakers].

**Prem Devadas:** Well, no, just on that.

**Bridge Littleton:** No no no no, this, I'm this is not a conversation.

**Prem Devadas:** Okay.

**Bridge Littleton:** So and we got the legal memo from McGuire Woods of what they think it means. Second thing was, yes, the transference. That was a big thing. Right? That was a big concern. The third thing was the intensity. The conversation around intensity of use was absolutely discussed. You know, again.

**Prem Devadas:** Meaning number of days.

**Bridge Littleton:** Well, number of days, size of homes, you know, number of cars, number of trips, number of renters. We ad nauseam disagreed with you when you continue to compare J Street with your homes and the reasons why. One bedroom, two you know, two people versus four bedrooms, ten people. Right? So it was not simply that all we brought up was transferring of a license. There was a lot more there. But so you know, as Mayor, I don't vote. I don't make a I don't make a motion. But.

**Cindy Pearson:** Unless it's a tie.

**Bridge Littleton:** Unless it's a tie, that's correct. You know, as I said at the outset, I don't even think we get to the threshold conversation of should we put restrictions or limitations, you know, reasonable limitations on you guys. Because, again, to me, you haven't satisfied the 183 days of residential occupancy. And that is a requirement that you have to meet to even be considered. That's me. Each Council Member has their own view of it. Not to say you couldn't in the future.

**Prem Devadas:** Mr. Mayor as you brought up that we did submit an explanation for that 183 days through McGuire Woods.

**Bridge Littleton:** And our Town Attorney disagrees.

**Prem Devadas:** I understand it. Is it helpful? We're not to be able to briefly just summarize that position?

**Bridge Littleton:** No, because we've all read your memo. We've read Will's memo that gave his input on it. We've read Martin's memo that gave his legal input on it. I don't need a precis of the memo you provided. I've already read it twice. I don't think anybody on Council does either.

**Prem Devadas:** That's how I started the meetings. So I understand.

**Bridge Littleton:** So. No. Yeah. So anyway a question for Council if somebody wants to make a motion. Well. And we've got the or let me stop right here. You guys. I think we're done.

**Prem Devadas:** Yes.

**Bridge Littleton:** Yeah, but any other discussion amongst Council right now before anybody wants to make a motion, if at all.

**Darlene Kirk:** Can I just say?

**Bridge Littleton:** Real quick or a question for Will or for Martin.

**Darlene Kirk:** I want to clarify something.

**Bridge Littleton:** Okay.

**Darlene Kirk:** Prem I want to just clarify something I don't want your house is treated any differently from the houses in town. That wasn't what I was saying. I was going back to our original conversations where they were going to be houses and become a neighborhood.

**Bridge Littleton:** Okay. Does anybody wish to make a motion? Bud.

**Bud Jacobs:** I move Council disapprove SU 24-01 for the following reasons. Number one, the development will not comply with all requirements of this ordinance. Specifically, the applicant has not demonstrated that the dwelling will be used primarily for residential use. Used for residential occupancy 183 days or more per calendar year, as required in section 61 A of the ordinance. Point two the development will not be in harmony with the area in which it is to be located. Specifically, the intensity of the use as requested, with as many as ten transient occupants for as many as 180 nights per year, would not be in harmony with the surrounding residential area. And three, based on the reasons stated in the record of the public hearings and other meetings of the Council and the Commission on this application. And here I'm going to add including towns 2019 revision of the Comprehensive Plan.

**Darlene Kirk:** Second.

**Bridge Littleton:** Any other discussion. Rhonda, do we have to do a roll call vote?

**Rhonda North:** Yes. We do.

**Bridge Littleton:** We do. Okay. If you would call the roll.

**Rhonda North:** Council Member Bernard or Vice Mayor Bernard.

**Bridge Littleton:** Hold on, hold on.

**Chris Bernard:** The motion is to disapprove?

**Bridge Littleton:** Correct.

**Rhonda North:** Correct.

**Chris Bernard:** An affirmative would be.

**Rhonda North:** Would be to approve the motion to disapprove.

**Bridge Littleton:** Hold on, hold on, hold on, hold on, hold on. All right, let me put this in easy language. The motion is to disapprove the application. If you want to disapprove. You vote yes. If you don't want to disapprove, vote no. There we go. And Martin is shaking his head so.

**Rhonda North:** Vice Mayor Bernard.

**Chris Bernard:** Aye.

**Rhonda North:** Council Member Curran.

**Pam Curran:** Aye.

**Rhonda North:** Council Member Daly must have stepped out. Council Member Jacobs.

**Bud Jacobs:** Aye.

**Rhonda North:** Council Member Kirk.

**Darlene Kirk:** Aye.

**Rhonda North:** Council Member Leonard-Morgan.

**Peter Leonard-Morgan:** No.

**Rhonda North:** Council Member Pearson.

**Cindy Pearson:** No.

**Rhonda North:** 4 to 2 vote.

**Bridge Littleton:** Okay. The next application is. Pull up my thing. Here we go. Next application 24-02. For the request of Alexander Perdikis for a special use permit at 606 Martingale Ridge Drive. I have a feeling these will go quicker at least since we've already covered a lot of it. Will, do you want to give your just whatever you feel is appropriate? Because we've covered a lot of it.

**Will Moore:** Sure. Thank you, Mr. Mayor. So similar to the last application, we have received some supplemental materials from the applicants counsel since the April 11th discussion. Similar to the last application staff originally had concerns about the threshold requirement for the residential occupancy. This one is a little bit different in that while we did repeatedly encourage supplemental materials and did not receive them until this update that was submitted on April 15th there were some verbal statements, or at least one particular verbal statement made by the applicant's representative during a commission meeting that could indicate that the owner intends to use the residence in compliance. However, I would caution against relying solely on one isolated verbal statement. And that was the quote was that they, quote, fully expect to be there several weeks, a month, 2 to 3 weeks a month. And they're looking for pockets of rental availability. But again, there's nothing in the written materials particularly from the owner himself that mimics that one verbal statement. What is in a declaration signed by the applicant is the same statement that was included in the previous one, which now states, I intend for the property to be used for residential occupancy 183 days or more per calendar year, in accordance with my understanding of the definition of residential occupancy. And like that other application, this one was party to that joint property owners position statement in which the applicant's counsel makes their case for defining residential use may be in a manner that's not consistent with the way we would and as Martin spoke to earlier. Also, this application within that declaration also increases the intensity of the use is now requesting ten guests up to ten guests per night, whereas the original application filed by the same owner was requesting the eight guests per night. This application, it is worth pointing out that this application is in the smaller lot section, the R3 zone section of the residences subdivision. Still on a lot that well exceeds the minimum requirement for consideration, which is 10,000ft<sup>2</sup>. This is a lot that's a little over 18,000ft<sup>2</sup> in size. It is surrounded both to the east and west and to the south, on the south side of Martingale Ridge, drive by dwellings that have been constructed. So unlike the other application you just reviewed, which is isolated currently, this one is in an area that's filling out with development, at least in its immediate surrounds. We also include a similar analysis graph in here to address the the comparisons with the five North Jay Street property, but also just to give you a just independent of that comparison to that property, just to give you an idea of the potential intensity of the use as it is proposed with up to ten guests for up to 180 nights per year. That's what I have in terms of updates since the last meeting, Mr. Mayor.

**Bridge Littleton:** Great. Thanks, Will. Anybody have any questions for Will before we open the public hearing or. I'm sorry, let the representative go first. Okay, so whoever the representative is for the [inaudible]. Oh, Scott.

**Scott Little:** Good evening, Mr. Mayor and Council. So. Yes. This is for the Perdikis family home. And to be crystal clear, we although we do not require that anyone in the short term rental program purchase furniture through Salamander. There is a quality standard that is required, and but I have no idea what's in the Gillespie's home to be candid, I've never been in there. Never looked at a piece of furniture or the Perdikis home. Just to be clear about that. Yeah, in the Perdikis family has I've spoken with them personally just to amplify Mr. Moore's anecdotal record. They have said that they would they're very busy family with soccer, kids and travel and in Northern Virginia, and they bought this home because they love it. They love Middleburg. They want to be a part of this community, and they will do so as often as they possibly

can. And they envision that being a couple of weeks a year, and they're hoping to be able to defray some of their costs through this rental program. And the. Yeah. And I think I don't think I have any other comments that maybe Prem can.

**Prem Devadas:** No Prem has nothing more to say because really Scott has been has dealt with Mr. Perdikis. I've not had conversations with him, so I would just once again emphasize that Salamander will exercise the highest levels of managing the ordinance. This is different from Sheila Johnson's application in that I could assuredly say that Sheila is not going to live there on her own 183 days a day or with her family. That's not the case with Mr. Perdikis.

**Scott Little:** That's all I have sir.

**Bridge Littleton:** All right. Thanks. So we'll now open the public hearing. Would anybody wished. Oh, wait, I'm sure we've got sign ups. Rhonda any sign ups?

**Prem Devadas:** Can we use. I'm sorry. Can we use a couple more minutes for John from McGuire Woods to clarify something?

**Bridge Littleton:** Sure. You can have two minutes.

**John Walburn:** Thank you. I listen to the comments. I understand you've read the memo. I did want to address a couple of the points that Mr. Crim made, because they are questions of law, and I can at least amplify or answer the question. The issue on the residency, there's a requirement, section 61, that it be the property be used for residential occupancy for 183 days. That's what Mr. Mayor you focused on, appropriately so. The question is, what does residential occupancy mean? Mr. Crim said it is defined. We heard I've heard several times Mr. Moore defined and Mr. Crim's defined and that we should be using the definition in your ordinance. But I would challenge Mr. Crim when he comes back on to point the Town Council to that definition. It does not exist. So in your definition section of your ordinance, you've got dozens of definitions. Among those you will not find residential occupancy. So Mr. Crim explained to us what it means under your ordinance. And what he said, I suggest to you, is a test that's almost impossible to meet. And what he said is it's 183 days of occupancy by a resident. And he said the only days that count are days of 30 consecutive occupancy, 30 consecutive days of occupancy. He said you could have five people occupy it for 30 days you know, six person occupy it for 33 to get there, but it can't be less than 30 days. In fact, that's a condition that they've added condition for that they in the materials. And what that means is that Mr. Perdikis or Miss Johnson or any other applicant could live in this home for 320 days a year and still not qualify as a resident under Mr. Crim's definition. If they, for example, left every weekend once a month, they went somewhere else, they wouldn't be there 30 consecutive days. And so Mr. Crim's definition, which he says is in your ordinance, would not meet the test. And I'll just tell you, that's not in your ordinance. So what does the language say? It's section 61. It says residential use has to be 183 days of residential occupancy. And the Supreme Court has addressed this. There's two cases we cited. The first was the Scott case. It's a 2007 case. And in that case, they looked exactly at this question, which is our short term rentals. Are they residential use. And they also looked at the question that Mr. Crim said is vague as whether short term residential or commercial versus residential use. And the way the Supreme Court answered that those two questions, they said short term rentals are residential use, not commercial use. So it wasn't vague to the Virginia Supreme Court. It was 2007. They also said, very clearly, short term rentals are a subset of residential use. It's a residential use. And in fact, that's how your ordinance is set up. It appears short term rental appears only in article ten, which is your residential use. It's not in article 9 or 11. So that question I think is answered. But if it had not been, the Supreme Court addressed it very specifically on a very similar ordinance out of Fairfax in 2021 and in 2021, the question was is. Oh may I?

**Bridge Littleton:** No thank you, though. We I mean, I apologize, but it's, you know, we got to get through these.

**John Walburn:** Okay.

**Bridge Littleton:** And we saw your cases and read your memo and. Okay. We are now going to open the public hearing. Anybody who wishes to speak on this application you may do so. Oh, I'm sorry Miss Gallagher was first.

**Megan Gallagher:** Okay. Sorry. Super short. Megan Gallagher. I live at 214 East Marshall Street. It's getting so late, I forgot where I live. Again, I ask you to disapprove this. It's another double fail on both residency and impact. I would argue the impact is even worse with ten people. 180 days. I keep driving by this property and it's 22ft from the other bedroom. Even if it is a larger lot, that's a dense neighborhood. I would have a heart attack if 1800 people, which Oh we won't rent it the whole time, that's no promise. This would be approving 1800 people in that little space, 22ft away from my brand new Salamander home. Absolutely nonstarter. Thank you for the last vote. I hope you do it again.

**Bridge Littleton:** Did anybody else sign up?

**Rhonda North:** No. [inaudible]

**Bridge Littleton:** Okay.

**Liz White:** Hi, I'm Liz White. I'm actually a Mental Health Professional. So I looked it up and I'm going to tell you about a couple of dynamics that happen when you have a house next to you that is in a state of rental. And one of the things is the unpredictability in the sense of unsafeness of the unknown. So what happens is we know each other and we know our neighbors, but it is a psychological impact of having the incongruity of that continual person that you know or recognize, even if you're not close friends of why they have X, Y, and Z. It does induce some uncertainty a lot in young children, by the sense of they may develop more social anxiety because of that, because they're hesitant, because it's not a familiar person or product. We also know that the safety sense that we feel among us is because we know of each other. We check on each other. And then we also provide a safe place for our neighbor to come to should they need help in a sense of a health issue or safety concern. That's the greatest gift of knowingness. So there you are. There's the mental health perspective.

**Mike Welch:** Thank you. Anybody else? Mike. Mike Welch, 105 South Madison. I'm not a mental health professional, but I'm going to disagree with her. You know, my wife might not disagree. I do live next door to the Thaverse restaurant, and I do hear a lot of music and loud parties that go on every night. But I knew what I was moving next to, and I understand what some of the residents are saying. Some of you are new, like I am. I've only been here for the past three and a half years. Some of you got up here mentioned you only been here for a year and you disagree, but you knew what you were moving next to the Salamander resort. You knew what they were building there. I knew what they were building there. So I get that some of you were here for years and you understand what happened 15, 20 years ago, 10 years ago and even quoted Prem, you know, at a digging ceremony. I know, like you, Bridge, I can't recall some of the things I said ten years ago. I'm glad that there's public records and somebody can probably Google me and see public records on that. Right? My point to you is this. Time moves on. Things change. It's about controlling that change. And that's what we're after. Right? Is the control making sure it's done in a good, coherent way. Again, I knew what I was moving next to. I don't have any problem with the Thaverse's restaurant. They're good people. They've been good to me. They haven't complained. I haven't complained about them. And so what I would say to you is keep that in mind as well.

**Bridge Littleton:** Thank you. Anybody else. Going once. [inaudible]

**Donna Strama:** I'm sorry.

**Bridge Littleton:** It's okay.

**Donna Strama:** Donna Strama 10 Orange Drive. I still have a bad feeling about this. I would like to know, is this the home that has not been occupied for a whole year? No one has lived in that home for a whole year since it's been bought. I'm pretty sure. I'm pretty sure that.

**Bridge Littleton:** Let Donna have her three minutes and then you guys have your follow up.

**Donna Strama:** And also, I don't know if the residents that paid over \$1 million for these houses knew that the next door neighbor was going to want a short term rental. And I agree with you about the safety. I mean, I hate to tell everybody, but we never lock our door. If I lived next door, I would have to start. [laughter] Well. Sorry. I trust you all. I'm sorry, chief,

but, you know, we trust people in this town. And I think that's a very valid reason that if you and I don't know if any of the homes up there have any children, why did they build these houses with ten rooms? I bet they thought about this a while ago. I don't know. Thank you for listening. And please vote aye. [off mic]

**Bridge Littleton:** Thank you. Yes, ma'am.

**Karen Jackson:** Hi. My name is Karen Jackson. I'm at 500 Stonewall Avenue, which I've lived for 34 years, and I also have a business in town. And I want just to say that I'm totally against this. I look out my back and I can see the house they want to put into short term rental and the other peoples. I see everything out my back. And I'm probably going to have three more houses out the back. They all have swimming pools, they all have hot tubs, they all have barbecue grills. And if you don't think there's going to be a party in those houses. You ever come to my shop on a Saturday? Because all these girls, nice girls, come in, but they are there for bachelorette parties, birthday parties, reunions. They're there to have a good time and they're not sleeping four people per room at Salamander, believe me, they tell me they pile the rooms full, which is kind of what I'm afraid that's going to happen here. Their houses are going to be very expensive to rent and, you know, plus they're going to have dinner parties. They're going to have you don't know who's coming over. You don't know how many people are coming over. And there's no way that our police or the Salamander are going to be able to control this. And, you know, I get people in almost every day that are staying at Salamander. Lovely people. They don't say they like the zip drive. They don't say they like the restaurants, they don't say they like a lot of things. But the number one thing they say is they love this town. They fall in love with this town, the beauty, the people. And I just think this would really change that a lot. And I also have a road that goes literally right through my backyard. And I don't know if I could take how many 1800 trips per house. And it's not going to be three houses, believe me. We all can see they're not selling as fast as they would like, and they're going to be investment houses. They're going to try to sell them as making money off them. We wanted neighbors. We were sold to it as neighbors. I haven't ever even spoken out because that's what it was supposed to be a neighborhood, nice people. That's what we want. I don't want a bachelor party every Saturday night in my backyard. Thank you.

**Bridge Littleton:** Thank you. Anyone else? Yes, ma'am.

**Mary Gillespie:** Hi, Mary Gillespie, 601 Martingale Ridge Drive. You'll hear from me a little later. But I would like to address a couple of things. The we've heard now, I think three times the previous speaker say that, you know, our pool is right behind her and she can see it all the time. It's just factually incorrect. So I just want to, for the record, mention that she is not directly behind us. Second, the road the road was part of the plan. So why are we tonight debating any of this. In my opinion, that needed to be debated before the ordinance was in place. So the mental health concerns, the safety concerns. What about all the Salamander Guests that have been here for ten plus years. They walk through my neighborhood as well as the people behind me on Ridgeview, walk behind my neighborhood on Martingale Ridge Drive, and I say hello and I wave to them, and sometimes we chat. But I'm not living in fear because there's strangers at Salamander Resort, and I'm not worried about the mental health aspect of not knowing the people that are walking through this town. I'm just not. And so I just wanted to address this is our fifth hearing of listening to all the public concerns. And when it comes to our time to talk about our application, we'll tell you about how we've tried to address those concerns. But the ordinance is in place. All these five hearings were we've heard all these concerns and there are many are valid, and I understand that. But they need to be debated when you all reconsider the ordinance. Our application was submitted four months ago under the current ordinance. And I just wanted to say that while I respect the comments from the town residents, and I hope to become friends with many of them why are we even considering these things that don't apply specifically to my application?

**Bridge Littleton:** So, ma'am, this is the hearing on the other application, not yours.

**Mary Gillespie:** But she's talking about my property being directly behind hers. That's erroneous.

**Bridge Littleton:** Okay.

**Mary Gillespie:** Okay.

**Bridge Littleton:** All right. Would anybody else like to speak on this application? Okay, we'll close the public hearing. Scott, you guys have five minutes if you need.

**Scott Little:** Yes, sir. Thank you. Thank you, Mr. Mayor. Just I'll just comment on some of those items. There was a question about the house being occupied not for a whole year. Whether that calendar is right or not, I really can't answer it. There is a house that is not finished and hasn't been finished for some time. There's some indecision about the furnishings and that is up to the owner to motivate. There was also some conversation just to set the record straight. And I want us to deal with facts. There are families who are in this area that have children, including the Gillespie's and the Moros and the Perdikis family. There are several children associated with those dwellings, and there are others, the Dixons trust me that there are several. The hot tub question and the lack of screening, that there is a tremendous amount of screening going in there already existing and by. I personally responded to a several inquiries about their views and how we could help. And we are fully engaged with people along Stonewall where they have legitimate questions and sometimes not legitimate questions, but we're still showing up to help and address their concerns. At the resort there are only a few select number of suites that accommodate for more than four people. Literally a handful of suites that have sleep sofas every other room we would never let occupy more than two people in a king size bed. And just for the record, Peter, no, we had nothing to do with the Lamborghini Parade. We heard about whatever it was. We heard about it too, but we didn't have anything to do with it. So just answering those items and again, I'm super sympathetic to the desires here and what a great forum to be heard. I'm very appreciative and respectful of that.

**Bridge Littleton:** So, Scott, I only have one question.

**Scott Little:** Yes sir.

**Bridge Littleton:** So when did the Perdikis', since you're the representative, when did they take occupancy? I mean, when did they, you know, when were they able to move it?

**Scott Little:** So I don't know the date of the. [multiple speakers]

**Bridge Littleton:** You know, a month ago?

**Scott Little:** I couldn't tell you when.

**Bridge Littleton:** Even ten months ago?

**Scott Little:** Remember I've been here three and a half months.

**Bridge Littleton:** Prem do you know? [off mic]

**Bridge Littleton:** Okay. [multiple speakers]

**Scott Little:** They're picking furniture.

**Bridge Littleton:** Okay so since they've gotten their occupancy permit and whatever again and if you don't know, it's unfortunate because you're representing them. How many nights have they stayed in it?

**Scott Little:** I don't know the answer to that, but there was a kerfuffle recently of a mistaken driveway by guests of theirs, friends of theirs that occupied the house. Okay, only because we're 100% tuned in. [laughter]

**Bridge Littleton:** I know, I got it, I got it, so you don't know if they've ever actually spent a night there?

**Scott Little:** I can't answer that, now.



**Bridge Littleton:** Yeah, okay. That's my only question. We'll go down the row or Will, I'm sorry, did you have something?

**Will Moore:** I was just going to clarify their occupancy permit was issued April 27, 2023. So almost a year to date.

**Bridge Littleton:** So they've had the home a year?

**Will Moore:** Yes sir.

**Bridge Littleton:** Okay. Okay. Thanks. We'll go on this way. Chris. [off mic] All right. Cindy. Pam. Okay. Darlene.

**Darlene Kirk:** And this isn't, you know, directed at you, but you used this in terms you said they want to rent the house to help defray the cost. I understand that. But there's not a soul in this room who would have bought something that they couldn't pay for. I mean, that's just not the way people work. And if somebody bought it and thought, well, I can rent it so I don't have to pay the whole price, I think that's just wrong. That's just my opinion. Anyway.

**Bridge Littleton:** Bud.

**Bud Jacobs:** I don't think I have any questions. I'm a little bit troubled by this application because I think there are some key questions we don't have the answer to, the most important one being whether the on its face, the application even qualifies for consideration.

**Bridge Littleton:** What would your. Is it the occupancy piece?

**Bud Jacobs:** It's the yeah, the occupancy piece. And I don't know whether it makes more sense to table it or disapprove it. I'm kind of at a loss, so I rely on you guys.

**Bridge Littleton:** Okay, Peter.

**Peter Leonard-Morgan:** Thank you, Mr. Mayor. I know that Mr. Perdakis doesn't have to be here, but it would have been really nice to meet him. You know, when you see people in the flesh and they talk to you, it's about the neighborhood. And it's. I'm shocked, actually, that it's a year ago that the occupancy permit was issued, and I suspect no one has lived there. So on this one, I really don't feel comfortable at all on the residency aspect of it. To me and I don't want to put words in people's mouth. It feels. Well, it doesn't feel like it was ever going to be a real home, let's put it that way. That's my \$0.02. Thank you.

**Bridge Littleton:** Yeah. And Chris and I walk by the house often, and I've never seen a soul there. So I again for me on this one, it's the occupancy piece too. I just am not comfortable that burden has been met. So I, you know, I guess we do have two options here. I didn't even think about the other one. We could table it or we could vote on it. I really let it be up to you guys.

**Darlene Kirk:** Why would we table it? I mean, I'm just saying one thing.

**Bridge Littleton:** No, no, actually.

**Darlene Kirk:** Let me finish what I'm saying.

**Bridge Littleton:** Yeah.

**Darlene Kirk:** We've been by there they've owned the house for a year. Nobody's lived there. So.

**Bridge Littleton:** No, I got it. And like I said, we did tell every applicant that we wanted to give them a disposition tonight because they have had the application in for a while. They want to know what they can do and what they can't do. So that's a fair point. So. If someone is inclined to make a motion.

**Peter Leonard-Morgan:** I would like to make a motion. I move that Council disapprove SU 24-02 for the following reasons. [off mic].

**Chris Bernard:** Okay.

**Peter Leonard-Morgan:** Thank you. The development will not comply with all requirements of this ordinance. Specifically, the applicant has not demonstrated that the dwelling will be used primarily for residential use, i.e. used for residential occupancy 183 days or more per calendar year, as required in section 61 A of the ordinance.

**Darlene Kirk:** Second.

**Bridge Littleton:** Any discussion? Okay. Rhonda, do you want to call the roll, please?

**Rhonda North:** Vice Mayor Bernard.

**Chris Bernard:** Aye.

**Rhonda North:** Council Member Curran.

**Pam Curran:** Aye.

**Rhonda North:** Council Member Jacobs.

**Bud Jacobs:** Aye.

**Rhonda North:** Council Member Kirk.

**Darlene Kirk:** Aye.

**Rhonda North:** Council Member Leonard-Morgan.

**Peter Leonard-Morgan:** Aye.

**Rhonda North:** Council Member Pearson.

**Cindy Pearson:** Aye.

**Bridge Littleton:** Okay. Thank you. Next item is I'm going to guess it's 24-03 before I back up here. I had it [inaudible] shooting in the dark. All right. Request from Mary and Tom Gillespie for a special use permit for a short term rental at 601 Martingale Ridge Drive. So whoever would like to present.

**Darlene Kirk:** Will.

**Bridge Littleton:** Oh, God. That's right. I'm sorry. Yeah. Tom. I'm sorry. Hey, Will, if you want to give your you know, your quick [inaudible], that'd be great.

**Will Moore:** Yes, sir. I think it's important to like the previous two applications just give you a quick rundown to distinguish this one from those. This one, like the one previous, is also in the R3 zone section. That is the smaller lot, small relative to the larger lot section of the Middleburg residences development. However, it is worthwhile to note that

this is a 24, almost 25,000 square foot lot, whereas the minimum requirement is ten. It is the largest lot in the R3 zoned section. It is further buffered on one side, the east side by HOA open space as well as the south side, which does back up to lots indirectly on Stonewall Avenue. However, there is a 75 foot HOA open space buffer between the rear of the subject lot and the rear of the lots along Stonewall Avenue. I think it's also worthwhile to note that the applicants have included an enhanced landscape plan for their property that is part of their application materials. This is in particularly relevant as it does back up to although indirectly it does back up to the existing developed area of town, which is subject to kind of a higher scrutiny in the comprehensive plan. However, they've gone to great lengths with this enhanced landscape plan to mitigate that with mitigate the buffering of that backyard area. They do have a swimming pool. But again, they have the enhanced landscaping along with the landscaped buffer. It's to be to be fair to the previous two applicants, I will say that when this first application first came in in a similar fashion to the previous two applications, it also lacked some clarity on their intended use as a residence. However when we brought that fact up we did engage with the owners and have done so subsequent to pretty much every meeting during which this application has been considered. Their materials were updated and, and do confirm that they would meet that threshold requirement. So the threshold of occupying for at least 183 days of the year is pretty clearly met in this application. That being said, they are enjoined in that joint property owner statement that was filed by McGuire Woods that included the previous two applications, as well as this one in which the arguments that we've previously mentioned regarding the definition maybe of occupancy or residential use is included. But the applicants did include an email that is the first attachment to this where I think a few things to note. So first, on that point they recognize that they are included in that, that filing. But to quote from their email whether or not Council agrees with some or all of the points made regarding residential usage in the memo submitted by McGuire Woods on April 15th, we the applicants, satisfy the residential usage requirement even without those points. That's the way of saying that they're not relying on a different interpretation of residential occupancy than the town is, and that they're confirming that they would meet that threshold based on the way we would define that. Also in their email of April 18th. So this is a week after the last Council discussion they are offering two additional amendments to their application. So they originally were requesting the maximum number of occupants that could be considered for their home at ten. They have reduced that now to eight. They were also originally requesting the maximum allowable of nights per year of 180. They have reduced that now to a maximum of 120. So again, their request now has been amended a maximum of eight guests for a maximum of 120 nights per year. I think that updates the application since your last discussion.

**Bridge Littleton:** Will thank you, I appreciate it.

**Will Moore:** Yes sir.

**Bridge Littleton:** Okay. Mary, Tom, over to you. Tom Gillespie on Martingale Ridge Drive.

**Tom Gillespie:** I'm going to quickly introduce myself. I was not here on April 11th, and I was on work travel, as the mayor knows. And but I do want to say hi, and I'm going to turn it over to Mary in a second. But I want credit, because in the last week I did reread the comprehensive plan twice. So. [laughter]

**Bridge Littleton:** Page 17, paragraph three, it says. [laughter]

**Mary Gillespie:** Yeah. My husband does his homework for sure. I wing things a little bit more, but today I'm trying to go through my bullet points as quickly and succinctly as possible, because this is very important to us and you guys have been very patient with now a three hour meeting and going. So Mary and Tom Gillespie, we live in Great Falls, Virginia. I was born in D.C., raised in Northern Virginia, came out to Waterford and Middleburg a ton as a kid with my history buff father. I think I mentioned Tom and I were engaged in Liberge Provencal and White Post. We were married at Farmington down in Charlottesville. So it's safe to say that we do like the Middleburg setting, and we're excited to be transitioning our life from a parent with three kids to empty nesters in two years to come out to Middleburg full time. So when we bought the property, well, we put the deposits on three and a half years ago. But the house, we got the occupancy permit last summer. Our intention is to be here as much as we can with friends and family and extended family. I have we have a lot of grown nieces and nephews. They're very responsible in their 20s and 30s who live in Northern Virginia. And then my sisters and their husbands are in Richmond, so we intend to use it a lot. So with that said, oh, and we have twin daughters in college, away at college, and our son is a rising junior in high school. So sorry. I just want to be clear. This is not a money making operation for us at all. We just would like to have some of our costs covered while we transition to

Middleburg. And we understood that to be the intention of the ordinance that we read before we closed on the lot with Salamander and the developer. We had read the ordinance and we at the time believed we meet the criteria. And I believe the staff memo that went to the Council this week does, in fact, say we meet all the criteria. I just wanted to mention about being part of the community. We've really enjoyed getting to know people in the community. We've actually hosted a few gatherings with people we've met through the community center, get together last October for newcomers, as they say. We brought friends to Oktoberfest and the Christmas Parade, and I know nothing about art, but I can volunteer on May 11th if they need extra hands there. So we do intend and already are investing in the community aspect of our residency. In terms of who we've chosen with as much as we respect Salamander, and it's one of the draws that brought us here in addition to the Town of Middleburg, we wanted to go with a company that had a track record in Loudoun already doing concierge level services. We have every confidence that Salamander will do a terrific job, but we just they've been very helpful. They know the kind of clientele that we are looking to host in our home. They can they will personally vet all the people based on the criteria that Tom and I want for the home, because we do not want partying and we do not want a ton of wear and tear on our home. And we want to be good members of the community. So Loudoun Stay. Speed on the street. They're based in Loudoun, as it implies. They besides offering the concierge services, they literally will meet our guests at the door. They will. We will have a decibel monitoring tool in the home. It's not too intrusive, but they can. They will be alerted if the decibel consistently goes above a certain level. On top of that, we are HOA members of Salamander, and we pay Salamander fees. In part, that is to help keep our community safe and in accordance with a peaceful community. So they do have security people going up and down. And we also see our friends in the police force quite often on Martingale Ridge. And I'd like to say if we do have an offense I'll give anyone my phone number because I'll be out here within 45 minutes. That is not the type of guest we're looking to attract. And just so you know, Loudoun Stay has I better stop, but Loudoun Stay and I'll let Tom go. But Loudoun Stay does have background checks on people so much like a realtor does that for people who lease. Do you want to or should I finish mine? Okay. We also decorate our home with the help of a Middleburg resident on Chinn Lane, Lindsay Welsh. And I can assure you it was not a \$600,000 budget. Nowhere near that. So, you know, one of the things that we wanted to mention is in our initial application, we proactively removed, you know, the right to convey the permit. And then we met with the Mayor. And as Will said, we've gone down by more than 30% on the number of nights and 20% on the number of guests. And we've been assured that our application will be reviewed on its own merits. But we've also been told there are concerns about short term rentals having an adverse impact on the community, which must be considered before an application is approved. So one of our questions is specifically what is that adverse effect? And how does limiting the numbers of days and guests remedy these adverse effects we think we know. And so we are trying to do that based on the community's comments as well as our meeting with the Mayor and another Council Member. The last thing I'd say is somewhere along the way, those 49 homes were approved, and those 49 homes were presumably going to have families and people in them that are using town resources, such as the schools and the emergency personnel. Well, those 49 homeowners are taxpayers. And so I believe if there was 49 families living there, that would actually be more of a stress and a strain on the community than the scenario that Tom and I represent. So. Transfer over to you?

**Tom Gillespie:** [multiple speakers] Quicker. I think you've done a good summary. So, look, I think we should say we understand this is there's a lot to consider here in general. And we appreciate that. There's a lot that's been talked about as far as the character of the town. And, you know, we understand that rightfully so. And so we are in alignment with that. I think from our standpoint, I'll just say a couple things. One is you know, there is an existing ordinance. We read it before we bought the house. We understand what the criteria were. We also understand, based on our fifth hearing that, you know, that's the minimum set of standards. But I'd say a couple of other things. One is, you know, just from the very get go, we voluntarily said we will not convey this to the next owners. We brought that forward, you know, from the first hearing. After meeting with the Mayor, I guess last week we heard the concerns and we reduced the number of people per night from 10 to 8. We reduced the number of nights we're asking for from 180 to 120. So we've kind of done that all voluntarily. And we respectfully ask for your approval of the conditions we suggested on that, just based on all the discussions that we've had. So I think with that, I'll wrap it up and turn it over.

**Bridge Littleton:** Tom. Mary. Oh. Go ahead. Sorry.

**Mary Gillespie:** Sorry. Just the last thing I'll say is in the staff memo this week, there are potentially new conditions that the Council would consider. And I just wanted to point out one which requires us and our family and our friends, not our guests, not our guests not our pay guests, us, my children, my sisters, my friends to send a list of who is in our home and

exactly what dates. It's an annual report, and that is a condition I just want to make sure everyone understands. Tom and I are willing to comply with it, but how far have we come? Where else in Virginia does a homeowner have to say when their 20 year old daughters are using our home? Thank you, thank you.

**Bridge Littleton:** No. Mary. Tom, thank you very much. It was a suggestive potential condition. So it was not. It's not a requirement. It's a potential condition that the Council could ask for. But we need to go to the public hearing. So any. Oh, anybody signed up Rhonda?

**Rhonda North:** Megan Gallagher.

**Bridge Littleton:** Oh, Ms. Gallagher.[laughter]

**Megan Gallagher:** As promised I'm going to be for something tonight, and I would support approval with conditions. And I mean scaling this baby back of this application, in part because I am so grateful to the Gillespie's for being the owners who have engaged at multiple levels with all of you and the Planning Commission. They came in with the waiver of the perpetuity. They kind of tried to roll back the numbers. The disconnect here is a question of scale. And let's get real. Even with the reductions, they're still at 8 people for 120 days. That's 960 guests because this is a big house and eight people again and again. So that 960 guests nights. Right? I think to really not eat up every single weekend at that house with half the year, we're looking at 30 days, which could be ten weekends of three days or 15 weekends of two days, or people who rent, you know, midweek. But it's not the in half a year, there's only 24 weekends. And we're talking about seemingly way more than that. When you're at 960 guest nights, I have no problem with them with homeowners conditions to attest to residency, I think it's being overstated. It's just a statement. Yes, people spent 32 consecutive days here. And they were our, you know, our immediate family. I don't think you're asking to do every I it's just a testable but and our friends and our this we did. Finally in the attempt to cover costs, I want to keep pointing out there's no permit required to pick a month of bad weather. Find a writer who needs a nice place to sit near a couple of coffee bars and rent it out for 30 days. You can do that. It's a revenue stream to cover costs. So thank you for this one. Sorry to go so long, but with all of the conditions as written in the memo for this application and a giant drop in the number. Thank you.

**Bridge Littleton:** Thank you. Yes, ma'am.

**Linda McKenna:** [off mic] Linda McKenna, 105 South Madison Street I completely disagree. These are lovely people. I don't know how you get your math and your recommendations, but as it was said earlier, I think you got to go off of the ordinance and facts, not feelings and bad feelings. These are lovely people. I was walking down the street once. I looked at Mary in her car. I didn't recognize her face. I guess you could call that a stranger. My mental health was not disturbed. We said hello, we are friends now. I mean, all these feelings about, I don't know, these people. I'm scared of these people. Come on people. I mean, we're just speculating here and these recommendations that they're imposing on you to make decisions on what might happen. It really should be facts and not feelings. And it would be these are a lovely couple to have a part of the Middleburg community. And I would totally support as a community member what they've asked for, for whatever that's worth.

**Bridge Littleton:** Thank you. Anybody else? Hey, Donna.

**Donna Strama:** I think you all are lovely people, too. And I'm glad you're going to move to Middleburg. I'm sorry. Donna Strama 10 Orange Drive. Mr. Mayor, welcome home. I think you all are lovely people. And I think it makes a big difference when people that own the house come. I do agree with Megan Gallagher that we should have a lot of stipulations about this. One thing is because of the pool. I don't care if there's a buffer zone. I grew up with a pool and it's loud. People are coming on vacation. They want to have fun. They want to go in the pool. They don't care if it's 10:00 at night. They're on vacation. I was a little concerned the last time when Miss Gillespie. Gillespie, she said that they bought this years ago. And she's a real estate agent, and they spent \$30,000 for more parking in their parking lot. She stated that at the last meeting made me a little nervous that, wow, they really thought about this when they bought this property that they could, you know have the parking paid for, which I wish I had \$1 million I'd buy up in Salamander too, and I'd be the first person up here for a special permit. Please reconsider voting for this. I don't agree with Megan on this. I think we should nip it in the bud. No pun intended, Bud. Thank you.

**Bridge Littleton:** Thank you. Yes, ma'am.

**Julie Callens:** Hi, Julie Callens again. 606 Stonewall. And I directly backed your house on the white brick house, so. Hi. So, yeah, I'm hoping no late pool parties. And I will hope that Salamander comes out and replaces some of the dead trees and stuff that are in my backyard that provide the buffer. My question to you all is, since you guys moved in, do you know how many nights you've spent in the last year? I can't remember, you said your occupancy was last September.

**Mary Gillespie:** Summer. Am I suppose to answer now?

**Julie Callens:** Summer, do you?

**Bridge Littleton:** No no no no. You get three minutes to say what you like.

**Julie Callens:** So that's just my question is, you know, how many days I appreciate the fact that you guys are here, I really do. I think it says so much that you're here in person. So this one's kind of up to you guys. I kind of still feel the same, but thank you for being here, so. And I will get your phone number. Okay.

**Bridge Littleton:** Okay. Thank you. Anybody else? Now, Gary, you realize it's on the application. Okay. Just checking. [laughter] Not a Legion update. Yeah.

**Gary Nickelson:** Gary Nicholson 23334 Chimneys Lane, just a mile west of Middleburg. Special. You know, thank you for the Gillespie's for coming out here. I think it really shows a difference when a member of the community actually comes and speaks to the Council versus sending their lawyers out there, you know, you can really tell someone doesn't understand Middleburg, when the first thing they do is tell you their lawyer's name to speak. So thank you for that. And coming out there for it. If you know my background I'm a big supporter of personal rights, property rights being one of them. You know, I never want to be told what to do with my own property, but I understand some of the concerns that community has regarding short term rentals. My address. I live in the Village of Maxville. That's right between the Middleburg Barn, Greenhill, and across the street from Mickie Gordon Park. And just about every single house that gets sold in Maxville has become a short term rental. I think we have four of them right now. And there is a pattern with those rentals Friday nights, they come in, everyone's excited, they have a bonfire, and then they tend to go off to wedding or whatever they're doing that weekend and quiet down. I do have farm animals. I do have a young daughter. For the most part, they're fine. I don't really have any problems with them. But every now and then you do kind of get some nosy people that don't know boundaries, and they'll come over into the property and take a look at what I have. And then those are kind of dealt with separately. Prem and salamander has been a great neighbor. Being as part of a nonprofit organization, they have stepped up numerous occasions to support everything, anything that we come out and, you know, I know that's not part of the special application, but I do think that it should be considered that what Salamander brings to the table as part of this group. I think overall for the property rights that there should be some compromise. I don't think 120 days. I thought from the last meeting that the Planning Commission recommended 60 days, 90 days, I think between 60 and 90 days is more acceptable for what the town is. I know the Town Council has been hemorrhaged by this original ordinance. You said that yourself, Bridge a year ago, that this ordinance came about because you needed something on the books and there was kind of no plan in place. So they just put 180 days and we'll get to it later. But we're at later now. And I think what you decide today really is going to determine what the future holds. So it's tough decision. Whatever you recommend we'll support. But I think 60 days is probably the way I feel about it.

**Bridge Littleton:** Thank you. Gary. Anybody else? I'm going to count down. Going once, going twice. Okay, we will close the public hearing. And now you. Yes. Tom, Mary, you guys have another five minutes, if you like. You're not required. I'm kidding. Go right in.

**Tom Gillespie:** A couple quick things. One is and I should have said this before, but. I understand some of the passions here, but there is a little bit of, you know, sort of assuming the worst intentions and the worst outcomes. More importantly, and, you know, I don't know how we can answer that. Like, you can't prove a negative, right? So but I understand, but you have to understand our point of view, which is I don't know how to counter that. You know, what

we're getting is the assumption that everything is going completely wrong and that there's no way to counter that. And I just I don't know what to say from that standpoint. I wanted to talk a little bit quickly on math. So if our family of five lived in that house 365 days a year, which at some point will happen, that's 1825 people. You know, the math that we're doing here, it's 1825 people, our family of five. We're talking about 120 times 8, which is 960. Right. So for 120 nights, 960 total. If you want to do that math. It's not that different. I mean, I'm not sure what the difference is in terms of if we're, you know, purely talking about intensity, you know, 18, 25 for just a family of 5. So I didn't want to let that go unaddressed. Because it seems that the intensity number seems to matter a lot. And whether it's our family, if we're renting long term, another family of 5 or 6 or whatever, and those numbers get pretty close. I want to make that point. And whether or not you're standing behind us in line at the Oyster Place or, you know, a long term renter or a short term rental, it's, you know, the numbers are the same from an intensity standpoint. You want to say anything?

**Mary Gillespie:** Yeah. I did want to say this is the most friendly bunch of people who are opposing our application. I meet people in the hall, in the bathrooms, and everyone's like, it's not personal. So I did want to mention, that I did want to. Okay, I'm I guess I am a realtor, but that wasn't why we made our driveway bigger. We made our driveway bigger because it was one it's one lane. And we bought the biggest lot that's 0.57 acres in part. So we could do extra space. And I probably shouldn't mention the cost, but I thought it was worth it from a resale value way down the road, but also from how we live our lives with our kids who have our daughters at least have cars. So I did want to address that. And there was one other thing. And now I forget. Oh, oh, my neighbor behind me, I really would like to meet you. I've met Larry, who I think is next door. Larry's right behind me. [off mic] No, no, I know, I know, he told me. He told me they're dead bodies buried near our property. But we also met Charlie. Is it Charlie? Oh, Reggie. I'm sorry. And he actually came over. And I know our pool is still under construction, and it's loud, and I do apologize. I do plan on bringing chocolate chip cookies to all of you guys. But I didn't want to do it before knowing who you are, so But anyhow. Yeah, we're not going to allow people to be doing cannonballs in our pool at 10:00 at night. We're going to have strict rules. We haven't really thought through them. But again, the ordinance moving forward that you may revisit on put no pools. But right now the ordinance is what it is. And we build a pool for our family and potentially some renters or definitely some renters to enjoy. But I can give you my number. I never want disturbances behind us. Okay. So it's nice to meet you. Okay. Thank you.

**Bridge Littleton:** You bet. Thanks. So, Will, was there any other follow up? I don't think so. No. Okay. And actually, Tom, Mary, you guys might want to stay up here in case anybody's got questions. Sorry. I'll let you sit down and then Excuse me. Okay, so just two things I would want to note. Number one, Tom, you just mentioned a second ago, but the number eight, you know, if it was five people living there, all that kind of, you know. I think the issue about intensity is it's multivariant, right? I mean, if someone lives there, it's their home. They care about it. They take care. They know their neighbor, you know, they know their neighbor's habits. Right? Eventually kids grow up and move away, right? Excuse me. Yeah. Thanks. When it's a short term renter, they don't have those considerations, so. Excuse me, I think. Excuse me. 1800 days of a short term renter versus 1800 days of a family. It's very different, even though it's still 1800 people nights or whatever. I don't know how you equate them together.

**Chris Bernard:** Do you need a minute? He's very passionate.

**Bridge Littleton:** No. [coughing] Passing phase. [off mic] Yeah. Anyway no. And I've got some. I've been going through. I've been going. The bag's almost gone. So not a question. Just sort of a comment. The second thing I wanted to say was I really appreciate you guys reaching out and getting together. And, you know, I think we talked for an hour and a half, and you guys are very busy. We're all busy. But it was a thoughtful, considerate. You guys, you know, expressed what your hopes and dreams and desires were. And, you know, I gave you some inputs and feedback on what I thought were of a concern to me. And you listen to that. You were thoughtful. I really enjoyed meeting you guys. And I mean, for me. And again not speaking for Council. I totally agree that you guys plan to meet the 183 days and you know, when you're youngest is fully off, you know, you're going to, you know, plant your roots and, you know, let the vines grow and all that. So I have to for me, it's no concern on that. I think the area that we got to get right is what's the right level. Right. And we talked about that. Right. And I really appreciate you guys lowering it to eight and lowering it to 120. This is new for us right. So we've got to be thoughtful and careful. And we're not experts on this stuff. So I know some Members of Council did a lot of research into different reports and studies and stuff like that. So that for me is what we want to make sure we get right. So but again, I really, really do appreciate you guys, you know, and the way you approached everything,

it was great. The last note I'll make is the ordinance. You know, the whole point of the ordinance is the 180 days it's, you know, it's up to. It's 0 to 180 and right in every home and every application based on all the circumstances, what makes the most sense. So and I know that's what everybody's trying to figure out. So again, but I really, really appreciate, you know, the way you guys have conducted everything, I think it's been great. So we'll go this way, Chris.

**Chris Bernard:** Don't start with me.

**Bridge Littleton:** I can go the other way.

**Chris Bernard:** Yeah. Start over there.

**Bridge Littleton:** Okay, Darlene.

**Darlene Kirk:** That means a lot. Oh, yeah. I've lived in this town all my life, and my parents did and my grandparents. And so to have you come here and talk to us, that means a lot. The only thing I'm really concerned about is the number of people per night. And the number of nights. If it was less, I would agree to this in a heartbeat. Anyway. Thank you.

**Bridge Littleton:** Bud.

**Bud Jacobs:** I want to second remarks made by the Mayor and Darlene. It makes a world of difference for you guys to come in here and talk to us. I understand the frustration that you feel having gone through five hearings. I think this is the fifth. I'm a little frustrated myself because I also have gone through five of these damn hearings.

**Bridge Littleton:** But Bud, you get paid for it.

**Bud Jacobs:** Well, yeah, I make I get \$180 a month. It's wonderful. But I want to take a moment to assure you and anyone else that nothing about this process on our part as Council or staff has been dilatory. We have spent a lot of time, a lot of energy more than I would like discussing some of the minutia and conceivable unintended consequences of decisions that we make tonight. I voted in the Planning Commission to approve your application or excuse me to recommend that the council approve it. That's still my position, Mr. Mayor. But I have a problem understanding the necessity of some of the conditions, and they're going to get really pissed at me. But I might suggest that we that you give us a little more time to work out some of these conditions. Some of them, in my view, are unnecessary. A couple of them I just flat don't understand. And I would ask Rhonda and Danny if there were a way we could table the motion. Work out these issues and not have to make them wait another two weeks to get a decision from us. Can we do some sort of extra camera process?

**Danny Davis:** Yes. Thank you, Council Member Jacobs. I would want to rely on the Town Attorney to provide us the information there. We do have new state code language that came into effect last year that I believe would be controlling. But Mr. Crim can speak to that.

**Martin Crim:** I think the safest course of action is to re-advertise the public hearing, keep it open and then after closing the public hearing, then at the next meeting then making those changes, I don't think you can have a special meeting and do the advertising that's required for that. So it would basically be at the next regular council meeting.

**Will Moore:** Just one correction there. We could not meet the timelines for the next council meeting. We would have to [multiple speakers] at the second one in May to meet the timelines.

**Bridge Littleton:** Yeah so. So. Yeah, let me just make sure I get it right. It's really all about we would have to have a second public hearing or excuse me, we'd have to do the public hearing again. Because the new code requires that if you're going to make the vote, you have to have the public hearing at the same time. And because we have to do the 15 days or 20 days or whatever it is publication in the paper that we don't have enough time to make it for the next meeting. So it would have to be the meeting after that. Okay. Understood. And again, not saying that we're going to do that, not going to do that. Just want to make sure we understand what the options are. So Bud go ahead.



**Bud Jacobs:** Well I'd be perfectly willing to run quickly through some of these conditions and see if we can strike or amend a couple of them that, at least to me, don't add much value to our discussion. And then as a final point, I'm also choking a little bit on the 120 day. I appreciate that you've reduced your plan there, but I think it's still too much. And I'd like to see some more discussion on whether you would accept fewer number of days. That's it. Thank you.

**Peter Leonard-Morgan:** Peter. Well, I'd like to say the same thing. Thank you so much for being here. I've watched all the videos when I wasn't able to be here before. You clearly are homeowners. You clearly have a plan. You clearly are going to look after this property as if it were your own, because it is your own. And You become a part of the community already. So for me, it's quite a different decision. You know, I'm ready to vote. I'm ready at some point to make a motion, but obviously we need to discuss this. I also would have gone for 90 days and I believe I understand correctly. We don't need all of these. We can someone can make a motion with one of them or two of them. But and what you've done with the tree planting behind your house and the fact that it does have buffer. I know it's not perfect for everyone. I respect that, but I think that you with Loudoun Stay. I've analyzed them. I've seen them. The lady come here before to one of the many Planning Commission meetings, and I suspect I pretty sure that it would be well managed. You don't want to damage your house. You don't want people having these big parties in your house, and you've got a lovely neighbor or neighbors behind you who are going to make sure of that. So thank you very much again.

**Bridge Littleton:** Chris.

**Chris Bernard:** Yeah. Thank you guys. Just to echo what everyone else has said, I think you've demonstrated, you know, through your application and what you've said here, but also kind of, you know, your actions by showing up and demonstrating that you're part of the neighborhood that you'll meet that residential use requirement. Got a little issue with the math, because I don't think all five of your family are going to be living in the house because of the empty nester thing.

**Tom Gillespie:** I don't think we'll be renting it 120 nights?

**Chris Bernard:** Sure. I know. But.

**Mary Gillespie:** We could lease it to a family of six.

**Chris Bernard:** Sure. [multiple speakers] So, yeah, I think it's a little more intense than what we're looking for, but I think there's a path that we can find a way to make it work in there.

**Bridge Littleton:** Cindy.

**Cindy Pearson:** Well in. Yes, I get what you're saying. I understand what you're needing. I do still the part that in the comprehensive plan that says the overarching consideration in each case should be to mitigate potential adverse impacts to neighboring properties and established neighborhoods. And that is a whole thing that we're trying to protect, which you have done things to try to protect that. You know, I with the first one that we did, I would like to have tabled that and discussed it more. I would really like to somehow there has to be a plan. I don't know how. I don't know who this magician is who is going to pull this out of their hat somehow there's got to be a way for all this to work with not disturbing your neighbors with being in the house when you need to be there. You know, having it title to whomever, whatever makes everything work. I just don't think we're there. I think all of this was thrown on us really quickly. You know, I wish this was something I could give to the lawyers and say, you all go figure this out and come back, please. So I'm even though I appreciate absolutely everything, I do think you all will be a great addition to the town. If it all works out in the long run, who knows what next year brings? You know I still think we have need to think a little bit through this.

**Bridge Littleton:** Thanks, Pam.

**Pam Curran:** So I agree with residency and community and the question that I have and maybe it was asked before, are we permitted to start at a certain level with the conditions and then come back and revisit them after a period of time?

**Bridge Littleton:** So I'm going to I believe the way it works is let's say we imposed a condition of one day make it ridiculous so I'm not like trying to presuppose anything. And then the applicant, the owners, wanted to come back a year later and say, everything's been great. Can we make it two? I think we could reconsider to increase it if we wanted to, but and Will is that correct?

**Will Moore:** That would require a new application.

**Bridge Littleton:** Sure. [multiple speakers] Application, public hearing, all that stuff. But they, you know, somebody after a time could come back and say, hey, you know, everyone had really big concerns, but it's been managed well. It's gone great. And, you know, we'd like to have 30 more days and we could consider it and approve it if we chose to. Is that correct?

**Will Moore:** Yes. But again that's a new application, a new minimum two to three month process.

**Bridge Littleton:** It's a fee and all that stuff.

**Will Moore:** Yes sir.

**Bridge Littleton:** It's the full process.

**Bud Jacobs:** And another \$2,000 bucks.

**Bridge Littleton:** Yes. Yep. Yeah. No like I said not saying it's anything to consider lightly but you know it is there so okay. Is that it? Okay. The only thing I would add is somebody mentioned Oh and she's left mentioned earlier about mental health aspects and stuff like that. And I think somebody in one of the public hearings had a had a counter view about that. I can't remember who it was, but I will say I did do some research and there was a number of really interesting studies. One was done by the NIH, and it was actually a fascinating study when you read into it. A lot of stuff they couldn't figure out, but a lot of stuff really, that they pointed to. I think the two biggest things from the mental health aspect, well, one of them was about mental health was it was amazing what was actually what she had said. It was, you know very established neighborhoods that have never had short term rentals have this very high degree of comfort. And, you know, especially and it was actually really focused on small towns, this high degree of comfort with their neighbors, and they never lock their door and stuff like that. And then all of a sudden they're strangers all the time and it's discomfoting, it's disquieting. And they start to lock their door and they stay in more. And what the study also showed, which was kind of interesting, is they talk not so much that short term rentals increased violent crime but because they brought in bad elements that when there was a certain level of short term rental density, right? It wasn't like 1 or 2, but once you got to about a third of the residences and the neighborhood became short term rentals, crime went up and violent crime went up. And it was again, I shouldn't say not violent crime, crime went up. It was not because you know, there was burglars that were being rented these homes. It was because the character of the neighborhood changed. And everybody became disassociated, disconnected because they weren't full time residents who were living there all the time. They were renting their house out 100 days. And very established communities which have, you know, abnormally very low rates of crime, went to sort of what you would see in the typical neighborhood in Fairfax, the typical neighborhood in Arlington. So it was an interesting it's an interesting study. So and again, I think it's stuff like that that the Council is wrestling with to make sure we don't get those types of adverse impacts.

**Tom Gillespie:** Can I? Say one thing.

**Bridge Littleton:** Sure.

**Tom Gillespie:** So I will say when you and I met it was very clear that each application here would stand on its own. We talked about that a few times. I can't speak to large scale studies on mental health related to short term rentals. I mean, you

have you as Council have to grapple with that. I really don't know how to answer that. You know, our application is what it is. It's on .57 acres. It's not really close to anything else at this point. You know, I'm not sure how that relates to mental health. Maybe it does. I just I don't know how to answer that. It seems a bit far afield from what we're talking about with our specific application.

**Bridge Littleton:** No. And I think that was a good point. Right. I think what was difficult about tonight is it was four applications all at once. So it was like, we're not just looking at this at a micro level. We're also having to think about it at a big level. So not that that's, you know, your guys'. Your application is your application. So I guess the conversation real quick, I think the conversation right now is to what Bud's point was, is does everybody let me ask this way. Does everybody feel that they meet the requirements? Okay. So now the question is do we want to impose any conditions on the application or take it at face value. Okay. So I think there's a couple things to address. There are the conditions which are not related to intensity either nights or number of folks like give us a report every year. You know I think that's about you know, monitoring. And then there's do we want to put a night and or other restrictions around intensity. So I think that's the two things we're wrestling with. But Peter, go ahead.

**Peter Leonard-Morgan:** All I was going to say with great respect, I don't think the crime thing is an issue here. I'm not an expert. The chief is. It's a different environment. I don't want to scaremonger anyone here.

**Bridge Littleton:** No. You know, and Peter that's a fair point. It wasn't to say that. It was to say that there's a lot of things that intersect here that we've never dealt with, and I think that's what we're wrestling with. So anyway.

**Mary Gillespie:** Can I just something?

**Bridge Littleton:** Sure.

**Mary Gillespie:** In terms of the maximum number of days I we're all thinking the worst case scenario. I guess it would be great to have 120 days with eight people every night. That's just not how it works. And so I understand the Mayor had said to us last week he has to assume, you know, the maximum, but it but we also, again these people are not using the school system. So I really don't understand. If I were to lease our home tomorrow, which we may do for a year, it could be a family of six and they are going to use all the resources. So I know, Mayor, you said, well, they're not going to necessarily use they'll use them more than Tom and I and our children or the people we lease our home to for 31 plus days or a full year or whatever it is. But I just don't see that distinction. And some of you do. But again, the many things have been talked about tonight, in my opinion, respectfully, should be talked about when you all revisit the ordinance, which clearly you're going to do. But our application and when we bought the home and looked at the ordinance, which, by the way, does not say you go through a bunch of public hearings. So I do think that needs to be added to help the confusion with anyone, not just Salamander buyers anyone in town. Will, I may be wrong.

**Bud Jacobs:** I got to interrupt you. Those are Commonwealth of Virginia statutory requirements. This is not something we've cooked up on our own.

**Mary Gillespie:** Okay. I'm not implying that I'm.

**Bud Jacobs:** Well, it sounds like you are. I'd suggest probably the best thing you could do is let us deliberate and see what we're going to come out.

**Mary Gillespie:** Okay, but I didn't I wasn't implying that anything was untoward. I talked to Miss Pearson yesterday about this because moving forward, you don't want people in this position. That's I'm trying to help address the confusion that was created in Tom and my's situation, and that's all. So I apologize if I came across differently. Thank you.

**Bridge Littleton:** No, I appreciate it. And. Yeah, Bud is right. This is the law. It's not. You guys were not treated any differently than any applicant would ever be treated in terms of public hearings and all that stuff.

**Tom Gillespie:** I don't think she was.

**Bridge Littleton:** Yeah. No, I got it. It's frustrating. I get it, it's lengthy. Peter you had a question?

**Peter Leonard-Morgan:** Thank you, Mr. Mayor. I just wanted to address one thing, Mr. Gillespie. If you were to lease it to a family for a year, I feel that they would be members of the community. They would, you know, we'd get to know them and that sort of thing. But point taken. Thank you.

**Mary Gillespie:** [off mic] lease your home for 31 days.

**Bridge Littleton:** Yeah. Well, and I think to Peter's point, right.

**Mary Gillespie:** But I get your point.

**Bridge Littleton:** Yeah, yeah. The reason there are different rules for short term rentals versus long term rentals is because they have different impacts. I mean, it's a matter it's in law that it's different. So to say that a five day rental is the same as a six month rental, it's not it's not. And there's a you know, so that's why we have the ordinance because they do have different impacts. And that's what we're trying to wrestle with. So okay. There's two pieces we want to wrestle with. I think if everybody's inclined, that they meet the requirements. So we have to either deny it, which I don't think we have grounds to. So then we have to impose conditions if we feel any conditions are warranted. So that we've got two sets of conditions, ones that don't relate to level, relate to a level of intensity being number of nights or number of people. And then the other things like the reporting requirement or whatever else is on that list. I'm happy to tackle whichever one we want to tackle first intensity or sort of the other stuff. Bud what do you think?

**Bud Jacobs:** Well, just to get this out of the way, could we just strike some of these as unnecessary? I'm not sure that I agree with number four, that an occupancy for fewer than 30 continuous days shall not count toward the minimum of 183 days. You can. It's in the memo. And I absolutely do not accept this condition. Number five that requires them to make this report about their occupancy, the annual report. That's not necessary in this case. And I'm hard pressed to think of a situation where it would be necessary.

**Cindy Pearson:** Would it though, be necessary then just to have the count? You wouldn't need the names.

**Bud Jacobs:** Well, we're going to we're going to get their TOT remissions presumably, aren't we. So.

**Bridge Littleton:** Yeah. But the issue there is they also have to prove they had non short term rental occupancy of 183 days. So it's really a policing mechanism. How do we. So it's two things right. You got to report your short term rental. But you also got to report that there was 183 days of non-short term occupancy. So I think the goal with that ad was getting something in writing from the owner that says, oh yeah, we were there at least 183 days to whatever degree. So I mean that's why it's there. I'm not saying we should have it or not have it, but.

**Bud Jacobs:** Well the condition requires the names of all the occupants who were there over a year long period. I'm sorry it's just it's not acceptable.

**Bridge Littleton:** I mean, what I thought about that it would be fine with me is, you know, an attestation or whatever you want to call it, right, that they confirm every year that. Yeah, we had 183 days of occupancy. Just give us something in writing I don't care who, when, how long or whatever. But yes, each year we're meeting the 183 day residential occupancy requirement and just self-certify. Right. And look, it's that old saying, right? Trust somebody to have a reason not to trust them. So someone said that to me and I believed it. I would trust it. So I don't know if that's that onerous or not. But Bud I mean I'm curious your thoughts.

**Bud Jacobs:** Well, I'm not a big fan of self-certification, and in this instance, I don't know what it adds. I mean, I could send you a note that says I'm in my home 365 days a year. It's meaningless. You're not going to know one way or the other. One of the issues we haven't talked about much surrounding all of this is enforcement. It's extremely difficult. And

rather than impose a nonsensical requirement, I'd just rather if we're going to approve the application, then I would strongly urge that we strike that as just unnecessary.

**Bridge Littleton:** So then is your view that at a different time, maybe it's next meeting we have to figure out a regime for enforcement?

**Bud Jacobs:** No, I'm just pointing out that that's the elephant in the room on a lot of this stuff.

**Bridge Littleton:** Okay. Oh I see what you are saying. So. Bud you would recommend striking which ones?

**Bud Jacobs:** I would strike for five, maybe six. Unless Will has a strong view on number six if he would find that useful to have. And Forgive me I can't remember you already waived the transfer rights. So is that necessary to put in a condition? They've waived it, I don't know.

**Chris Bernard:** I think it needs to be in there.

**Bridge Littleton:** Okay, we'll figure out the motion once we get it all worked out. Yeah.

**Bud Jacobs:** All right.

**Bridge Littleton:** Hang on one second, Will. Number six.

**Will Moore:** Yeah. Number six. I do feel pretty strongly about this is going to be important down the road. So you get an idea of how some of these approvals that may happen actually come to fruition. So for example, we've talked about the five North Jay Street application. That application was indeed approved for the maximum of 180 days with two occupants. I just got a certification from that owner for the use for calendar year 2023. And it was used for 76 nights. So it I think it will be helpful.

**Bud Jacobs:** Fair enough.

**Bridge Littleton:** It's good data to see how. Yeah.

**Will Moore:** I do not necessarily have any heartache with striking numbers 4 or 5, although those were recommended by the Town Attorney. So he may want to opine on those.

**Martin Crim:** If I could Mayor. Yes. Thank you. Number four is as to address the issue that was raised, the erroneous argument that the short term rentals themselves count towards 183 day residency requirement. So that's what this is the belt and suspenders for to address that issue, so that only residences of more than 30 days would count for that purpose.

**Bridge Littleton:** So I get what you're saying. Here's my question. That's for 30 days or less if it's for a fee. Right? Isn't that actually mainly the distinction?

**Martin Crim:** I'm sorry. I'm not following you. Are you asking me what exactly now?

**Bridge Littleton:** Excuse me? You're at. You're saying that any occupancy that is less than 30 days shouldn't count towards the 183. But that should be if it was paid for a fee because it was a short term rental. Right.

**Martin Crim:** If it was fewer than 30 days and paid for a fee, then it doesn't count. Yes, we could add that language.

**Bridge Littleton:** Yeah, because that's the point, right? I mean, like, if their kids came and stayed for two weeks.

**Bud Jacobs:** That should count. [multiple speakers] Yeah I agree.

**Bridge Littleton:** Okay.

**Danny Davis:** I think we're trying to litigate legal items in conditions here. I'm not sure adding that extra clause again not to necessarily disagree with our Town Attorney here, but I'm not sure that adds anything different than what state code already says that anything under 30 days for a fee is a short term rental. So okay.

**Bridge Littleton:** So Martin was the including of this in response to the attorney's memo?

**Martin Crim:** Yes.

**Bridge Littleton:** All right. Let's not worry about it. So Bud yeah, we'll take that one out. Okay. That's number four.

**Martin Crim:** Number five I don't have strong feelings about. I was just trying to identify some kind of mechanism for us to have some enforcement.

**Bridge Littleton:** Sure. Okay. Bud was there anything else?

**Bud Jacobs:** No, sir.

**Bridge Littleton:** Okay, Chris, you had a question.

**Chris Bernard:** And this may be one for Martin as well, but. I mean, do you need one and two? I mean, don't aren't those kind of self-explanatory? Maybe they feel redundant. Like you're saying that there's a condition that says that they they're use shall be in accordance with their application. That seems.

**Martin Crim:** I think that's important to have. I think it's, you know, you can't be too careful because you're going to be arguing potentially at some point that you've terminated their SUP and you don't want to have any arguments about what was actually required.

**Chris Bernard:** Okay. I'm trying to streamline it.

**Bridge Littleton:** No, I get it. It's building the record, I get it, okay. Were there any other ones on here not related to intensity of use that anybody had concerns with? Okay.

**Martin Crim:** Mr. Mayor, may I ask, are you. You're not using number eight, and there's obviously no number nine as well. Is that right?

**Bridge Littleton:** Well, nothing on nine yet. We were just trying to look at the ones that were there and see what we did and want to include. So I think four and five are out. I think we get your point on one and two. It's not actually making any difference. It's just a confirmation that everybody's. What's that?

**Cindy Pearson:** [off mic]

**Martin Crim:** I think you meant.

**Bridge Littleton:** We took four out.

**Martin Crim:** Five and six were out, right? I thought we were keeping number four.

**Cindy Pearson:** I did too.

**Bridge Littleton:** No no no no.

**Bud Jacobs:** We're striking four and five and Will would like to keep six.

**Bridge Littleton:** Yeah. So we get a report every year. Yeah, okay. All right. So. Intensity. I guess that's the next piece to this is the applicants have offered eight people, 120 nights. What are your thoughts on that? Let's go down the line and down the line.

**Chris Bernard:** Yeah. Eight people at 120 nights. Where does that get us? I don't have the memo. 960.

**Martin Crim:** 960.

**Chris Bernard:** Yeah. I mean, I think we've heard quite a range of numbers thrown out. I think somewhere in the range of 30 to 60 feels right to me. But and that gets you to a range of, you know what, 3 to 500 guest nights or whatever you call it.

**Bridge Littleton:** Okay. Oh, yeah.

**Darlene Kirk:** [off mic]

**Bridge Littleton:** Well, he was saying. I think what you're saying is if the number of guests is eight, yes. Then you're. Yeah. No you didn't. But I mean, I think that's right. When you're saying 30 to 60 is okay. Yeah. I do want to say real quickly, I mentioned at the beginning I wanted to thank Will for coming up with an objective way, an objective calculation of how to look at intensity of use that can be applied equally to everybody. I think it's important, as much as you can to, you know, to have some type of objective method. This is hard stuff and it's not dispositive, but it's at least it's directionally very, very helpful. So all right, Cindy, over to you.

**Cindy Pearson:** Planning Commission, what did they recommend? 90 days. But they didn't do anything with the guest count. Correct?

**Bud Jacobs:** Correct. We didn't do anything at all with the guest count. And so the applicant voluntarily, I think, took it down.

**Cindy Pearson:** I would suggest you know, if we go with all this, that it's 90 days, like Planning Commission suggested, maybe. 60 to 90.

**Bridge Littleton:** Okay. Pam.

**Pam Curran:** So as much as I like Mary, I also like the Salamander. And if we're permitted to start lower and go up. You know, what we talked to the Salamander about was still the disruption. Changing the fabric, the comprehensive plan that doesn't really change if it's Mary or if it's the Salamander. It still happens. So I would recommend again, if we can go up after a period of time that we start at 30 and we give them a chance to come back up to see what impact it does have on our neighborhood.

**Bridge Littleton:** Okay. Thanks. Darlene.

**Darlene Kirk:** I would be willing to go 30 or 60, possibly even 90, if the number of guests was worth less. You know, if it were like 4 or 5. Yeah, that would be okay.

**Bridge Littleton:** Okay. Bud.

**Bud Jacobs:** I'm happy with what the Planning Commission proposed, which was 90 days. At that time, the guests were ten. I believe they've gone down to 8. And both of those are acceptable to me.

**Peter Leonard-Morgan:** Thank you, Mr. Mayor. I come back to the comfort factor that I have with the applicant, and I certainly would go for 90 days with the eight the eight maximum guests.

**Bridge Littleton:** Okay. So I think we have a range from 30, 60 to 90. It's hard stuff. Let me ask Tom and Mary. How do you feel about. Well, if you're going to rent to full time. Yeah. Never mind. Yeah. Yeah. Go ahead Cindy. Sorry.

**Cindy Pearson:** So what does the impact of the change of days do to you? [off mic]

**Bridge Littleton:** There you go. That's an engineered solution.

**Tom Gillespie:** I mean it's the lower days, as it's sort of an obvious question. It's not helpful. We honestly, we went through three hearings with the planning commission, told the story repeatedly. Got to know those folks. They understand what we're trying to do. They made the recommendation. You know, we went into that with a higher number and came out with 90. That was disappointing. But we had a lot of discussion with them. So I thought it was a thoughtful recommendation. So I would prefer to at minimum stick with that. The Mayor and I talked about this too. We have no idea what this market's like. We really don't. How much can you rent your house for in any given night? Don't know. So, you know, could we do fewer nights and more dollars and kind of get where we need to go? That'd be great, I guess from a certain extent, because then you're not beating up the house and you're not bothering, you know, anybody? We just don't know. So again, I thought it was a very thoughtful set of hearings with the Planning Commission. They came up with the recommendation, and I guess my answer would be, I would hope that we would abide by that. I don't know if that helps you.

**Cindy Pearson:** About as much as [off mic]. Okay. Yeah.

**Bridge Littleton:** Pam.

**Pam Curran:** I can move up, but, I mean, the whole discussion has been what short term rentals does to our neighborhood and how we feel about crime and everything else. The short term rentals won't be the Gillespie's, you know. They'll be who they're renting to. And either we believe there's a problem or we don't. I think. I mean, though I agree with them coming and I love them, but I mean, really.

**Tom Gillespie:** But if I may again, it's like everything stands on its own, right? I don't think we can solve the broader question of short term rentals in Middleburg. You know, we have our application here tonight, and I understand what you're saying, but I think a lot of what we're hearing tonight is kind of more a bigger discussion that we're yeah. We will defer to you on ultimately. But for tonight it's about an application. Yeah.

**Bridge Littleton:** No and it's a great sentiment and I appreciate it I think what Pam is wrestling with. I think what we're all wrestling with is yes, it is about your application, but it is also viewed on the cumulative effect over time, which is exactly why you put conditions in. Right? If the ordinance said only your house could be a short term rental. Have 365. You know.

**Tom Gillespie:** We would actually like only our house. [laughter] We're good with that. We're good with that.

**Bridge Littleton:** Yeah, but you see my point, right? That would absolutely have an effect, right? Yeah. It's not it. It stands on its own, but not in a vacuum. It's a great way of saying it. So I think that's the wrestle I have. Right, is I don't know 120 does feel like you know way too much. 30 is a starting point. Is 60 right? Is 90 right? I don't know. And the hard part right is what you don't. The hard part with these applications is if you do it and you don't put the right conditions in and you get it wrong. You can't undo it. That's the bad part. You can't go back and say, hey, Tom, hey, Mary, it didn't work out. We're going to bring you down 30 days because that seems to be working for everybody else. It's done. It's over. Are there not contingencies here?

**Tom Gillespie:** I mean, let's say that actually played out that way, which my guess is it will not.



**Bridge Littleton:** Sure.

**Tom Gillespie:** But you have a way of addressing these things. Do you not?

**Bridge Littleton:** You know, what I'm saying is, is that if the impacts just from you guys following the rules and doing the right thing are more than we expected, you're not breaking any rules. It's just turned out that we have found it's really harmful to the community. We can't go back and say, hey, we got to knock you guys down. It's approved. So, you know, that's where I'm wrestling with.

**Tom Gillespie:** I would think you could, couldn't you? I mean, I don't know, that's a question.

**Bridge Littleton:** Will I mean, I don't think you could, could, you?

**Will Moore:** No if they're in compliance with the permit and the conditions associated with it, you would have a very hard time justifying a revocation. That's not to say it couldn't happen if there were you know, really obvious public safety issues that were coming out of it. But the chances are, unless it's a direct violation of the permit you couldn't.

**Bridge Littleton:** Like you guys had to break the rules, right? You move to Paraguay, you never come back, and it's only a rental. Okay? Yeah. We can revoke.

**Tom Gillespie:** Can I? And I don't know if there's an answer to this, but how do you metric this? Like, how are you going to determine. You know, the intensity is too much. We see this in this way. Is there a way you would think to measure any of this?

**Bridge Littleton:** Well, I mean, again, I think Will came up with a very good way of.

**Tom Gillespie:** Putting in nights [multiple speakers]. Right, like. People. [inaudible]

**Bridge Littleton:** Yes. Well, if you're going to have an objective equation, it's got to be based on numbers that everybody has the same output.

**Tom Gillespie:** But my point is that's just an equation. But how do you determine the actual adverse impact. We saw something. It looked like this. And so we got to fix it.

**Bridge Littleton:** I mean, I think that's what comes out of any zoning change, right? Or any type of, of application that gets approved. There's more accidents in town. There's more noise disturbances, there's more property damage. There's more theft. I'm not saying those things are going to happen, but if those things start to happen after we start approving some short term rentals, we're now seeing the negative impacts. And no one's violating their permit. It's just it's an impact, right? It's like if we approved a one time, one person wanted to get approval for a slaughterhouse, right? I we'd approved it, then there would be smell and noise. And, you know, I mean, it's everyone's laughing, but it is kind of funny, that's the challenge. [multiple speakers]

**Tom Gillespie:** But how do you and again, I'll leave this to you guys. How do you tie it back to a property. How do you metric this and say, you know what, these guys aren't living up to what we thought?

**Bridge Littleton:** Yeah.

**Chris Bernard:** Yeah. I think you really can't and because of that, we have to be very diligent on the front end to make sure that we get it right, because it would be really hard to tie it back to your property and then come back to you and say, hey, you know, we made a mistake. We really want to come back down to 30 days and we gave you 60. You just can't do that.

**Bridge Littleton:** But there are some things.

**Darlene Kirk:** Would it be hard?

**Bridge Littleton:** There are. You can have police reports, noise disturbances.

**Chris Bernard:** If there were specific, like your neighbors at their house, then yes.

**Bridge Littleton:** That's how I mean, it's things like that you could tell that there's negative impact.

**Tom Gillespie:** More of the numbers that you guys have on.

**Chris Bernard:** He's talking the broader impact. Yeah.

**Bridge Littleton:** Oh sure. Yeah.

**Chris Bernard:** And you're saying you know what, these guys are being too intense.

**Bud Jacobs:** Yeah. I think we're straying into general discussion. Yeah. And I at least don't want to spend my whole night here, so could we grapple with the days, the intensities, and.

**Bridge Littleton:** So let me ask a question. Is everybody. It's a Will question. Will, can the Council impose conditions on how many people can stay or just the number of nights?

**Will Moore:** You have the ability to impose both. I'm going to speak against myself here, because sometimes I caution the Council and particularly the Planning Commission, into getting too much into the enforcement side. The number of guests is going to be much more difficult on the enforcement side.

**Bridge Littleton:** Understood.

**Will Moore:** [multiple speakers] the number of nights. So I wouldn't necessarily recommend going that route. But you could in [inaudible] impose both.

**Bridge Littleton:** All right. So I think all right let me just I think we've got a debate between probably 60 and 90. Right. I think everybody is on board that over 90 is too much. I think it feels like half feel that 60 ish is about right. So where do people want to go? Well, I mean. [off mic]

**Bridge Littleton:** Okay. I mean, if you want to make a motion.

**Peter Leonard-Morgan:** I move that Council approve SU 24-03 in accordance with the materials package submitted April 18th, 2024. Is that right?

**Bud Jacobs:** Yeah.

**Peter Leonard-Morgan:** And with the applicant's email dated April 18, 2024, if Council concludes. I beg your pardon, strike that. I move Council to approve SU 24-03, subject to the following conditions. Number one, the use shall be in accordance with the materials package submitted April 18th, 2024 and with the applicant's email dated April 18th, 2024. Except as may be further condition below number two, the use shall at all times comply with all ordinance requirements and all imposed conditions. Number three if use ceases for a period of two years, the permit is subject to revocation and number four, the owner shall submit an annual certification of the short term rental use in a form acceptable to the administrator. Number five. The special use is restricted to the applicants and is not transferable upon the sale of the premises to other parties with such condition voluntarily offered by the applicants and number six. The maximum number of days cumulative allowable for such use during any calendar year shall be 90 days.

**Bud Jacobs:** Second.

**Bridge Littleton:** Is there any discussion or amendments?

**Darlene Kirk:** Question. So we're going to let it stand at eight for 90 days?

**Bridge Littleton:** That is the motion on the table.

**Darlene Kirk:** Okay.

**Bridge Littleton:** Yep.

**Darlene Kirk:** I just wanted to verify that.

**Bridge Littleton:** Any discussion? Okay, Rhonda. You can call the roll.

**Rhonda North:** Vice Mayor Bernard.

**Chris Bernard:** Aye.

**Rhonda North:** Council Member Curran.

**Pam Curran:** Aye.

**Rhonda North:** Council Member Jacobs.

**Bud Jacobs:** Aye.

**Rhonda North:** Council Member Kirk.

**Darlene Kirk:** No.

**Rhonda North:** Council Member Leonard-Morgan.

**Peter Leonard-Morgan:** Aye.

**Rhonda North:** Council Member Pearson.

**Cindy Pearson:** No.

**Bridge Littleton:** Okay. Thank you guys very much. What's next? Oh that's right. [off mic] Number four. Exactly. Okay. Special Use permit 24-04, request of Daree Goodman for a special use permit for short term rental at 700 West Washington Street. Will.

**Will Moore:** Thank you, Mr. Mayor. This application has no updates since the April 11th discussion. Just a quick reminder that and this is instance it was quickly identified that this application would meet the threshold requirement for residency. Miss Goodman clearly states in her application materials this is her one and only home. But she travels for work a certain number of days per year and would like to have the opportunity to use it as a short term rental during some of those periods. Again, just a reminder for those in the audience, this application is at 700 West Washington Street. That's at the corner of Washington and Locust. I have no further updates.

**Bridge Littleton:** Great. Any questions for Will before the applicant? All right, Miss Goodman, you have the floor for ten minutes. But you're not required to use. [laughter]

**Daree Goodman:** Actually, no. [multiple speakers]

**Bridge Littleton:** Take as much time as you. Take your ten minutes you need.

**Daree Goodman:** I can say good evening still, that's the good news. Good news? And I'm a rambler, so I've promised my property manager that I'll stick to the script, which will mean that it'll be less time. But thank you, Mayor and Town Council. I'm Daree Goodman. I'm 700 West Washington Street. I love our town. I know and have had conversations with almost every person that was here prior to getting lengthy. And now I'm lucky enough to call myself a neighbor and a resident of Middleburg. I'm proud of our community. My daughter loves it so much that she had her wedding here, even though this has never been her home. I thank you for your consideration and helping this SUP application get approved. Mental health Perspective view I have to agree. I'm single, I live alone. Thank you neighbors for texting me when you see packages, when you see a light and shine when you see my garage open. Thank you again. And I love my neighborhood. I agree with Mike though, where it keeps being said that we're not a resort town. When I bought my house, I knew that I was buying beside the Salamander resort. And it is in our town, and it's three blocks away from my house. And I'm very proud. And I appreciate what you add to our neighborhood and how you take care of it. Why? I think I should be voted Yes. I meet the minimum requirements and all qualifications of my individual application have been met. I'm willing to impose restrictions on guests. I agreed that I will not transfer my SUP upon the sale of my property, and I have already agreed to the 90 day rather than the 180 day. That was an original on my original application. I think that is fair. Less than 90 days would make it not even make it worth doing financially for me. I would be so grateful to get approved for the 90 days please, so that I can truly defer some of my costs. I obviously can afford my home because I was approved for the mortgage, but I am one income, single family home and life circumstances and expenses change. And the economy. I would like to see you. My neighbors rent from me when you have extended family coming in town and you need more beds. I've had one actually ask if I get approved, if she can rent it. I meet all the requirements and have made extra. I even have one extra parking spot over the amount required. My property manager she's been at every single meeting. She lives in town and will be on call, and we'll be there to greet guests and check on the house frequently when I have guests. She already is doing that when I'm traveling. So and it's one tough lady, as you can tell. Linda. I will not allow pets. I do not have a hot tub or a pool sadly. I have agreed to a maximum of six guests. And finally, this is my only home again. And I too want to protect it and my neighborhood. And I plan to run it only while I'm traveling for work. And that is all.

**Bridge Littleton:** Thank you. We will now open the public hearing. Anybody like to speak on this application? You're invited to do so. I'm assuming we have a sign up.

**Rhonda North:** We do. Megan Gallagher.

**Linda McKenna:** All right.

**Megan Gallagher:** I'm not against this one either. Last days, she said she's agreed to 90. That's actually the Planning committee recommendation. Oh. I'm sorry. Megan Gallagher, 204 East Marshall. Will's memo says it's still down for sorry, 180 days. The maximum. So that's too many. Cut it please. [laughter]

**Bridge Littleton:** Megan, that's a record we're going to. We're going to note that. See if you can beat it in the future. Okay. Anybody else wish to speak?

**Linda McKenna:** I'll just say one. No, no, no. As the property manager, just because of previous discussion about intensity. There's two people in my home, and I think people could argue we make more noise than eight people sometimes. Right. So I just think that's something for.

**Bridge Littleton:** That's for sure.

**Linda McKenna:** Mostly me, but I just think that's something to consider. And I do walk past her house often when she's out of town just to check on it because it's empty. I'm right around the corner, and I can assure all of you and all of you,

there will be no noise and no parties, and her neighbors will be given my phone number right away. So because we have a vested interest in the community, being the community. So I will handle any problems and you know that firsthand.

**Bridge Littleton:** Okay. Anybody else? All right. We'll close the public hearing. Daree you have another five minutes if you like. You're good. Okay council discussion. Any questions? Oh, I had a quick question. Neighbors how are they?

**Daree Goodman:** They're great. I spoke with Garland and Michael for about an hour the other night. They called me while I was on my last trip and went back and forth, you know, reassurances. They heard some things. They don't live here for most of the winter, they're in Florida, and but we stay in touch constantly. As a matter of fact, my first just people, if anybody comes and stays in my house, they're always telling me, you know, whatever. So they've given me their how they feel. My neighbors also, or my neighbor. Also if you're looking outside my front door to my left she has given me her thumbs up. She's actually one of the ones who said if I get approved, she wants to rent for her extra beds when she has overflow. And actually, I haven't spoken really to your parents, they are right across the street, but that feels like forever. It's like their big houses way back up in there. But I asked him tonight, I was like, I hope you're okay with and they seemed great. They didn't. Yeah, that was quick. But other than that my yeah, my neighbors were they're all.

**Bridge Littleton:** So I just want to make sure this is clear.

**Daree Goodman:** Yes.

**Bridge Littleton:** Garland and Michael fully support your application.

**Daree Goodman:** Okay.

**Bridge Littleton:** I'm asking that.

**Daree Goodman:** Oh. With apprehension I will tell. They said I will tell Mayor Littleton that I.

**Bridge Littleton:** Because Garland called me.

**Daree Goodman:** I'm sorry.

**Bridge Littleton:** Garland called me.

**Daree Goodman:** Yes. He said I will tell Mayor Littleton that I support with reservation and nervousness because and I said, well, you know me and I know you and I'm not going to be able to sell it with my house. So and he's like, yeah, that does make me feel better. But and knowing Linda's the property manager.

**Bridge Littleton:** Okay. Anybody else have any questions for Daree?

**Bridge Littleton:** Darlene.

**Darlene Kirk:** Oh I have just one question.

**Daree Goodman:** Okay.

**Darlene Kirk:** Somebody said 90 days and somebody said 180 days, which you're.

**Daree Goodman:** I had spoken about the fact that I agreed to it in our last meeting, actually, it was brought up again. And I did say 90 days is understandable. And thank you.

**Bridge Littleton:** Okay, thanks. You have a question, go ahead.

**Cindy Pearson:** When you were speaking with your neighbors, I never heard you say anything about the Dodson's who were behind you. Have you spoken to them at all?

**Daree Goodman:** I have not they're not actually my back door neighbors quite yet, but they're about to be they're building.

**Cindy Pearson:** Yep.

**Daree Goodman:** And I did not speak to them, but I haven't. I come in and out of town so much and I think they're I very rarely see them. They're just.

**Bridge Littleton:** They live in the next house behind.

**Cindy Pearson:** Yeah. They live in the house behind it now.

**Daree Goodman:** Right they're.

**Bridge Littleton:** They're building. [multiple speakers]

**Daree Goodman:** They're building behind.

**Bridge Littleton:** Move 50ft to the left.

**Daree Goodman:** Right, right. Right, right. I'm just saying that I never, ever see them. I mean, I waved to them I think a month ago and they were driving by, but I haven't.

**Cindy Pearson:** So the other problem or the other concern, it could be a problem other than being really late and I. Anyway is so this is a business, right? It's considered a business now that you're having this in your home. And this is our community that has been there forever. It's an older community, and having people come and go on a regular basis is different. I can understand why your neighbors said that with apprehension. Totally. And like you said, you make more noise. She makes more noise than a lot of people. Well, her neighbors know that, and they know her noise level, but they would know if something else was wrong, you know, to address it. So it's just to me, once again, we're it's just the older community and having this right there in it with a lot of people around you, which you do have. I know you have a road and a road, but it's just a little concerning.

**Daree Goodman:** I like [inaudible] property. The fact that I have this big buffer between and a whole other back house that is nothing but a storage garage. I mean, it's nothing. It's you can't live in there, you can't go in there. And it's like. So that is a huge buffer then. I mean, I don't even feel like my back door neighbors are my back door neighbors because I'm so far away. I'm on the front of the road. And so what I consider my neighbors are Garland and Michael. And, you know, it's just not something. And Julie. So but I can see your concern and but, yeah, I feel like it's a great piece of property, and I don't think anybody ever sees or hears me and my family, you know, it's very private and.

**Bridge Littleton:** So does anybody have any questions for Daree? Bud go ahead.

**Bud Jacobs:** I believe you're going to run your rental program through Airbnb.

**Daree Goodman:** That's right.

**Bud Jacobs:** That's not encouraging. A good deal of the research that the Mayor has done suggests that substantial amount of the negative impacts that we see in small towns, particularly occur with people who use Airbnb as their booking agent. We have turned down two applications tonight with actual vetting processes for potential guests. Airbnb does not vet. And I don't know that there's a solution for you, but this is not something that I'm entirely comfortable with. I

like your manager. I think that's great. But you've got a problem potentially on the booking end of your undertaking here, that I think you need to give a little bit of thought to, and perhaps not rush into the loving arms of Airbnb.

**Daree Goodman:** I appreciate and I can't speak on statistics and whatnot, but I can speak on life experience. And I spent over 20 years down in Santa Rosa Beach, Florida. If you know anything about Santa Rosa Beach, Florida, it's probably 70% rental. I mean, I know my neighborhood in particular water sound.

**Bud Jacobs:** With all due respect, I don't know the town you're talking about in Florida, but I know a good deal about Airbnb, and I don't really need to hear a recitation of how great they are or how that all works. They run their program through the internet. There's no vetting. We're very concerned about the people who come into our town as short term renters. And it seems to me that maybe you haven't thought that part through adequately.

**Daree Goodman:** There is actually a vetting, in a way with Airbnb. I'm not sure if you're familiar, but there is a star rating that they get, and that is you get to see and you get to see their profile. You understand how many people are coming in, how what, like who the guests are that are coming. And if you choose to not let them rent, you can. And if there's any complaints from where they've ever stayed anywhere before, you can deny.

**Bud Jacobs:** Well, the star ratings are meaningless. Yelp also provides ratings on restaurants, and they add very little value to anyone trying to consider whether to go eat there. I don't want to have an extended discussion with you. It's late, I'm tired, and I sort of get nasty when I get tired.

**Daree Goodman:** Okay. I'm running.

**Bud Jacobs:** But I just want you to consider that this is an issue for us.

**Bridge Littleton:** Yeah, I think what I'll add to what Bud just said is one of the positive things about Mary and Tom's application is that they're using a local firm that will look at every single applicant vis a vis how Middleburg and the community and all that kind of stuff. So there was a, there's a and the rental program that Salamander does, they control everybody that goes in to the thing. It's just not to the open internet. I think it's a very positive thing for those applications. I mean, we've all had experiences on Airbnb which have been challenging. So all right. Well, Bud, let me ask you a question. I mean, I don't know that that's something we can control. [off mic] Yeah. So, I mean, it's just a concern.

**Bud Jacobs:** Well, it's a concern for her, not for us. I'm not saying I'm against approving it. I'm all for approving it, but it's something that I think might come back to bite us down the road, that's all. Given Airbnb's history.

**Bridge Littleton:** Yeah. Understood. Peter.

**Peter Leonard-Morgan:** No. I appreciate Goodman coming here and talking to us, and I don't know enough about Airbnb to be honest with you. You know if it's good or bad, but I respect your views on that, Bud. I think I do know the property, funnily enough, because I'm also a real estate broker and I showed it a long time ago, so I know it's very close to Michael and Garland's house, isn't it? Literally almost touches. [off mic] Oh, okay.

**Daree Goodman:** That way my house is actually their driveway. And then my property. And my house. [off mic] Okay.

**Peter Leonard-Morgan:** Great. And I know the back as well with the big garage there and.

**Bridge Littleton:** Daree if you're going to speak, you've got to use the mic.

**Peter Leonard-Morgan:** Oh, sorry. It's my fault.

**Bridge Littleton:** No, it's okay, but we just we got it. We have to record it.

**Peter Leonard-Morgan:** Yeah. And I am very encouraged by your lovely manager here because it clearly it's going to be well watched over. So I don't really have anything else to say right now.

**Bud Jacobs:** I'm actually afraid of the manager, so. [laughter]

**Bridge Littleton:** Yeah. And the problem Bud is they know where you live. [laughter] Yeah. Did we already go down this side? I don't think so.

**Pam Curran:** Well, you know.

**Bridge Littleton:** I can't remember. Pam, go ahead.

**Pam Curran:** So are you only going to rent to five star people? I mean, you said you could see all the stars or you're only renting to the five. [off mic]

**Daree Goodman:** If there's anything that causes a red flag for me to say [inaudible] and it would be if there was not a five star, I'd be going, what? Why?

**Pam Curran:** So you're only going to rent to five stars.

**Daree Goodman:** Right? Yeah.

**Pam Curran:** All right. And I think this too, because it's Ridgeview and we've never had what who we have had has been really detrimental to Ridgeview. We've had horrible experiences with short term rentals in Ridgeview. I have to agree with myself and ask if we could start low in Ridgeview and then have them come back, because I know she's wonderful and she'll do a great job. But I'm still looking at history in Ridgeview. So that's a question I have for this.

**Bridge Littleton:** And it's a fair point. We did have a number a few folks who sent letters in concerned. So there you know, there's clearly a difference between Ridgeview and Salamander. Right. Salamander is a new neighborhood. No existing whatever. Ridgeview is an established older neighborhood. Our comp plan talks about that and that there have been Airbnb's in the past which had not gone well we had a letter or two that came in about, you know. Now they were breaking the rules. They didn't have an SUP, but they were still leasing through Airbnb. And so it's not so much about the breaking the rules as it was. And one was up on Blue Ridge and there was another one down on Sycamore. So it's not about that. They didn't have an SUP. It was that it did actually have some adverse impacts to the older establishment.

**Daree Goodman:** I've actually not heard one thing.

**Bridge Littleton:** About well, they wouldn't call you. They'd call us.

**Daree Goodman:** No, I know, but I have no one not a neighbor. No one has mentioned anything until just now. This is the first time I'm hearing it that there was ever a problem in our neighborhood. All I can say is we're not going to tolerate. I'm already saying I'm going to keep everything to be you know who I rent to. My price on this house is almost as much as my daughter's whole month of rent. People are not going to rent this house. If and I guarantee you, the people who are renting their houses in Middleburg, they probably weren't full time in that home and it was their second home or something. This is my full time home. I'm going to be protective. This is I'm like a mama bear with my house. I love my house. I love my community. I want my neighbors to love me. I've reassured Garland and Michael like we're on the same page. I feel like 90 days is fair. It was fair for them. It's fair for me. I feel like 90 days should be where it at least starts, because I already came down from 180 to 90.

**Bridge Littleton:** Sure.

**Daree Goodman:** Yeah.



**Bridge Littleton:** I think for my for me, I'm kind of where Pam is. You know, I do think 90 days is too much because it is a very different neighborhood. It's an older, established neighborhood. Older neighbors. I have had some concerns, you know, from folks who called, like you said, Michael and Garland had severe reservations. So I think it's a good place to start. But that's me, right? Because Ridgeview is different.

**Daree Goodman:** So \$2,000 to reapply what you've said, right? I have to I have to go for a permit again if we don't get the 90 days, that's a lot on.

**Bridge Littleton:** Understood. But I think you're saying you're going to rent it for \$200 a night, so. [multiple speakers] Or \$2,000 a night. Yeah, I mean, so not 200.

**Daree Goodman:** I'm like No. It was your daughter's home months' rent for one night. Yeah it's not \$2000 but.

**Bridge Littleton:** I again I mean I understand we're evaluating the impacts. It's you know affordability I appreciate all that stuff. You know we all want to make extra money but it's not relevant to reviewing the application. It's about Ridgeview is different. Ridgeview has it I mean, the average age in this town is 52 years. The average age in Loudoun County is 36. It is an older community of retirees and it's different. So anyway that so I don't know. Yeah, Peter.

**Peter Leonard-Morgan:** Just to be clear, I'm not sure you're saying. No, I mean, there might be a discussion and someone might make a motion on a lower number of days. I mean, it's not a no, but you might not like that, but it's, you know. Right.

**Bridge Littleton:** Yeah no, I mean, I, I think we all agree she totally qualifies. So now the question is, are there any reasonable conditions we want to impose because of the concerns. That's the only question. So I think everybody said they're approved. They're up for approval. So first hurdle is good. Okay. Any other thoughts? I mean, are people comfortable with 60 or is there a strong desire to go to 90?

**Daree Goodman:** One more thing. I think to Linda's point. I mean, if you trust her to manage it and she is right here and she is a community member and she's a strong community member, why can't we just consider 90 if you trust her?

**Bridge Littleton:** We're considering.

**Daree Goodman:** Okay, good. Okay.

**Bridge Littleton:** I mean, okay, we're considering it doesn't mean we agree. Okay. And that's the whole point. We're trying to we're trying to take the big picture and understand what the what the implications are going to be. I mean, I understand you want more. Yeah.

**Pam Curran:** Well, I think it matters because we are a different neighborhood than the Salamander. I mean, that that's the truth. And you know, there's another neighbor across the street that actually wrote a letter to us that we've gotten. So it's , you know, it's not 100% supported, and it's not because of you, because everybody, you know, knows who you are, but it's just it's an older neighborhood. And Bridge said it, we've had bad experiences, if you'd know it or not, I know it. It's a little bit down towards my end Blue Ridge, but it's been the quality of the renters, and I just don't know how we go back down if we find out it's had an adverse impact on Ridgeview versus going up. If it has no, you know, it has none. I mean, that's just where I am since I live around a lot of older people, including myself in Ridgeview. So that's where I am.

**Bridge Littleton:** Okay.

**Chris Bernard:** Question and it's more of a comment. I think part of the difference between because we keep talking about it's an older neighborhood. However, I think to me it's more about the proximity and density, right? It's smaller lots. They're more clustered together, there's more potential for the impacts of that use to be felt, maybe more intensely by the neighbors. So that's where I come at the 90 versus 60 situation.

**Bridge Littleton:** All right. So. I guess the question. So. All right. Where would you like to be?

**Chris Bernard:** Home. [laughter]

**Bridge Littleton:** We got to make a decision, so we got to make a decision. So.

**Chris Bernard:** What? So with the conditions right. Are we?

**Bridge Littleton:** Same conditions that we did for the Gillespie's.

**Chris Bernard:** Okay. We're going to treat that the same way?

**Bridge Littleton:** Yeah. Oh, I think that makes a lot of sense okay.

**Chris Bernard:** I just wanted to make sure.

**Bridge Littleton:** Yeah. No. And whoever reads the motions got to parse that one. So, Bud.

**Bud Jacobs:** If we're doing a straw poll on the days I'm the Planning Commission recommended 90, and I'm fine with that, but I'm also fine with less so. How's that [off mic].

**Bridge Littleton:** Well, boy, I tell you what.

**Darlene Kirk:** I would prefer 60 too.

**Bridge Littleton:** Okay.

**Darlene Kirk:** Not 62, but 60 also.

**Bridge Littleton:** As well.

**Darlene Kirk:** Yes.

**Bridge Littleton:** Okay. Well, I tell you what, someone's got to make a motion. So if there's going to be a motion for 60, great. If there's going to be a motion for 90 or 72.5. Someone needs to lean forward and make a motion.

**Bud Jacobs:** Go Pam. [off mic]

**Bridge Littleton:** Hey, go to a county meeting. Sometimes they go till 4:00 in the morning.

**Pam Curran:** I know. I move Council approve SU 24-04, subject to the following conditions. Number one, the use shall be in accordance with the materials package dated February 29th, 2024, except as may be further conditioned below. Number two the use shall at all times comply with all ordinance requirements and all imposed conditions. Number three, if use ceases for a period of two years, the permit is subject to revocation. The number four the owner shall submit an annual certification of the short term rental use in a form acceptable to the administrator. Number five this won't look good if the YMCA sees this. I just want you to know. The owner shall submit an annual certification. Oh wait. [off mic] All right. The special use is restricted to the applicant and is not transferable upon the sale of the premises to other parties, with such conditions voluntarily offered by the applicants. And number six, the maximum number of days cumulative allowable for such use during any calendar year shall be 60 days.

**Peter Leonard-Morgan:** Second.

**Bridge Littleton:** Any discussion or amendments. Okay. Rhonda, do you want to call the roll?

**Rhonda North:** Vice Mayor Bernard.

**Chris Bernard:** Aye.

**Rhonda North:** Council Member Curran.

**Pam Curran:** Aye.

**Rhonda North:** Council Member Jacobs.

**Bud Jacobs:** Aye.

**Rhonda North:** Council Member Kirk.

**Darlene Kirk:** Aye.

**Rhonda North:** Council Member Leonard-Morgan.

**Peter Leonard-Morgan:** Aye.

**Rhonda North:** Council Member Pearson.

**Cindy Pearson:** No.

**Bridge Littleton:** Okay. The motion passes. With that, that's the conclusion of all the applications and the public hearings and the fun. So whoever wants to stay for the consent agenda and Chiefs Jones police recruiting update you're more than welcome to. And, Megan, you do not have another opportunity to speak. [off mic] All right, well, let's roll through this real quickly. Consent agenda. Would anyone like any? [multiple speakers]

**Peter Leonard-Morgan:** I move that we accept consent agenda as presented.

**Darlene Kirk:** Second.

**Bridge Littleton:** Any discussion? All those in favor say aye.

**All of Council:** Aye.

**Bridge Littleton:** Opposed?

**Darlene Kirk:** Aye.

**Bridge Littleton:** You good? Okay. Opposed? Abstentions? Okay. Last item is Chief Jones. Let's make this. I'll let me see if I can do this for you. Has everybody read the Chief's memo?

**Darlene Kirk:** Yes.

**Bridge Littleton:** Okay. It was very helpful. I appreciate the update. Does anybody have any questions for the Chief on his memo?

**Bud Jacobs:** Not on the memo. How many applications have you got?

**Shaun Jones:** So far in the last week, I've received, week and a half, I've received two applications that we posted on, Indeed jobs this afternoon. And also I just received a hit while sitting here from a Indeed jobs.

**Bud Jacobs:** Woohoo!

**Bridge Littleton:** All right. Great. Cindy.

**Cindy Pearson:** Just a quick thing. And I would I think I don't know if I've said this to anybody yet or not recommend maybe trying to put some part time job out there for them too, because sometimes people are retired like Bill and would like to fill in as part time, two part time legal or full.

**Shaun Jones:** Okay. Thank you.

**Bridge Littleton:** Yeah. Pam.

**Pam Curran:** Is there a copy of the ad in our. I saw the memo, but I didn't see a copy of the ad.

**Bridge Littleton:** No. Oh, Shaun, could you send it to the Council a copy of your ad?

**Shaun Jones:** I can attempt to. There's.

**Bridge Littleton:** Just forward us the post to. Forward us the link to the posting.

**Shaun Jones:** Okay.

**Bridge Littleton:** Yeah, send us the link. Okay. Whatever site you got on.

**Chris Bernard:** [off mic] Site you go on to apply.

**Bridge Littleton:** Okay. And I'm going to do one last thing before we adjourn the meeting. I see Daree already left. Prem. Scott, Tom and Mary, I want to thank you guys very much. Number one, through for sitting through all of it. But we appreciate all the work you've done that you guys are trying to do, right? And you know that we want to get to the other side of how these applications work in the right way. I know you guys are probably everyone's disappointed or maybe but we are always here. Come talk to us. You know, the future is not foretold, so. I completely agree with what you said, Prem. We'll work with you to see how we can get to, Yes in the right way. So again, thank you guys. And again, thanks everybody in the community for being here as long as you guys have been. So and with that meeting adjourned.