



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



**MONDAY, SEPTEMBER 23, 2019
PENDING APPROVAL**

PRESENT: Eric Combs, Chair
Donald Woodruff, Vice Chair
Terence S. Cooke, Member
Edward R. Fleischman, Member
Rachel Minchew, Member
Kevin Hazard, Councilmember

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

ABSENT: Mimi Dale Stein, Member

The Middleburg Planning Commission held their work session and regular meeting on Monday, September 23, 2019 in the Town Hall Council Chambers, located at 10 W. Marshall Street in Middleburg, Virginia. Chair Combs called the work session to order at 6:30 p.m.

SD 19-02: Preliminary Plat of Subdivision – Banbury Cross Reserve

Deputy Town Administrator Moore reminded the Commission that while the land was located outside of Middleburg's corporate limits, the Town had extraterritorial subdivision control over the majority of the lots in the proposed subdivision. He further reminded them that the subdivision was at the preliminary plat stage, which was where the technical requirements would be reviewed. Mr. Moore advised that the construction planning profile (site) plan would be where the majority of the engineering work would be done. He noted that a public hearing on the preliminary subdivision plat was scheduled to occur later in the evening. Mr. Moore reminded the Commission that while the Town's ordinance controlled the subdivision, the County's zoning ordinance controlled the zoning. He stressed that Middleburg was only holding a public hearing on the preliminary subdivision plat. Mr. Moore advised that while it would be interesting to hear the public's comments, a subdivision was a ministerial act in Virginia, meaning it was not discretionary. He reminded the Commission that they were forbidden from making land use decisions at the subdivision level and were only reviewing the plat for technical compliance. Mr. Moore explained that if it was in conformance with the technical requirements, the Commission was obligated to approve it.

Deputy Town Administrator Moore reported that this was a cluster subdivision that involved three large parcels located east of town, consisting of 570 acres. He advised that the owners had three by-right options for its development, with the cluster option allowing for one unit per fifteen acres for a total of thirty-eight lots as proposed. Mr. Moore noted that seventy percent of the land must be left for rural economy uses or in open space. He reported that twenty-eight of the proposed lots would be clustered and ten would be rural economy lots and advised that all of them met the minimum lot size requirements.

Deputy Town Administrator Moore advised the Commission that the Town had the review agencies' comments and reported that the findings were favorable in terms of technical conformance. He further reported that he met with the applicant to discuss the review comments. Mr. Moore noted that at that

time, he obtained a copy of the hydro geology study, which was approved by the Health Department. He reported that the Wellhead Protection Advisory Committee reviewed the study and had no objections to the project. Mr. Moore opined that even during drought conditions, any rainfall within the boundaries of the property would take care of the needs of the thirty-eight lots.

In response to an inquiry from the Commission regarding the technical compliance, Deputy Town Administrator Moore reported that a survey was required of trees that were eighteen inches or greater in caliper. He advised that while not included in the first iteration of the plat, he did not believe that failure was grounds for denial. Mr. Moore advised that one of the review comments from the Town Engineer noted that the road shoulder may need to be revised to accommodate the weight of fire apparatus; however, this was not a technical requirement that needed to be addressed at this stage. He noted that the review agency comments addressed both the preliminary and construction plats; however, only a minimal number were technical in nature. Mr. Moore reiterated that based upon court cases, a precedent had been set that in order to disapprove the plat, the Commission must find very specific express technical requirements that were not met and advised that the road shoulder issue was not an express technical requirement.

Chair Combs noted that the purview of the Commission was only to determine whether the plans were in compliance with the technical requirements.

Deputy Town Administrator Moore reiterated that a survey of any trees with a caliper of eighteen inches or greater was a technical requirement; however, it was a minor one that could be addressed. He advised that this was not grounds for a denial. Mr. Moore noted that one of the lots had a maximum size issue that could be addressed through a boundary line adjustment. He advised the Commission that he provided a draft motion for their consideration, which was slightly revised at the recommendation of the Town Attorney. Mr. Moore reiterated that this was a ministerial act and that the members could not apply their own judgement in a discretionary fashion. He advised that comments from the public were welcome and suggested it was important to have their feelings regarding certain types of development on the record so they could be passed along to the elected officials for discussion of future land use policy as the County's zoning ordinance was revisited.

In response to an inquiry from the Commission, Deputy Town Administrator Moore advised that there were two other towns in Loudoun County that had extraterritorial subdivision control areas; however, he was unsure whether they held public hearings on their subdivision applications.

Chair Combs adjourned the work session at 6:47 p.m. He called the regular meeting to order at 7:00 p.m.

Disclosure of Meetings with Applicants

The members reported that they had no meetings with applicants.

Public Comment

Bridge Littleton, 5 Orange Drive, noted that this was Councilmember Hazard's last meeting on the Planning Commission. He thanked him for his service, leadership, guidance and volunteerism.

Approval of Meeting Minutes

Vice Chair Woodruff moved, seconded by Commissioner Cooke, that the Planning Commission approve the July 22, 2019 meeting minutes as submitted.

Vote: Yes – Commissioners Combs, Cooke, Fleischman, Minchew and Woodruff and Councilmember Hazard

No – N/A

Abstain – N/A

Absent – Commissioner Stein

Public Hearing & Action Item

SD 19-02: Preliminary Plat of Subdivision for 38 Lots on 570.873 acres – Middleburg Land, LLC

Deputy Town Administrator Moore reiterated his summary of the application.

Chair Combs reviewed the ground rules for public hearings.

Bridge Littleton, 5 Orange Drive, read a letter from Senator Jill Vogel. In it, Senator Vogel advised that the goal of any regulations she introduced into the General Assembly was to make land use policy consistent with the needs of the community and to protect agricultural and open space areas. She suggested the proposed subdivision was misaligned with the community’s vision; therefore, she opposed moving forward with the project. Ms. Vogel suggested there were technical requirements that needed to be resolved and urged the Planning Commission to encourage the Loudoun County Board of Supervisors to delay action on this request until studies were completed and an update of the County’s cluster subdivision zoning regulations could occur to combat suburban growth in the rural areas.

Mr. Littleton recognized that this was a technical review process and that if it met the requirements, the Commission had no choice but to approve the subdivision. He opined that the cluster zoning regulations, which allowed development to move to the east, were a problem. Mr. Littleton noted that a lot of people have fought to inform the Board of Supervisors on the need for a change to the County’s zoning regulations to prevent the erosion of open space. He suggested this was an opportunity to collect public comments and send them to the new County Board in January.

Brad Bondy opined that the request needed further consideration as it contained more than technical deficiencies. He noted that the property was located in a historical area; however, the Planning Commission did not have the archeological study. Mr. Bondy opined that a sufficient hydrology study had not been conducted, nor had a proper study on the impact on the wetlands been done. He advised that to date, the applicant had not provided an approval letter from the Army Corps of Engineers. Mr. Bondy asked the Commission to not approve the application as it did not meet the technical requirements necessary for an approval.

Eva Smithwyck, 2268 Sunny Bank Lane, advised that she had concerns about the proposal and noted that the review agencies had thirty-five concerns. She noted that she would concentrate on those that most concerned her. Ms. Smithwyck expressed support for the need for a wetlands approval letter from the Army Corp of Engineers. She noted the steep slopes in this area and advised that her property already flooded and received major damage. Ms. Smithwyck suggested the need for an archeological study. She noted that the Virginia Department of Transportation (VDOT) was requiring the provision of a fourteen-foot easement along Route 50 up to the Snickersville Turnpike and suggested this was the beginning of a plan for future development of the area.

Jim Nichols, 22064 Sam Fred Road, advised that the road was already hazardous without adding more traffic to it. He challenged VDOT’s assertions that no traffic study was needed. Mr. Nichols noted that it was a challenge to turn onto Route 50 and suggested the need to expand the entrance. He threatened a lawsuit if one of his loved ones was hurt due to the lack of a traffic study. Mr. Nichols asked the Commission to not support the subdivision request.

Laurie McClary, 2096 St. Lois Road, advised that the community worked very hard to protect the entrances into town and begged the Commission to stop this subdivision. She suggested the members instead apply their talents to keeping Middleburg a success from a tourism standpoint. Ms. McClary advised that people came to Middleburg because it was a special place.

Bud Jacobs, 134 N. Jay Street, reminded the Commission that he was the Chair of the Town's Wellhead Protection Advisory Committee (WPAC). He explained that part of their mission was to understand the availability of groundwater and part was to deal with issues of potential contamination. Mr. Jacobs noted that the hydrology study provided dealt only with the availability of water and the impact of the construction on it. He reported that the WPAC could not comment on some of the estimates or the other analytical conclusions at this time. Mr. Jacobs advised that the Town was working on a recharge study, which would take months to complete; therefore, the Committee could not yet say whether the new construction would have an impact on the Town. Mr. Jacobs noted he had some concerns with regard to whether the development would result in contamination of the Town's source water due to the steep slopes on the property and the potential for erosion and contamination. Mr. Jacobs advised that due to the lack of information on any wells and septic that may be located on the property, the WPAC could not judge the advisability of the project. He questioned whether there were plans to correctly close any wells or septic on the property that would not be used and noted the need to ensure there were no potential risks of contamination to the groundwater from them. Mr. Jacobs opined that not enough information was available on the recharge areas around the wells to make judgement on the project. He encouraged the Commission to delay approval of the request or to disapprove it.

Colvin G. Ryan, 22359 Pole Cat Road, expressed fear that approval of this request would open the box for future development.

Lucy Drinkwater, 37615 John Mosby Highway, appeared before the Commission in opposition to the request. She noted that she fell in love with the Middleburg area and advised that it was a high priority for her to preserve its historic character in order to ensure the viability of its local and tourism economies. Ms. Drinkwater opined that the proposal was in direct contradiction to Loudoun County's Comprehensive Plan. She suggested the need to find ways to keep up with Loudoun County's growth other than the construction of cookie cutter houses that would take away a natural wonder. Ms. Drinkwater opined that the project would reduce Middleburg's charm and image as a beautiful, historic town. She further opined that road and utility infrastructures were not in place to support the request. Ms. Drinkwater suggested the development of this property would be a gateway to more development. She encouraged the Commission to determine how the development fit within the County's Comprehensive Plan.

Julie Weir, 115 N. Jay Street, noted that if approved, the open space around the Town would disappear forever. She suggested this was the Commission's opportunity to preserve the land and asked that they deny the subdivision request.

Jane Covington, an architectural conservator and student of Loudoun County's history, noted that they were still learning about the African-American heritage in the County. She reported that a study of the African-American resources was underway; however, it was not complete. Ms. Covington noted that the property in question was adjacent to two villages that could have historical significance. She asked that this unfinished archeological study be considered before the Commission approved the application.

Evan McCarthy, a representative from the Piedmont Environmental Council, opined that there were outstanding issues associated with the application that needed to be considered, including many related to the wetlands. He suggested the need to reconfigure the subdivision to prevent damage to the soils that supported the wetlands. Mr. McCarthy cited the steep slopes as a concern and noted that grading them could create future erosion and flooding problems. He noted the lack of inclusion of approval from the Army Corps of Engineers for wetlands on the site in the application. Mr. McCarthy advised the

Commission that there were thirteen recorded historic archeological sites located within three miles of this property and encouraged them to require architectural design and siting of the lots on the lower elevations to minimize their impact on the pastoral landscapes. He noted the lack of documents regarding water and sewer. Mr. McCarthy advised that he could not support the application and asked that the Commission either disapprove it or issue a conditional approval. He noted that the Town's draft Comprehensive Plan stated that it should be active to prevent modern development from encroaching into the town.

Childs Burden, Carters Farm Lane, advised that his property, which adjoined this one, was in a land conservation easement. He noted that the original plan envisioned two additional polo fields on this property. Mr. Burden further noted that such fields required thousands of gallons of water for irrigation and questioned the effect on Middleburg's water supply. He expressed concern about the septic systems that would be used and suggested that alternative systems were ineffective. Mr. Burden noted that VDOT was not requiring a traffic study and suggested that traffic calming needed to be carefully considered. He opined that the Commission should demand a traffic study. Mr. Burden suggested that not enough was known about this request to approve it.

Suzanne Obetz appeared before the Commission on behalf of the Mosby Heritage Area Association. She advised that she agreed with the previous speakers. Ms. Obetz opined that people came to Middleburg to see the open space and pristine views and suggested this subdivision would alter it. Ms. Obetz noted the fourteen recorded archeological sites located within three miles of the property and suggested the historic homes on the site should be preserved as they were valuable economic resources. She encouraged the Planning Commission to mitigate any negative impact on Middleburg from this proposal and noted that once the gateway was lost, it would be lost forever. Ms. Obetz advised that as the Director of the Middleburg History Museum, she was collecting and preserving Middleburg's history and learned that people were looking to preserve its charm, history and stone walls. She urged the Commission to consider the community's wishes.

Mindy Plus, Berland Road, opined that the people who would move into this subdivision would demand services that they were accustomed to receiving, but that were not currently available in this area. She noted that Middleburg was a place to get away from it all and advised that she did not want to see this area disrupted.

Nate Chambers, Stonewall Court, advised the Commission that they must keep quality in mind and expressed reservations about the quality of what was proposed. He asked the Commission to help preserve the feelings of tranquility associated with Middleburg.

Patricia Smithwyck, Sam Fred Road, opined that eastern Loudoun County residents would not want Middleburg to become what their area had become. She noted the concerns about the high volume of traffic on Route 50 and opined that having additional traffic stop at Sam Fred Road would create back-ups or the need for turn lanes. Ms. Smithwyck expressed concern about the proposed development from the perspective of emergency response and farm activity on Sam Fred Road. She opined that this development was not feasible without improvements to Route 50 and Sam Fred Road. Ms. Smithwyck asked the Commission to think about the consequences of this development.

Daniel Haney, 34572 Welbourne Road, asked the Commission to slow the request and to think about the views. He suggested the lots be reconfigured to protect the views and noted the need to address the steep slopes. Mr. Haney suggested the need to also address the African-American cemeteries in the area.

Gem Bingol, of the Piedmont Environmental Council, suggested the first requirement to move forward should be to work with others to look at Loudoun County's zoning and subdivision ordinances, as it was critical to have the proper land use regulations in place to implement the County's Comprehensive Plan.

She noted that there was currently a disconnect between the two documents. Ms. Bingol encouraged everyone to be engaged in order to put the proper regulations in place to preserve the rural areas.

Kevin Rumband, of Upperville, noted that he had heard lots of reasons to deny the request; however, the challenge was to deny it and still be on a path to “win the war”.

Carolyn Nash Homely, Unison Road, spoke on behalf of the Unison Preservation Society, which worked hard to preserve the history of this area. She asked that the Planning Commission do what it could to slow down this request and make it difficult for developers to change the rural nature of the town.

Pam Wooley, 37348 Quantock Lane, reported that with the change in the weather, her well changed. She expressed concern about the impact this development could have on it. Ms. Wooley advised that she did not see any good coming from it. She urged the Commission to “do the right thing”.

No one else spoke and the public hearing was closed.

Chair Combs briefly recessed the meeting for a short break. He called the meeting back to order.

In response to an inquiry from the Commission, Deputy Town Administrator Moore reminded them that the State Code mandated that they must take action within sixty days of acceptance of the application. He noted that this could be extended to ninety days if a State agency review was required, which was the case for this application. Mr. Moore advised the members that the deadline would occur within a few days; therefore, they must act during this meeting.

Chair Combs noted that the Commission previously discussed asking the applicant to waive the deadline. He further noted that the Commission just received the review agencies’ comments. Mr. Combs questioned whether the applicant was willing to waive the deadline.

Deputy Town Administrator Moore advised that he did not make the request of the applicant due to the amount of time it took the County to get their review comments to the Town. He noted that it had only had the review comments for a week and a half.

The Commission expressed concern about the amount of time they were being given to consider this request. They noted the concerns raised by the public and suggested they needed to be addressed before they could act.

Deputy Town Administrator Moore advised that he was prepared to advise the Commission on how they should act in accordance with the State Code and local regulations. He reminded the members that there were three phases to the subdivision process – the preliminary plat, the construction plat and the final plat. Mr. Moore advised that the preliminary plat was just a schematic. He reiterated that the preliminary plat approval would just confirm that the plat was in accordance with the applicable regulations. Mr. Moore opined that there were things that could be suggested for the next stage, which was the construction plat phase. He reiterated that he did not disagree with the concerns that were raised; however, he explained that the Commission did not have a lot of leeway to address them at this stage. Mr. Moore noted that they were advisory comments to the applicant for the next phase. He reminded the Commission that they did not have the ability to require full engineering prior to preliminary plat approval.

In response to an inquiry, Mr. Moore advised that the Commission would not be involved in the construction plan phase, which was where the steep slope and other non-technical concerns that have been raised would be addressed. He confirmed that slowing down the approval was not an option as the Commission must act on the preliminary plat during this meeting. Mr. Moore advised that the only way to slow the application down was to disapprove it; however, he would not recommend that as there were no grounds for doing so.

The Commission expressed concern that the applicants were not present to respond to the comments and questions that were raised. Deputy Town Administrator Moore confirmed they were present; however, they chose not to speak.

Commissioner Fleischman questioned whether there were enough technical deficiencies, and opined that there were, to return the application so the applicant could respond to the concerns.

In response to an inquiry from the Commission as to the consequences of disapproving the application, Deputy Town Administrator Moore advised that the applicant could resubmit a revised plat or he could petition the Circuit Court to approve the one before them if it found that the grounds for disapproval were not valid. He explained that what Commissioner Fleischman described was the nature of a conditional approval. Mr. Moore noted, however, that once the comments were sufficiently addressed for the reviewing agencies, the preliminary plat would be signed and the applicant would move to the construction plat. He advised that there was nothing to be gained by disapproving the plat that would not be gained from a conditional approval. Mr. Moore explained that under a conditional approval, the applicant must resubmit the plat within ninety days of the Commission's action. He noted that there would then be another review(s) by the agencies until all of the comments were addressed that were necessary at the preliminary plat stage. Mr. Moore reiterated that under a conditional approval, the preliminary plat would not return to the Planning Commission if the conditions were met.

The Commission expressed concern about having to identify a statement of conditions that needed to be addressed to the satisfaction of the citizenry.

Deputy Town Administrator Moore advised the Commission that if the motion was to disapprove, it must identify the express requirements that were not met by the application and what must happen to allow them to be met. He noted the need to parse out the express requirements from the comments that were related to the next stage of the process and advised that many of the review comments fell into the latter category. Mr. Moore acknowledged that there were some requirements that had not been met, such as the maximum lot size requirement for one of the lots; however, he and the Town Attorney did not believe they met the threshold to justify a disapproval as they could be addressed by some minor changes. He stressed that the Commission could not make a land use decision when acting on a subdivision plat. Mr. Moore opined that the public's comments were wonderful in terms of being helpful in engaging the County as they amended their zoning ordinance; however, they could not be used to make land use decisions.

The Commission expressed concern about the WPAC's concerns about the hydrology not being properly addressed. Deputy Town Administrator Moore advised that the applicant provided a hydrology study. He further advised that the Loudoun County Health Department, which was the authority in determining the appropriate level of study for this development, accepted its findings.

The Commission suggested the need for an archeology study. Deputy Town Administrator Moore advised that under the County's regulations, the archeology study must be submitted at the construction plan phase. He reported that the first phase of that study had been done; however, it was not submitted with the first iteration of this plat.

The Commission questioned whether the steep slope concerns were within their purview. Deputy Town Administrator Moore confirmed they were not as they would be addressed at the construction plat phase. He noted that there was legal precedent that did not allow the Commission to look at the individual lots during the preliminary subdivision plan phase.

The Commission noted that they were very limited and questioned the best way to provide information to the County. Deputy Town Administrator Moore explained that he must advise the members that they could not take discretionary action based on citizen feedback. He reiterated that the non-technical concerns that were raised during the hearing must be addressed at the construction plan stage.

The Commission noted a County review comment regarding steep slopes and questioned its meaning. Deputy Town Administrator Moore advised that it was an incomplete comment.

The Commission acknowledged that they must articulate the express requirements that were not met. They expressed concern that they had no time to consider the review agencies' comments and deliberate on them as a body. The Commission questioned the limits on a conditional approval. They further questioned whether there were any options available to them, short of the applicant waiving the time period, for making a recommendation.

Deputy Town Administrator Moore advised the Commission that they could conduct a line-by-line review of the reviewing agencies' comments to identify which were technical requirement related and which were not. He noted that his review to date, identified some that were express requirements; however, he and the Town Attorney did not believe they met the threshold to disapprove the plat.

In response to an inquiry from the Commission, Mr. Moore advised that the applicant was requesting a conditional approval.

Commissioner Fleischman moved, seconded by Vice Chair Woodruff, that the Planning Commission disapprove the request of Middleburg Land, LLC for approval of the preliminary plat of subdivision with thirty-eight lots on 570.873 acres of land, consisting of Parcels 503-46-4523, 502-28-1672 and 502-39-8957, zoned Agricultural-Rural 2 for the following reasons: (1) preliminary plans for fire protection (water storage tanks, dry hydrants, etc.) need to be identified on the preliminary plat; (2) a survey of all trees eighteen inches in caliper or greater within the areas of development in the Middleburg Subdivision Control Area need to be identified; (3) revisions to some road widths and/or construction of shoulder sections are necessary to meet the required design for fire apparatus access roads; (4) the two archeological sites found within the property need to be identified on the preliminary plat; (5) some floodplain boundaries in the area of Sam Fred Road are not depicted consistently with the mapped Floodplain Overlay District, which needs to be corrected on the preliminary plat; (6) the preliminary plat should allow a minimum fourteen foot public access easement along the site's frontage on U.S. Route 50. Commissioner Fleischman further moved, seconded by Vice Chair Woodruff, that in order to permit approval by the Middleburg Planning Commission, the above corrections or modifications to the preliminary plat must be made and the preliminary plat needs to be resubmitted. Commissioner Fleischman further moved, seconded by Vice Chair Woodruff, that in addition, responses to the comments previously transmitted from the Town of Middleburg, the Town's consulting engineer, the Virginia Department of Transportation and Loudoun County must be submitted.

Vote: Yes – Commissioners Combs, Cooke, Fleischman, Minchew and Woodruff

No – Councilmember Hazard

Abstain – N/A

Absent – Commissioner Stein

Council Representative's Report

Councilmember Hazard noted that this was his last meeting and advised that it had been a pleasure to serve on the Commission. He opined that the members were among the smartest, hardest working individuals with which he has been associated.

Councilmember Hazard reported that during the last Council meeting, the members of the Middleburg Community Charter School's Safety Patrol received their badges. He further reported that a proclamation declaring last week as Constitution Week was approved. Mr. Hazard advised that the bronze fox sculpture was being cast and reported that the Council approved its placement in front of the Middleburg Community Center.

Councilmember Hazard reported that the Council reviewed six of the chapters in the draft Comprehensive Plan and would finish the remainder during their meeting to be held later in the week. He opined that the overall feeling was that the draft plan was good. Mr. Hazard noted that some items were identified that the Mayor would like to include. He advised that in response to an inquiry from the Council, he reported that a plan would be developed by the Commission to address the deliverables over the next decade. Mr. Hazard opined that overall, the plan was well received.

Councilmember Hazard reported that the Council was in the process of making an interim appointment to fill his seat. He advised that they were moving forward with the plan for the construction of a new Town Administration Building and reviewed a detailed project schedule. Mr. Hazard noted that the next step was to hire an engineer. He opined that given the amount of money the Town was paying to rent offices for the Police Department, this project would be good. Mr. Hazard advised that the location had yet to be determined. He explained that the facility would house the Council and Town staff offices, as well as the Police Department; however, it would not include the Facilities & Maintenance Supervisor.

Discussion Items

Council Public Hearing/Review – Comprehensive Plan 2019

Deputy Town Administrator Moore reported that during their upcoming meeting, the Council would hold a public hearing on the proposed plan, as well as review the final chapter and the revisions that had been proposed to date. He advised that the main revision was to indicate that Loudoun County had now adopted their comprehensive plan. Mr. Moore suggested that following its adoption, the Commission would develop a work plan to implement the Comp Plan. He reminded the Commission that the Council was required to adopt the Comp Plan within ninety days of their recommendation and advised that they discussed holding a special meeting in the event they were not ready to adopt it on the evening of the public hearing. Mr. Moore reminded the members that the Council could adopt, amend and approve or disapprove the plan and return it to the Commission. He encouraged the public and the members of the Commission to attend the public hearing and to make comment.

Upcoming Zoning Text Amendments – Penalties and Sign Ordinance

Deputy Town Administrator Moore advised the Commission that two zoning text amendments would be coming before them next month. He explained that the first one was to update the penalties associated with zoning violations and noted that it was coming at the request of the Council. Mr. Moore advised that the second was revisions to the sign ordinance and noted that the draft was based upon the model ordinance prepared by local government attorneys.

Reception for Kevin & JoAnn Hazard

Deputy Town Administrator Moore reminded the Commission of the reception scheduled for Councilmember & Mrs. Hazard just prior to the Council meeting on September 26th.

Quorum for October Meeting

Those members who were present confirmed they would be present for the September meeting.

There being no further business, Chair Combs adjourned the meeting at 9:09 p.m.

RESPECTFULLY SUBMITTED:

Rhonda S. North, MMC, Town Clerk

Middleburg Planning Commission Transcript
September 23, 2019

(Note: This is a transcript prepared by a Town contractor based on the video of the meeting. It may not be entirely accurate. For greater accuracy, we encourage you to review the video that is on the Town's website – www.middleburgva.gov)

Eric Combs: Well, why don't we get started with our work session? Thank you all for joining our work session. The public hearing is scheduled to begin at 7 o'clock. We have some issues to address before that so we'll go ahead and get started. If we might just introduce ourselves via microphone. Rhonda we'll start down with you.

Rhonda North: Rhonda North Town Clerk.

Ed Fleischman: Good evening Ed Fleischmann.

Eric Combs: Eric Combs.

Terry Cooke: Terry Cooke.

Kevin Hazard: Kevin Hazard.

Rachel Minchew: Rachel Minchew.

Don Woodruff: Don Woodruff.

Will Moore: Will Moore deputy town administrator.

Eric Combs: Thank you all. And Rhonda has asked me to remind all of the commissioners to please indicate on your microphone the on off button whenever you're getting ready to speak. I know we collectively have a habit of not doing that. And the transcript I think picks up a lot of off mic items. So let's. If we can be conscious of that. Well, let's just jump right into our work session. Will do you want to tee us off?

Will Moore: Certainly. The subject of the work session is will then become the subject of the public hearing in the regular meeting and that this is dealing with the Banbury Cross Reserve subdivision. So what we have before you to potentially act on this evening is the preliminary plat of subdivision. Just a few things in terms of how the process will work for subdivision of land. We have what is known as an extraterritorial subdivision control area. So the subdivision in question here is wholly outside of the town limits of Middleburg. But a portion of the land and the majority of the proposed lots are within that subdivision control area. So we are an approving authority for that portion that lies within our subdivision control area. Again, this is a preliminary plat stage. Subsequent to preliminary plat is the construction plan and profile stage. Some people refer to that as site plan, but properly construction planning profile stage. This is where the majority of the engineering work is done. We have fielded a lot of questions from the public about particular drainage concerns. The final design on entrances to the subdivision, things that are not necessarily contemplated to be finalized at this stage. The preliminary plat stage is essentially a schematic stage. Now, there are many technical requirements that we we do have to see at this stage, but we've been unable to adequately address and answer some concerns from a staff level for the public because they're asking questions that will be resolved at the detailed engineering, which is in the construction plan and profile stage. So we are we will be holding the public hearing this evening. Again,

that portion is within our subdivision control area is governed by our subdivision ordinance, but by Loudoun zoning and other standards like Loudoun Facility Standards Manual. So there are multiple regulatory documents that control here. We elect to hold public hearings on preliminary plans of subdivision in Middleburg. It is not a state code mandate, as are public hearings for other types of discretionary actions. Rezoning is special exceptions and such. The county elects not to hold a public hearing on subdivisions. But what we do, we will be very interested to hear the comments from the public. I think now is maybe a good time to jump ahead to the section in the report that addresses the type of action that a subdivision is. So a subdivision in Virginia is what's known as a ministerial act or ministerial function. It is not discretionary. So there are regulatory pieces already in place that address land use policies. So we are forbidden from trying to use trying to make a land use policy decision at the subdivision stage. We are making a ministerial act, which means you are reviewing for technical compliance. And if the preliminary plat is in technical compliance then you are obligated to approve. We cannot make a discretionary act again, equating to some types of applications that might be before bodies that require public hearings like a rezoning or a special exception where you can consider impacts on community changes to the character of the surrounding community. Those are things that have already been decided by Loudoun in applying the zoning designation of AR2 to this land so it by right can be developed in certain manners. And one of those happens to be the cluster subdivision option, which is provided for in the Loudoun County zoning ordinance. So if upon review of the submission it is in conformance or substantial conformance at the stage because it becomes an iterative process after action, then you would be obligated to approve. So just one for repeat we've had this discussion before, but as well for some of the members of the community who might be here to understand that you may have to take a certain action based upon the completeness of the application that is before you. With that being said, the overview of the application is that there are three large parcels of land just to the east of town. Five hundred and seventy plus acres. And the proposal is to subdivide that using the cluster option. So the Loudoun County zoning ordinance allows within the AR2 district to do one of three subdivision options. There's a base density option which gives you a yield of 1 per 40 acres. There is an intermediate option where you have to do some alternative type of development. There is the cluster subdivision option, which is what the applicant has elected to pursue here. All three of these are again, by right applications. If all requirements are met, the cluster subdivision option gives a yield of a maximum yield of one dwelling per 15 acres and 570 divided by 15 gives you exactly 38, which is the proposal here. When choosing that option, you have to do certain things and the idea is to leave the majority of the land a minimum of 70 percent of the land open for rural economy uses or common open space for the development and trade off, or that you can then do a cluster of smaller lots and get that higher density yield. When this was originally brought to our attention at a conceptual stage and the way it was advertised in the hearing notice that we sent out to the surrounding property owners was that it was going to be for 31 of these smaller cluster lots and seven of the larger rural economy lots that's actually been revised, even though there's a tabulation table in this first iteration of the preliminary plat that still includes those numbers. There are actually three fewer of the smaller lots, three more of the larger. So the proposal that is before you is for 28 of the cluster lots and 10 of the rural economy that the rural economy, lots must be a minimum of 25 acres in size. There is no maximum. In this case there, the minimum size that they are proposing is 25.25 acres. And then they go up to as large as 65 acres in size for the rural economy lots that are proposed. That is really the overall picture. I've included a little bit of analysis in here. You have copies of the consolidated review, comments from all the different referral agencies that the plat was sent to. Those include the town has a consulting engineer that does a lot of that technical review for it. So you have the benefit of that analysis was sent to the Virginia Department of Transportation and it was sent to multiple agencies within the county. We wrote it to county building and development and then sent out to multiple agencies within the county. You have the benefit of those consolidated comments. We highlighted a few in the staff report that we think are important to address. But overall, we have made favorable findings. And when I say favorable, favorable in terms of substantial conformance with the technical requirements that are found within. We found your numerous comments that will need to be addressed, but essentially minor revisions and have already met with the applicant to discuss those that generated from the town engineer's review. The applicant will work with the individual referral agencies on their comments. Outside of those comments that you had the privilege of reviewing

and I highlight this in my report, we also were able to obtain a copy of the hydro geologic study that was done that had already been sent to the Health Department in advance of the filing of this application and had been approved as to its findings. But we wanted to get a copy of that and have the benefit of the towns appointed wellhead protection and Advisory Committee to do their own review. We sent it to a couple of members, including the chair. They came back noting no objections and we highlighted the findings in the staff report here as to essentially a no. Our concern was would there be potential draw down on towns, water sources. And the finding was that just from rainfall falling within the boundary of the property itself, even under drought conditions, it would be sufficient recharged to take care of the needs for those 38 particular lots. But we did want to highlight that as an additional study would look into that, that the town had performed on our own. With that, I think maybe open up for discussion at this point amongst the commission. Any questions, concerns you have before we get into the the public meeting beginning at 7:00.

Eric Combs: I might just start with a threshold question or two, you mentioned technical compliance in connection with the subdivision review with the examples that you put in your memo to the Planning Commission. The exemplar of the sorts of technical issues we might be asked to consider tonight.

Will Moore: So some are some aren't. So I'll give you an example. If you look in in my bulleted section under the analysis of the report, the local subdivision ordinance of Middleburg's requires that all trees of 18-inch caliber or greater have to be surveyed and indicated at a preliminary plat stage. So that was not included in the first iteration of the plan. So based, you know, that's among the comments that would have to be addressed. We would consider that an express requirement of the ordinance. I would not recommend that its failure to include in the first iteration. I would not recommend it as grounds for disapproving the plat. But it's a comment that has to be addressed. But the very next bullet, which talks about revisions to road widths or constructions of shoulder sections. So we we ask that a typical road section be shown within the preliminary plat. A comment from the town engineer was that you may need to revise the base of the shoulder section so that it could accommodate the weight of fire apparatus and that the width, including the shoulder section, could be counted toward meeting the required width. That's not an express requirement at the time of preliminary plat. That's just looking forward, giving them a heads up. We see your section here. Fire protection is very important. So I highlighted here because it's something that's worth noting, but it's not a technical requirement at this stage. So just in general, the laundry list of comments from all the different referral agencies, they contain a mix of some may be technical requirements. Some are looking ahead toward the next stages where the detailed engineering needs to be done. And some quite frankly, if you review the public schools' comments, it's an analysis of potential impacts on the school system and what this might mean in terms of students served. But those aren't technical requirements that it was sent to to them as a essentially a courtesy, I think by Loudoun County building in development to alert them to this. But that's nothing within their comments issued or technical requirements for the preliminary plat.

Eric Combs: And can you remind the planning commission of the distinction with respect to express requirements that you've mentioned in why that's important?

Will Moore: Absolutely. So there had been court cases. There's precedents that in order to disapprove a plat, it has to be for very specific express requirements of regulations that are not met. So we could not going back to the the road section, because that's not an express requirement. We could cite that as a reason for disapproving the plat. It's simply a comment that was issued if knowing that the 570 acres at one dwelling unit per 15 acres yields a maximum of 38 lots, that could have dwelling units. If the preliminary plat came in with 45 proposed lots, that would be clear grounds for disapproval because it's an express requirement. So that if that helps give a distinction there.

Eric Combs: Sure. So then the the purview of the planning commission is really to determine what are the express requirements, what aren't, whether there's compliance with them, and then that will inform the basis of the Planning Commission's recommendation tonight.

Will Moore: Correct. And maybe going back to the other example of the the 18 inch trees that must be surveyed and included on the preliminary plat. That is an express requirement. Again, staff's recommendation would be that would not be sufficient grounds necessarily for you to to recommend disapproval because it's a minor comment that could be addressed. Another example is if there's. One of the 28 cluster lights that shown on the plat is 4.07 acres in size, and I've noted my staff report that per Loudoun zoning the cluster lots have to be a minimum of two acres, but a maximum of four acres. So we can't have lots that is 4.07 acres in size. Again, staff's recommendation would be because that is an easy fix by slightly adjusting a boundary between that and maybe a neighboring lot that it probably should not be used for grounds for disrepute. But it is an express requirement at the same time.

Eric Combs: Ok. Thanks Will. Comments or questions from the Planning Commission? Ok. Will any other guidance you think might be helpful for the commissioners tonight in terms of reviewing what's before us? I imagine there's gonna be a fair amount of input from those gathered here tonight. Things you would like the commissioners to consider or not consider? As we move forward.

Will Moore: Yeah. Maybe just two brief things. I have included a recommended draft motion for you to consider. It's actually been slightly revised since this went out to you just today. Some additional language that the town attorney asks to be inserted about. If you were to go the route of conditional approval, that comments have to be addressed satisfactorily. And then he gives a definition for the term satisfactorily, but that will remain staff's recommendation. But I think separate from that and it's a conversation I've had with a number of members of the public that came in to speak with me last week as well as via email. We've had a lot of conversations is that regardless of what you might hear me say in terms of this being a ministerial function, you're not necessarily allowed. Well, you're not allowed to apply discretion or your own individual judgment in a discretionary fashion. We are still welcoming comments from anybody and everybody who wants to speak to this matter. Whether or not those comments can sway the action that you must take at the end of this process, it's important to collect those comments. It's important to make record of the public's feeling about certain types of development and certainly within the proximity the talent that's very important to us and that we can again make record of those comments. We can pass them off to our elected officials for their use in discussion with elected officials from the county about maybe future land use policy that, you know, if this is what your ordinance as is can allow to happen maybe it should be revisited. So, you know, it's very important. We don't want people to feel powerless, although we understand that many members of the public have felt that way over this application. So we're welcoming those comments and we've certainly encourage those.

Eric Combs: Ed please.

Ed Fleischman: Will you said that there was some changes in the draft motions and you said they were distributed. I didn't receive a copy of that.

Will Moore: It just was updated this afternoon. So it will be in. And what you see on your screen and it's the insertion of the word satisfactorily.

Ed Fleischman: I don't have it on my screen [off mic].

Eric Combs: And Will, we might lastly here, to the extent you know how unique is Middleburg in having an extra territorial subdivision control area? And then also how unique might it be in terms of allowing the public hearing on a subdivision application? I know you mentioned the county for example doesn't do it, but might other towns in the county do that? Where do we as Middleburg stand relative to?

Will Moore: Honestly, I would have to do some research. I do know that there are at least two other towns, incorporated towns in Loudoun that have an extra territorial subdivision control. I am not clear as to whether or not those localities require a public hearing on that stage.

Eric Combs: OK thanks. Any other comments questions what not? Looks like we have a few minutes. We can recess here and then take up the regular meeting at 7 o'clock. That works for everybody? Okay. Thank you. Okay. Good evening, everybody. It's seven o'clock. We're going to get started with our our regular meeting this evening. We have a few agenda items just to knock out quickly before we get to the public hearing. So if you all would just sit tight. We'd appreciate it. Thank you. Why don't we get started and just announce whether anyone has had any meetings with any applicants since we last met? Ed we can start with you.

Ed Fleischman: No, I have not.

Eric Combs: None here as well.

Terry Cooke: No contacts.

Kevin Hazard: None.

Rachel Minchew: None.

Don Woodruff: None.

Eric Combs: OK. Thank you everybody. While I would gather most of you are here for the public hearing, we also have time for anyone who would like to make a public comment that's not related to the public hearing at that time would be now if anyone is so inclined. Please. If you would, please state your name and address for the record.

Bridge Littleton: Bridge Littleton. Five Orange Drive and I just want to take this opportunity to make the entire public aware that tonight is Kevin Hazards last planning commission meeting. And I just want to say thank you on behalf of everybody in town, the council, the staff for your service, leadership guidance and volunteerism to the town for the 23,486 planning commission meetings you have attended while being on council and before that as a member of planning [inaudible] commission. So I just think we all owe you a big round of applause for you. Thanks. [applause]

Kevin Hazard: I thought this was a big party for me. [laughing]

Eric Combs: Any other public comments? No. OK. We have before some us draft minutes of our last meeting, July 22nd. Rhonda thank you for the minutes. Any comments or questions, concerns about the minutes as presented? Ok. Happy to entertain a motion.

Don Woodruff: [off mic] I move the minutes to be approved as presented.

Terry Cooke: Second.

Eric Combs: OK. All in favor.

Everyone: Aye.

Eric Combs: Thank you. OK. Now we can get to our public hearing. This is for subdivision 1902 request the Middleburg Land 1, LLC for approval of the preliminary plat of subdivision for 38 lots on 570.873 acres of land consisting of parcels 503464523502281672 and 502398957 zoned agricultural rural 2 AR2. Will we spent a fair amount of time in the work session addressing this, but is there anything further you'd like to add before we get to that?

Will Moore: I'll just reiterate for any members of the public that may have come in after our work session concluded that the request it is for 38 lots, which is using the cluster subdivision option that is provided for by right in the Loudoun County AR2 zoning district, which is the district in which all three of these parcels are located. Those 38 lots consist of 28 cluster lots, which are between 2 and 4 acres in size. And the remaining 10 lots are what are called the rural economy lots. And they are a minimum of 25 acres in size and proposed up to a maximum of 65 and a fraction acre above that.

Eric Combs: Ok. Well why don't we at this point open the public hearing and perhaps just go over some ground rules before we have people weigh in. To the extent that if you want to comment during the public hearing if you would please step up to the microphone. And if we can do it in an orderly fashion, that would be much appreciated. When you do get up, please announce your name and your address for the record. And again, the purpose here tonight is for the planning commission to receive comments on the technical aspects of the subdivision before us. It is not an opportunity unfortunately for members of the public to ask questions of the planning commissioners during the public hearing. We'll see how things go. If we need to impose a time limit on people at the microphone, Will I would suggest perhaps two to three minutes. Rhonda if you can help me out with that if you feel like we're leading astray. Otherwise, why don't we just get started? If somebody from the applicant or on behalf of the applicant would like to step up and introduce themselves. You're welcome to do so now. [off mic] I would just invite any interested folks in attendance to come on up to the microphone and [off mic]

Bridge Littleton: Thank you all very much. I have two things to present quickly tonight. As I said, my name is Bridge Littleton I live at 5 Orange Drive. Earlier today, I received a letter from our state senator Jill Vogel. She asked me to read into the record because she was not able to participate tonight. So I just wanted to do that. Well, I just forwarded you a copy of it. So you have electronically. It says "Dear members of the Middleburg Planning Commission. Thank you for your work and consideration of the points made by those in the community concerned about the current development project at Traveler's Rest. I wish to submit my own comments and deeply regret I cannot be present tonight to speak to you in person, but I have an event out of town and cannot be in Middleburg. I represent this region in the Senate of Virginia and I've introduced and collaborated on countless bills and budget proposals affecting local land use. The goal has always been to make land use policy consistent with the needs of the community and the needs to protect agriculture and our pristine open spaces which make our district truly unique. I submit these comments as part of that mission and feel strongly that the Travelers Rest proposed residential subdivision is terribly misaligned with the current desires and vision of the broader Middleburg and Western Loudoun community. While I recognize this application is in technical conformance with current Loudoun County zoning I strongly oppose moving forward with the project at this time due to many unknown impacts it will have on Middleburg. I represent an agricultural district and we struggle as fewer and fewer elected officeholders come from rural areas and make protecting agriculture a priority. Agriculture is one of the largest sectors of Virginia's economy and in this region of Loudoun has placed the highest priority on maintaining agriculture and open spaces around our historic villages and towns. My comments here reflect the concerns of those I represent who know this proposed subdivision. The attendant clearing of adjacent land undermines our collective desire to protect the land and the agriculture in that immediate area. Further, it does not align with current land use in the larger vicinity, which is predominately open space, open farming and recreational uses. In addition, there are numerous technical considerations which must be resolved prior to the approval of this development. I respectfully request that the Middleburg Planning Commission urge the Loudoun County Board of Supervisors to delay action on this application until studies are completed, and also to begin the much overdue work of updating our AR2 cluster subdivision zoning regulation to help combat these forms of suburban growth in our rural areas. Thank you very much for your attention and thank you for the great work you do as volunteer commissioners." So the only thing I wanted to add was, you know, I completely understand Will's point. This is a technical process you guys have to go through. And if it's in technical conformance, you have no room but to approve it. But I think there's a broader issue here. The clustering zoning, which is allowed in AR2 and in AR1 which has been on the books for 20 years, which is now actually seeing the real impact as development is moving east, is moving west is actually a big problem.

A lot of people have fought really hard to inform the Loudoun County Board of Supervisors and the Loudoun planning commission that this clustering option needs to be changed. It will slowly and actually more quickly erode the open spaces we have by taking the prime agricultural land, allowing it to be developed in suburban style developments. And then the unusable land is what will be put into open space. And that just destroys our ability to have agricultural uses and in a rural farming community. So I see this as an amazing opportunity to collect public comment to then take it to the board and take it to the new board of supervisors when it come on in January and the County Planning Commission and get this changed. It was raised for the last four years. The current board did nothing about it. And we've got to do something about it. And this is just an example of what can happen. So thank you guys for all your support and thank you for all you do. And please, as you collect comments tonight, let's get it to the board of supervisors and get this fixed. Thank you. [applause]

Eric Combs: Anyone else?

Brad Bondy: It's hard to follow in the footsteps of a politician reading a statement from another politician but I'll do my best here. Members of the Middleburg Planning Commission. Good evening. My name is Brad Bondy. I'm a resident and I own property in Middleburg Upper Ville and Blue Mont. I'm a lawyer, in case you can't tell from my attire. But I'm here in my personal capacity. No one's paying me. I'm here as a concerned citizen. This is my first time speaking to you all, and I appreciate this opportunity. The large number of people here in opposition of the Banbury Cross Reserve is evidence of the significance of this matter to our community. And the significance of this very divisive matter is why I believe this matter needs much further thought and attention before it is brought to a vote. If you do bring it to a vote tonight, you should vote no and you can. And let me explain why. The application is deficient on its face. And it's more than technical deficiencies. As Mr. Moore will point out and agree with me, the development for the planned area is in an area where revolutionary and civil war soldiers routinely crossed early Native Americans reside and possible slaves were held. Yet the applicant has not forwarded a copy of the archeological study for the Middleburg Planning Commission in Loudoun County to review and comment. This is more than a technical deficiency. This is a real deficiency and the applicant has not met its obligation. This application should not move forward and you should vote to disapprove it. The area has many neighboring farms and homes that all depend on well water. And yet there has not been a sufficient hydrological study to examine the impact of the proposed homes and the outlying buildings and the polo fields that will draw from the underground aquifers. The study submitted is deficient in that respect and appears inadequate because it only focuses on the homes and not the other uses of the water that are being planned. The proposed new homes are closely clustered together and will generate significant organic and inorganic waste. And yet there has not been a proper study of the impact to the wetlands under water aquifers and possible runoff to the neighboring homes farms and nearby Goose Creek, which runs into the Potomac River and ultimately into the Chesapeake Bay. To date the applicant has not provided a jurisdictional letter of approval from the Army Corps of Engineers. This is more than just a technical deficiency. The town of Middleburg should not pass on this applicant until it has received that letter and reviewed it. These issues are very real and very significant and they must be addressed in advance of any construction. Haste is not as creates more than just waste. Haste creates real irreversible harm to our community and to the environment. If extensive measures are not taken to carefully and thoroughly examined these issues, it also will set a precedent for future developers to ignore their environmental and historical obligations. This is more than not dotting the I's and crossing the T's. Ladies and gentlemen, that's why I ask you to exercise prudence and to vote no in favor of this application. If you do pass it on, you should pass it on with a strong message to the county. Pope John Paul said the earth will not continue to offer its harvest except with faithful stewardship. We cannot say we love the land and then take steps to destroy it for use by future generations. Members of the Planning Commission. Now is the time for you to act courageously to send a message to developers that they cannot harm our community, that our countryside is not for sale for to be exploited for their personal gain. To send a message to our longtime farmers and residents that their voice matters to. This is your chance to defend our community and to be stewards of the land. Thank you. [applause]

Eva Smithwyck: I'm really in a tough spot. I follow politicians reading politician letters. Now I'm following a lawyer and I'm just the farmer girl over here. Good evening. My name is Eva Smithwyck and my family lives at Sunnybank Farm 22868 Sunnybank Lane, right off of which is directly across Route 748, otherwise known as Sam Fred Road. Right directly across from this proposed development I believe we're limited in time for comment. So I decided best to read off my list of concerns. So I've just I came in here and spoke with this nice gentleman and looked at all the papers. And like I say, I'm just the farm girl looking through all this heavy duty stuff. But this is what I've read through and the [inaudible] consulting has listed. It looks like 35 comments or so from their review of the proposed plans that need to be addressed in order to meet the town of Middleburg requirements for a plan approval of those 35 things mentioned. The following are the most concern to me. Loudoun's Natural Resources team stated there are several locations were proposed lots or with Heidrick Soils, drains and spot points in order to avoid damaging soils that support wetland vegetation. The residential lots need to be set up differently than the way they are proposed. Also, the application should be delayed until a jurisdictional determination letter. As you mentioned from the Army Corps of Engineers, indicating approval for onsite wetlands has been received, which has not been received as of this date. Is that correct? I'm not supposed to ask questions. Number two, there are very steep slopes on many areas where these residential plats have been proposed. Loudoun zoning ordinance does not allow for grading for a residential lot within areas containing these steep slopes because it can trigger future erosion issues and lead to downstream flooding. I can tell you that our property already is subjected to flooding from this land because of these steep slopes. There is a huge culvert on the curve at Sam Fred at my driveway under it that goes under Sam Fred Road, where all this runoff goes to this stream and into this big culvert, dumps out into our driveway on its way to the walker pen, down to the Goose Creek, down to Chesapeake Bay the whole as you've mentioned before. And it causes major damage in many instances. We've had to redo our entire driveway and put in culverts and everything because it floods the paddock area. It floods the whole bottom of the farm because it causes sinkholes. It's a mess. It also floods across the Sam Fred at the curb just past the Catholic Church, dumping into a wetland area on our farm and often leaving standing water in the road on that curve, which is pretty dangerous. The point three, the Phase 1 archeological study needs to be received and reviewed by the county before Middleburg moves forward. The plans to note two archaeological sites on the property, which they have deemed is insignificant. But the full report has not been made available to determine if this is indeed the case. The scenic views, historic landscapes and local history are important economic resources to the town and they need to be protected. I find it hard to believe that they are insignificant because our family my mother in law's grandmother in fact has a diary that denotes all of the action that went on in the civil war, all on this farm and all throughout this property. And I'm more than happy to let anyone read that. But it's amazing stuff. So it's hard for me to believe that it's insignificant. And I just wanted to point this out to everyone when going through all of this and looking at the plans, there's quite a red flag that jumps out in regards to the direction of the area around Middleburg is going. When you see that the Department of Transportation and Capital Infrastructure has required the applicant to provide a minimum 14 foot wide public access easement along Route 50 road frontage in order to be in compliance with a proposed shared use path from Sam Fred road along 50 all the way to Snickersville Turnpike, and this is from the 2019 comprehensive plan. So this subdivision proposal is the beginning of a whole big plan for future stuff to come. And you guys, I'm just saying, everyone around here better wake up because it's not going to go in the right direction. Thank you. [applause]

Jim Nichols: I am neither a lawyer or a country girl. I'm a retired Army colonel that takes pride in his service, and I came out here with my family to escape what appears to be closing in on us, and that's further development. Reality is I live on Sam Fred Road I'm Jim Nichols, Sam Fred Road 22064, just pretty much down by Snickersville turnpike. Daily almost I come up to the intersection of 50 and Sam Fred and it's hazardous to your health now without more traffic on Sam Fred. I would challenge the veto assertion that they did need to evaluate it based upon whatever subjective way they did. But those of you that I've tried to get on the 50 at 8 o'clock and morning office. Sam Fred, it's a challenge. Those of you tried it at 5 o'clock at night. It's a challenge. And I'd say if you're going west on 50 and want to turn right on the Sam Fred Road as it's currently configured, and if there are three cars on Sam Fred's road wanting to come out, one of which is turning left, it doesn't work very well, particularly if you're towing a horse

trailer. It doesn't work at all. And to me, the simple answer is well that means you have to expand the size of that entrance. Well then that means we've got the veterinary clinic which has just been remodeled. And then you've got a house on the other side. And so there has to be a better way to maneuver and manage traffic. I would tell you while we're in City Hall today of Middleburg, if I had a loved one that were to get hurt at an intersection that some bureaucrat's faraway place refused to evaluate properly and make the right decisions, I would not be a friendly guy. I'm just saying that upfront and we wouldn't be in a city hall meeting. We'd be in a courtroom. And this is not the right way to do business. I currently right now feel like after the discussion that is taking place, not from the audience but from you all, that the train is about to leave the station and we're just standing on the train tracks watching it go by. So do the right thing, get away from the bureaucratic trap that checklist have and make a solid contribution to the community to support not approving this thing. Thank you. [applause]

Eric Combs: Anyone further?

Laurie McClary: My name is Laurie McClary. I live at 2096 Saint Lewis Road. I'm a lifelong resident of Middleburg. And I think that there is nothing that says welcome to historic rural tradition steeped Middleburg village like cluster housing. I think it is the antithesis of all that you all have worked very hard to protect, that we all obviously feel very strongly about. And I would urge you I would beg you, I would implore you to do everything within your power to stop this because it is by right does not mean it's God given. And I think that if you will apply your talents and direct your determination toward doing what you worked so hard to to keep and to make Middleburg the success that it is from a tourism standpoint. People don't leave Ashburn and Fairfax and Arlington to come to see another Fairfax and in South [inaudible] they come here because it's special and you can keep it special and please do so. [applause]

Bud Jacobs: My name is Bud Jacobs. I live in Middleburg 134 North Jay Street. I'm the chairman of the town's Wellhead Protection Advisory Committee. Our mission involves making sure that we understand the availability of groundwater. As you all know, our water comes from primarily from four wells that the town operates. And the second part of our mission is to deal with issues of potential contamination of groundwater. You've all looked at the hydrological study that the developer commissioned. It mostly deals with the question of the availability of water and the impact that the construction will have on the availability of water. We can't really comment on some of the estimates and other analytical conclusions that are put forward in the study. But I can tell you that we have to work and we are working on our own recharge study. We have a request before the Virginia Department of Health for funding, assuming it is funded or partially funded by VDH. We're months away from completing it and therefore we can't really say at this point whether the new construction will have any significant impact one way or the other on the availability of groundwater and how it may affect services within the town. With respect to contamination of the groundwater, there are three or four areas that some of the Loudoun County reviewers have called out, and I would just like to repeat them for your attention. One possible concern for us is the question has been mentioned already of steep slope construction and the potential for erosion and contamination of the water that feeds ultimately into the Chesapeake watershed. The second question is gaining an adequate census, which so far is lacking of the number of wells on the property as well as drainage fields and sewage treatment. At this point, we're flying blind. We don't know what's over there. The developer has not given us that data and we therefore can't really make a judgment about the advisability of moving ahead with this construction. If we had that data, we would also want to know what the developer's plans are for a using any excellent wells or sewage facilities to do so. Those wells and sewage treatment facilities would have to undergo Loudoun County is fairly rigorous evaluation of the quality and sustainability of the wells and sewage treatment. And we also need to know for those wells and drain fields, septic facilities that will not be used during development or when the property is actually occupied. What is the plan for closing them and closing them correctly and making certain that improper closure or failing to close them doesn't raise the potential risk for contamination of the groundwater? And again, I offer these comments all within the broader understanding that we don't know yet enough about how the recharge areas around our wells work to make any sort of coherent judgment

about the advisability of this product. So I respectfully urge you, I know you operate within constraints of buy right development, but I would respectfully urge you at the very least to delay approval of the plat and plan. And my own personal preference would be to ask you respectfully to disapprove it. Thank you very much. [applause]

Colvin G. Ryan: Good evening. My name is called Colvin G. Ryan. I live at the end of our 22359 Polecat Hill Road. I came here years ago for as a resident because I started being a jockey to Mrs. Smithwyck. What started as being a steeplechase jockey relationship on the godfather of even Sweetest Children and [inaudible] Cathy Smithwyck. Their daughter is the god mother to my son, John. Mrs. Smithwyck was kind enough to [inaudible] 300 acres of land in 96. I bought this land because I love the country and I love my neighbors. I fear that if you pass this resolution tonight [inaudible] boundary crossing you'll be opening a Pandora's box and you lose control of it. If you want to develop Middleburg like personal [inaudible] this is your opportunity, because I'm afraid what will happen is that after this I cannot speak for my neighbor Eric Prince. But I think he'll be looking over 38 homes. I cannot speak for my neighbors, even Smithwyck I know she loves fox hunting. I do this with her, but they can still monetize that land and put 7 lots over there on 1100 acres. Mine in turn I have three hundred acres. It's not an easement. Hopefully my son will be his home and he'll keep the same lifestyle I grew up. But I cannot speak for him. Maybe it will be time for all of us to monetize and move out of Fauquier County. I don't want to do this. I'm sure the council doesn't want this. Do you want to have personal [inaudible]? I can't ask a question, but please don't open Pandora's box. Thank you very much. Delay this thing. [applause]

Lucy Drinkwater: Good evening. My name is Lucy Drinkwater and I proudly live at 37615 John Mosby Highway. I'm against the proposed development SD 1920, which is in Loudoun County's rural south. I fell in love with Middleburg at a very young age, visiting my aunt & uncle's farm just outside of town for holidays. I proudly declared to my mom at 4 years old that I was going to live here too. During summers in college, I rented a home in town while interning at a local nonprofit following ever more in love with Middleburg's charm. I proudly in April just purchased my first home here. The character of Middleburg is irrevocably tied to the preservation of the farms. This does vineyards open spaces and forests that's around the town with equestrian facilities, estates, wineries and associated businesses central to Middleburg's way of life and tourism industry. A high priority for the community is to safeguard the protection of its historic character and to ensure the viability of its local and tourism economies. This proposal is in direct contradiction of Loudoun County's 2019 General Plan, which states the county's land development approach for the RPA is to limit residential development so only it will remain available to the continued operation, expansion and establishment of agricultural and real economy that uses the preserve, the rural character of the landscape and support of the county's environmental goals. The rural economy uses largely depends on the agricultural productivity, scenic quality and rural character of the RPA to derive income to sustain these small business activities. While many rural places in our county and country are struggling, this area of Loudoun County is anticipating that our local rural businesses will double the growth by 2023. Residents, more tourists alike, want the first picture of Middleburg they see to be a subdivision. We need to find other ways to keep up with Loudoun's exponential growth other than installing cookie cutter homes that take away from the natural wonder of Virginia. This proposal would drastically reduce the charm and image of our beautiful historic hometown. Looks aside, I firmly believe that the current infrastructure in and outside of the town of Middleburg cannot support this proposal. Loudoun County has accommodated a high rate of growth over the past decades, concentrating new development in the eastern portion of the county where utilities and roadways have been constructed to serve the population efficiently. Unfortunately, the roadways and utilities in our area of the county can barely keep up with current capacity. Adding more homes without updating the infrastructure would lead to disaster. I highly encourage you all here tonight to read page 23 of the general plan as it goes into further detail as to why the county is not focusing on developing this western portion of Loudoun. Our schools are already at or near capacity. The roads and traffic are rugged and congested and the lecture can be spotty. This proposal is also not cohesive with allowing counties route 50 quarter or design guidelines. Route 50 as we all know is already a heavily traveled roadway. How do we think adding these additional

homes in proximity to cars per home will impact not only Route 50 but smaller roadways that are already suffering from current traffic with poor road conditions? The community remains concerned about the volume and speed of traffic on this route, even without the success of a traffic calming project completed in late 2016 traffic congestion and safety issues remain high. I'm also curious to see what the price point of these homes will be. As many of us are aware, and according to a comprehensive plan, affordable housing and attainability remain significant challenge not only for the county but also this region. I implore everyone to also consider the large environmental impact that this proposal will have, not only locally, but also the entire mid-Atlantic region. As this piece of property is a part of the Chesapeake Bay watershed, we must consider the dozens of endangered species that have called this area home long before humans arrived here. I see this proposal, as many others do, as a gateway. While only certain number of homes are currently proposed what is going to stop them from developing more down the road? If you let in one development where will it stop? I don't want to see this area look like the rest of the gridlock of Northern Virginia. And I believe you all would be heartbroken to see this as well. And I encourage you all as part of the commission to consider how this fits into the current county comprehensive plan which perfectly sums it up by saying town citizens and surrounding property owners are extremely concerned about the rate of growth in the county and want to protect the open space around the town from rural residential and commercial encroachment. Thank you all for your time and consideration. [applause]

Julie Weir: My name is Julie Weir I live at 115 North Jay Street. I moved here three years ago after I retired, after 34 years in Colorado, and I lived rural and had been hunting fox hunting out there for 25 years, chasing coyotes. It was important to me, I thought, I'm going to go to the mecca of fox hunting. Where's the mecca? Middleburg. So I came here and I did a grand tour. I came through Middleburg. I went out and looked out on the other side of Blue Ridge, up to Purcellville, Leesburg, Warrenton. And I looked at a map. And what was so special was Middleburg because if you look at a map, there's hardly any roads. There's a rectangle like this. If you look at it that hardly has any roads in it compared to the massive roads all around. And I knew this was special. And I was told when talking to people here that this everyone is about protecting the land and a lot of it is in easements. And this is so special. And I thought this is the place to be. And it's because it's always going to stay this way. And it has been just idealic here. But as you've heard from everyone else before me tonight, that we are gonna be opening Pandora's Box if you approve this and this goes forward and more and more in this rectangle. If you look go home and look at a map is going to disappear and be a fill in with more roads and more roads and more roads in different places as people monetize their farms. And this will be gone and it will be gone forever. And we have the opportunity to preserve something that is so special and ideal in a different way of life. And I implore you to not approve this deal and protect the special rectangle that you can see on a map that the generations before us can enjoy it, like we're enjoying it and the previous ones and the generations after us enjoy it. Thank you very much. [applause]

Jane Covington: Hello. Thank you very much. My name is Jane Covington and I'm a resident of Loudoun County in Bloomfield. By profession, I'm a architectural conservator and by advocacy. I'm a student of Loudoun's history, specifically Loudoun's African-American history. Although Loudoun County has completed a thorough survey to identify all of the African-American resources. We are still learning of many yet to be discovered. We just completed the study of Willis Vale and St. Lewis and discovered multiple previously unknown African-American burial grounds. The current site is adjacent to Brown's Corner and Macksville, two villages settled by the enslaved [inaudible] Sunnybank and Eighteen Sixties and eighteen 70s. Please considered the unfinished archaeological study before approving this application. Thank you. [applause]

Evan McCarthy: Good evening, Middleburg Planning Commission. My name is Evan McCarthy and I work for the Piedmont Environmental Council. Piedmont Environmental Council works throughout Virginia's Piedmont to protect important environmental and heritage resources, preserve scenic and rural landscapes and support smart growth and development. I'd like to share a few comments regarding the Banbury Cross subdivision application. You have a unique opportunity in front of you given the close

proximity of the project's site to the town of Middleburg. This commission has the authority to broad recommendations specific to the cluster subdivision portion and approve, conditionally approve or disapprove the preliminary plat. This commission has the capability of influencing how Loudoun County administratively reviews the proposed permitted subdivision. That being said, there are several outstanding issues that need to be carefully evaluated and considered before taking action tonight. As previously mentioned, several of the proposed residential lots are located within Heidrick Soils that support wetland functions for food and wildlife habitat. The residential lots should be reconfigured to avoid damaging soils that support wetland vegetation. Several of the proposed lots contain very steep slopes. Grading for residential light within these areas can create future erosion, flooding issues and is in violation of Loudoun steep slope ordinance. New residential development should not create potential environmental hazards for existing nearby residents. Also previously mentioned the application does not include an approved JD letter from the Army Corps for wetlands on site. The historic and scenic landscapes in and around Middleburg are important economic resources. The views themselves surrounding the town serve as a valuable tourist attractions, according to the Virginia Cultural Resource Information System. There are 13 recorded historic archaeological sites located within three miles of the project's site and three hundred forty one architectural resources within one mile. Please encourage local architectural design and recommend situating the lots in lower elevations to minimize the impact of on Middleburg's pastoral landscapes. The water and sewer settings also raise concern. According to the county's Health Department Department report, the applicant has not yet submitted applications and documentation for the use of existing wells and serves as such. I cannot support the current version of the application and recommend that the Planning Commission either disapprove of the preliminary plat or conditionally approve the plat subject to addressing the outstanding issues. Later this week, Middleburg Town Council will hold a public hearing on the town's draft comprehensive plan. Currently, the draft Comprehensive Plan states the town of Middleburg itself must be active to prevent modern development from encroaching into the town. This encroaching development needs some work. Thanks. [applause]

Eric Combs: Other comments?

Childs Burden: Thank you. Planning Council, my name, Childs Burden, and I'm here representing not in my backyard group. I live on Carter's Farm Lane and adjoining this ill-conceived development of [inaudible] at all. We have a hundred and seventy acre farm. I've lived there for forty-five years and it is an easement. One of the things that concerns me is I've watched this development plan proceed into bankruptcy. And then out of it is the parallel aspect that we haven't addressed tonight. The Banbury Cross Polo Field on Route 50 is being used and utilized for just one field. The original plan envisions two additional polo fields on Carter's farm lane. And if you've ever seen the irrigation that's required to keep that polo field in shape, you would see a huge sprinkling system pumping thousands of gallons of water out over the polo field. Now, you can take a look at the additional two and ask yourselves how much in effect that may have on the groundwater that's needed in the town of Middleburg as well. The other thing that concerns me very much is that we do not know whether or not this vision of this 28-cluster development envisions any sort of alternative septic system. We had better learn more about the septic systems of this proposal before you agree to send this forward to the county. Alternately dissected septic systems have been proven to be very ineffective and rely on the homeowners to keep their systems updated and properly maintained. And again and again, homeowners neglect to do so. The third point I think that comes to my mind is that VDOT apparently has said that this sort of cluster development does not require a traffic study. Well, I've been on the traffic calming process for over twenty-five years here. And I can tell you that the traffic calming coming through all day and into Middleburg has been carefully thought out. Are we going to need another traffic light on Sam Fred Road? We must demand to have a traffic study done on that intersection with this increased population. So we just do not know enough to say that this is something that we can pass on to the county without asking for further study. Thank you very much. [applause]

Suzanne Obetz: Hello, my name is Suzanne Obetz, and I'm here on behalf of the Mosby Heritage Area Association, and I just wanted to read a few bullet points I have. However we completely agree with

everyone that has spoken tonight and we definitely Smithwyck family and everyone who lives on that road, we completely understand with what they're going through. So people do not come to Middleburg to visit subdivisions, ruin vistas and traffic. They want to see open space, unchanged landscapes, pristine views. Middleburg tourism would take a definite turn if we lose the hunt country setting. This particular neighborhood includes dirt roads, horse farms, historic estates, historic farming community and a peaceful setting. Now, with this traveler's rest, it will be entirely altered. And for what? For forgettable homes and traffic congestion. According to the Virginia Cultural Resource Information System, there are 14 recorded historic archaeological sites located within three miles of the project's site. Furthermore, there are three hundred and forty one architectural resources located within one mile. Additional preservation efforts should be made for the circa 1770 Nelly Church House within the project area and the circa 1870 home on site. Middleburg's historic landscapes are valuable economic resources. The scenic views along the town's entry and exit points serve as important tourist attractions. The proposed cluster subdivision will negatively impact Middleburg's landscape in rural character. Keep Middleburg historic views intact, encourage local architectural design and situate the residential lots in lower elevations. The MHA wants to encourage the Planning Commission and Town Council to find a way to mitigate the very large negative impact on the village of Middleburg. Once we lose the gateway to our amazing town, we have lost it forever. So on a personal note I have been tasked with the amazing honor of collecting and preserving little of our history. So I'm the director of the Middleburg History Museum, which will be coming soon, I promise. And what I've learned by talking to the denizens at the visitor center, by asking residents and just doing my research, I ask the question all the time, what do people look for when they come here? And it's not this, I promise you. They're looking for the charm. They're looking for the friendly people who live here. They're looking for the stone walls and what's behind them and the history. And they want to know this suburb. And that's what keeps them coming out year after year. So I urge you to reconsider to definitely put this into consideration. And thank you very much. [Applause]

Mindy Plus: Hi, my name is Mindy Plus, I live on Berland Road. I was very happily relocated to this area about two years ago. I came from Pennsylvania and it was just outside of Philadelphia. Some of you might know the area. Chester County used to look very much like how this area looks now. I've been in a quiet person for all my life. My daughter used to come out here riding at the horse shows. What we loved about it is that there weren't any hotels right here. You actually had to go into Winchester or down to Warrenton or something to stay at a hotel but we didn't mind that because we would take all the back roads. So when I was relocated here, yeah my company is based in Leesburg. I could lived in Ashburn or Leesburg or any of those areas and a townhouse. But I wanted to get away from that. Where I live now, it's on a horse farm, current existing property. I rent a cottage and I gave up a lot of things I don't have TV phone usage is spotty and it's all satellite dish. So I watch Netflix. That's my TV. I have to sit in a certain chair in my place to get phone coverage. What is going to come next is they're going to put up big satellite towers and these people are going to demand certain things because they're accustomed to that. They want cable TV, they want phone service. They want all of that, all of the things I'm looking to avoid and get away from. I was in Fairfax today because that's what I do is I'm in sales, so I'm driving around all day. It took me an hour and a half to come from Fairfax to here. Okay. All the way down Route 50, there's a traffic light at every intersection. I love it. Once I go past that last circle and then I can see the mountains and I'm home and it's it's a refuge. It's a getaway. It's a place to get away from everything. That's what I envision. I would hope to live here until the end of my days. And I don't want to see this area disrupted. I'm a fervent believer in the horses and the preservation of land. And it needs to remain this way because once you give it away, you can't get it back. [applause]

Nate Chambers: My name is Nate Chambers; I live on Stonewall Court. This is more of a personal note. I run a private equity firm that does have a real estate development arm and we're not developing anything in this area, mostly down in Florida. But one thing we always have to keep in mind is the quality and the type of unit we're going to build. A lot of times we are building in areas that have already been developed for decades and I have serious reservations about the type of development that will be going in and the effect it will have on this community. Again, on the personal note, I think a lot of people in this room, such as myself, work in the city or in other parts of the country. It's really a breath of fresh air when

you pass [inaudible] on 50 and come into Middleburg. You feel better. You've had a rough week. You know, you're going to enjoy the weekend and the good people that are out here. So please help us preserve that. Thank you. [applause]

Patricia Smithwyck: Hello, my name is Patricia Smithwyck. I live off of Sam Fred Road at Sunnybank Farm. I am the daughter of Eva Smithwyck. She spoke earlier today when I expressed my concerns today. I know I'm not only speaking for myself or the people in this room, but most of Loudoun County. I am currently a music teacher in Chantilly. I have been spending most of my time outside of Middleburg, to tell you the truth, because of my different jobs and ventures in eastern Loudoun and D.C. teaching children. And while I have to say is that most people, even residents and Eastern Loudoun do not want Middleburg to become what their communities have become. I think they are generally concerned about the higher volume of traffic going down 50 east and west, imagining a traffic stop at the corner of 50 and Sam Fred between the hours of 5:00 and 6:00 a.m. and probably four to six now in the evening is scary, to say the least. I imagine a stop sign or a traffic stop there right at Sam Fred and I picture backup all the way to the town of Middleburg. I don't really think there's any other way around that unless they proceed to add additional lanes to Sam Fred or Route 50. When I go through all these and I see all of the beautiful vineyards and that's the district, that's a average weekend for any eastern Loudoun residents. I mean, they love coming out and taking their family, going out to a winery picnic table. It's a getaway. And no one wants to see that aspect of their day to day lives being tarnished and ruined by these invasive and encroaching developments. I also I know that I did a lot of research over the course of the day and I came up with a lot of concerns. But one of my main legitimate concerns was emergency response going down 50 to Sam Fred. I'm concerned about the equine activity and the farm activity that takes place on a day to day basis going up and down Sam Fred. Worried about a emergency response vehicle, an ambulance, a fire truck turning onto Sam Fred and going around a blind turn. Perhaps one of the many dips and rises that are abrupt, to say the least. And then turning a corner to only be met by a hay wagon or three goose necked trailers after a Snickersville hunt on a Sunday. That is just too busy too much. And it's not feasible in any way, shape or form unless down the road they proposed growth to the existing infrastructure that is Route 50 and Sam Fred. So I urge you to please think about the inevitable consequences. I urge you to not just think about us. Right. A lot of Loudoun County officials of spoiled live out in the rural area have land. I really think that we are speaking on behalf of most of Loudoun. I think it has reached that point. Thank you. [applause]

Daniel Haney: Hi, good evening. Thank you for your time in hearing us. I think you feel the energy in the room. My name is Daniel Haney. My parents moved here in 1970 34572 Welbourne Road. Been there proudly ever since. I grew up riding at Sunnybank Road for Doc Smithwyck with a lot of other people through hay in the summer road race horses. And it's a really special time. I think we should all drive this week down that road on our own and enjoy it and really taken soak it in. We've all been in places where there's no soul. There's a lot of places in Fairfax County and others. Other counties around the country and other states just don't have any soul. A strip mall after a strip mall. Well, we're asking you is to slow this down a little bit. Think about the views that Oak Hill has a historic mansion and they have to look out over creating farms. So think about the views of Oatlands and all the subdivision behind that. What if we could reconfigure these lots that was mentioned and address the steep slope issues so that we're not taking away? And I do like view for generations to come. Kind of feel like this is a sales pitch. It's like, hey, we've got a great deal for you but we've got to act quick and we've all been there. And what do we do? We walk away and it feels good to walk away, because it's a high pressure situation, we ought to walk away and slow it down on our terms. I think we ought to address the black cemeteries and do the research there because a developer is not going to slow down and stop a development going in if he unearths something. So I think about the soul and like we said in the 80s don't Fairfax Loudoun. Remember that bumper sticker? This is our time to do it as well. Thank you for your time. [applause]

Eric Combs: Other comments? Please.

Gem Bingol: Chair Combs and planning commission members. I am Gem Bingol and I work for the Piedmont Environmental Council. While my colleague Evan McCarthy spoke to you about the specifics of this application, I'd like to address it in the larger context of the Loudoun County zoning overhaul that is just getting kicked off and bring it back around to where Mayor Littleton started this evening. Banbury Cross is the first major subdivision application in at least 10 years in the AR2 rural policy area southwest of Snickersville Turnpike. To move forward, it sets a precedent for other developers that may contemplate larger scale residential subdivision opportunities in the area. And it joins several applications that have been in process or approved in the AR1 northern tier of the rural area. We have been working with other county groups on our own to look more closely at the zoning ordinance and subdivision regulations. As the overhaul for the zoning ordinance takes place and the process begins and how the county plans that it will work with stakeholders and the public development interests have demonstrated a desire to look westward for opportunities today, mostly in the transition area. But hey, this is just an example of how they're looking beyond. And it is really critical for the county and the community to have protective land use regulations and practices in place that will actually implement the comp plan rather than leaving us in this place that we are today, where the comp plan says one thing and the ordinance doesn't allow us to actually accomplish those goals. So we are already aware of some major distinctions and disconnects between policy and regulation, where there is no specific language in place to achieve the policy goals. It's been announced that the Coalition of Loudoun Towns COLT will be one of the stakeholder groups involved in the update. And we encourage town representatives and all of the surrounding community to also get engaged and be ready to contribute. The more heads involved the better. We look forward to hearing your perspectives working, get together to share ideas and ultimately present viable community supported solutions and regulations that better ensure that we can accomplish our mutual vision of preserving all that we hold dear in the rural area. Thank you. [applause]

Eric Combs: Would anyone else like to offer any comments?

Kevin Rumband: Hi, everyone. My name is Kevin Rumband. I live in Upper Ville and I really didn't plan on say anything tonight, but I've heard all these comments and some very compelling reasons why you all should say no. I heard the man on the radio that I think was a quote or something, but I felt it was pretty relevant here. And it was something along the lines of I don't want to be overdramatic, but the quote was something along the lines of a war is won one battle at a time. So I think that's the challenge here. Say no and be on a path to win the war. Thank you. [applause]

Carolyn Nash Homely: Good evening, my name is Caroline Nash Homely and I live on Unison Road in Middleburg and I am the secretary of the Unison Preservation Society and the Unison Preservation Society works very hard to preserve the rural nature of our community. We also work really hard to preserve the history of our community, civil war battlefields and all the wonderful old homes and things that we see around our community that everybody loves. So I speak on behalf of the units in preservation society and ask you, please do what you can to slow this down, to make it difficult for developers to come in here and change the rural nature of our town. Thank you. [applause]

Eric Combs: Any other comments?

Pam Wooley: Good evening. I am Pam Wooley and I live on 37348 Quantock Lane, which is down on the north end of Sam Fred Road. And I really had absolute no intention of saying anything tonight. But with the change in the weather my normally amazing well got squirrel-y on me in the last couple of days. And I'm very concerned about what can happen if we have all these additional properties pulling out of the water table. And it maybe it's a couple of miles. But when you look at truly what our water table is, how it's connected, it's not all that far. So without being at all disrespectful, I just kind of want to summarize what I've heard tonight. This plan is bad for traffic. It's going to cost safety issues. It's bad for the environment. It's bad for tourism. And it undermines the history of our area. I cannot see anything good coming out of this development. So I urge you, let's step back, think about what we need to do and do the right thing. Thank you. [applause]

Eric Combs: Ok. Anyone else would like to speak? Ok. Let's close the public hearing. And let me just thank you all for your input. Your attendance. Really appreciate you all being here tonight. Yeah, just so you all know, the planning commission meeting is not over. We have some deliberation at the commission level with respect to the application. You all are welcome to stay or leave whichever you'd deem fit. But we will be here to carry out the rest of the meeting. OK. Let's get back to our meeting. First again, just thank you all who remain here tonight. Thank you for coming. Thanks for the input and thanks for participating. We like a room with people in it. It's not often that we get an audience. So when we do. Well, we certainly appreciate it. Ok well we heard quite a bit during the public comment portion of that hearing. Will can you remind us of our our timeframe here?

Will Moore: Yes. So for a preliminary plat of subdivision the code of Virginia mandates a certain time line in which you must take action. It's generally 60 days after official acceptance of the application or in case where a state review agency's review is necessary, which was the case here with its important transportation that can be extended up to a total 90 days. And so 90 days is within a few days of today. This application was accepted in late June. So the commission is obligated to act to take approval, conditional approval or disapproval this evening.

Eric Combs: You know, we had discussed and we less gathered in July when the application had been submitted a few weeks prior. There had not been any comments at that time for the planning commission to review. There was discussion of further conversation with the applicant regarding potentially waiving that 90-day timeframe to allow for the agency and other comments to come in and for the planning commission to then review. I'll note that we got these materials just this past week. Has there been any any fruits of that conversation with the applicant regarding waiving at that time frame?

Will Moore: There had not. We did not make requests of the applicant for that due to the quite frankly the duration of time that county referral agencies took in submitting their comments to us. So we didn't get the last of those referral comments until after close of business on a Friday. So essentially on Monday, the Friday date was September 6. So we've only had the benefit of all those comments for just a short week and a half or so prior to you receiving.

Eric Combs: Ok. Thank you. Don.

Don Woodruff: It seems to me Will that since. There seem to be some lethargy on the part of the county in getting the comments in and responding to them that we have not been given much time in which to take into consideration what happened tonight as well as what's come to you before and that there is in my mind there were some grave reservations raised concerning the wellhead and the committee considering environmental concerns. I think these things are things that need to be addressed by someone appropriately and completely, including the Army Corps of Engineers reports before. Sort of like asking us to make a blind decision. And I just don't think that is in the process of the democratic community where there are real concerns that's appropriate.

Will Moore: I'm not sure if there's a question there or if it was merely a statement, I'm prepared to respond in the in the in the guise of my position in advising you as to how you should act in accordance with state code and in accordance with our local regulations, as well as quite frankly, I'm not the town attorney, but I also have to look out for the interests of the town. I don't disagree whatsoever that there are many things that still need to be addressed. I can only stress to you the nature of these three-part process of subdividing land, the preliminary plat, the construction planning profile stage final plat. The preliminary plat is by definition a schematic you are not approving moving forward with construction. Nothing that you would do here. A preliminary plat does not authorize moving forward with construction. A preliminary plat is just set. It is a preliminary approval that signifies that the general schematic is in accordance with the applicable regulations. We do have some technical requirements that we require to be included. We have some things we ask for. We have some things that we make suggestions for the next

stage. So many of the comments that are issued in the laundry list of comments that are included in your packet are just that. They're not requirements to be met at a preliminary plat stage. Their advisory comments to the applicant to consider as they would prepare to move forward to the construction plat and profile stage. I don't disagree that there are those concerns that you've mentioned to the extent that they can be or should be addressed at the preliminary plat stage, we don't have a lot of leeway there. Many of those will not be addressed at a preliminary plat stage. And we don't have the ability to require full engineering prior to preliminary plat approval. That's the way the code is structured.

Eric Combs: Kevin, please.

Kevin Hazard: Will we get two more looks at it?

Will Moore: So per the ordinance, after preliminary plat approval, we are not involved in construction planning profile stage. So all those engineering concerns, all those detailed environmental concerns, are we actually grading on steep slopes or are we just issuing comments saying hey there is a steep slope on this partial, you're going to have to avoid it. All that will be addressed at the construction plat profile stage when they're looking at a steep slope management, when they're looking at stormwater management. Those are addressed at that stage. They are not addressed and we cannot require them to be addressed at the preliminary plat stage.

Eric Combs: Is the review and agency at that point is that Loudoun County?

Will Moore: It's Loudoun County Building and Development. Correct.

Eric Combs: Terry, please.

Terry Cooke: Will many of the comments we heard tonight were in the nature of slow this down. My concern. My question is, in view of the 90-day limit. Is that truly an option we have?

Will Moore: I would suggest it is not an option to try to slow down you must take action this evening. The only way to essentially slow down would be to make a motion and pass to disapprove the plat. But I would recommend and it pains me to say it because I'm not unsympathetic to the situation, but I would recommend you not do that because I don't think we have the appropriate grounds to act with disapproval.

Terry Cooke: I would only say for the record, I think it's important to say for the record that I'm concerned and disappointed that the applicant was not here tonight. Frankly astounded, I think had an applicant representative been here, he or she would have had an opportunity to perhaps respond to the comments that we've heard tonight and respond to questions we might have had as a consequence of those comments.

Will Moore: We did. I'm sorry to interrupt. We did have representatives here. They simply chose not to speak. Just to clarify.

Eric Combs: Ed please.

Ed Fleischman: Oh, well, fellow commissioners, what we have here before us is not an application or decision to build or not build. I mean, that's further on down the road. What we do as a commission have a responsibility to make a decision on a preliminary plat. The preliminary plat was submitted to a number of reviewing agencies. We have a big pile of that. And then there's a decision on whether we should move forward or recommend moving forward on a preliminary plat. Is there enough technical deficiencies in the primary plat that we should take another look at it or have the applicant take another look at it? Or should we just move forward? And I think that's the big question. It's a technical decision. But we as commissioners really we're making a judgment call on what we think about those deficiencies. And when

I reviewed the written material from a number of agencies and heard from the people at the public hearing. It was my feeling that there's enough deficiencies in the preliminary plat. To really send it back to the applicant and say, take a look at the comments respond to the comments and resubmit. I think that it's a big project and I think it's a responsibility to get it right the first time. It's a preliminary plat, but just as a draft, you don't approve every draft that's submitted. Sometimes you send a draft back for a second draft. And that's my feeling that we ought to put together a motion which I had already submitted to Eric that we disapprove with comments and ask for a resubmission.

Eric Combs: Thanks, Ed. Will, can you let us know what are the consequences of the Planning Commission disapproving the application? What if for example what would then be the applicant's next steps? What would be the Planning Commission's next steps? And how might that compare to whether the planning commission conditionally approves and what the impacts are of a decision like that?

Will Moore: Certainly. So if you were to to disapprove one of two things would likely happen, which the applicant would resubmit or the applicant would petition the circuit court. Essentially sue over disapproval if they found the grounds were not valid. I think more to the point what Commissioner Fleischmann is describing is sending back to the applicant and ask him to resubmit to have comments addressed. That is the nature of conditional approval. If you were to take conditional approval, they still have to resubmit and it becomes an iterative process at that point. But once the comments are sufficiently addressed for the reviewing agencies, then the preliminary plat is signed and then they can move forward to the engineering for the construction plat profile stage. So you don't gain anything by taking an action to disapprove that you wouldn't gain from a conditional approval in that they would still need to resubmit with the comments addressed. If that makes sense.

Eric Combs: Yeah, I think you're getting. Is there any specific timeframe for the applicant within which they have to act after the Planning Commission makes the decision?

Will Moore: Yes. So they would have to submit a per the ordinance resubmit within 90 days to address the comments. And again, it becomes an iterative process after that they after your action, presumably this evening if it were for conditional approval I don't want to presume. But if that were the case, then within 90 days of today they would have to resubmit and then it would be another round of review. And that would again be an iterative process. Back and forth. And until all the comments that are necessary to address at the preliminary plat stage are done.

Eric Combs: So, for example, if the applicant's resubmission following a conditional approval doesn't satisfy all of the conditions that were set forth then it's another conditional approval to then go back and respond within 90 days. How does that work? You mentioned iterative. I'm trying to understand it.

Will Moore: It's iterative with the staff of the different reviewing agencies. It would not be back to you. That would be saying we're giving conditional approval that all of these outstanding issues would be met.

Eric Combs: And then, for example, if the 90 days expire and all of the conditions aren't satisfied. I imagine that's a staff discretion. If the conditions are not satisfied at the 90 days, what happens?

Will Moore: Well, they would have to resubmit within 90 days with the goal of having all these satisfied. We would then determine in that review whether or not they were adequately satisfied and turn it back to them. And again, they would have another 90 days to resubmit a maximum.

Eric Combs: Thank you. [off mic]

Terry Cooke: Just to clarify. Will if you answered this in your comments I apologize. But if it were conditionally approved, the applicant would have 90 days to address the comments that were made. Would that then come back to us?

Will Moore: It would not.

Eric Combs: Don, please.

Don Woodruff: It seems to me Mr. Chairman that there are substantive questions. And so my question to Will is do we have to come up with all those things that I'm hearing some of but I don't have them all in the palm of my hand. I think they need to respond to satisfy people who live in Middleburg. If Middleburg has any jurisdiction whatsoever, we have a responsibility to the citizens that they can at least feel comfortable. Not only that, we have done the job that were put there to do and it volunteered to do, but that we respond to these concerns and there are some that to me are more than just emotion. They they are real when you talk about environmental impact, when you talk about hydrology, when you talk about archeological issues. I think there's a myriad of them and I'm missing some. I know that we could look at the record and come up with I think a statement. I don't think we can come up with it tonight, but I think we've come up with a statement of conditions that they would have to meet to satisfy people that that this is something that is good for the beyond the transition area of allow into this rural area. And I'm just very uncomfortable.

Eric Combs: Will you have something to add?

Will Moore: So I again, just in response. If you were to make a motion to disapprove that motion needs to include express requirements that are not met by the application, you have to identify those and then state as well. What has to happen to allow it to be satisfactorily addressed. So we have to then parse all the review comments here. We have to parse which ones are express requirements that are not being met from those comments that are suggestions or those comments that are simply advising that when you move forward to the next stage, this is something to be on the lookout for. A lot of what is included in the review comments is that they were of that nature. So there may be a few expressed comment requirements that were not met precisely by the original application. I gave you the example of one of the cluster lots being .07 acres [inaudible]. It's not staff's recommendation, nor was it the town attorney's recommendation when I consulted with him on this that would be something that would be recommended as a threshold of something to justify disapproval. It's a review comment. They shift a boundary of one of the lot lines and that issue goes away easily. Those are that's a minor revision. It is an express requirement, though. Anything that you would include in your in a motion to disapprove. If you went that direction, you have to be very careful that you were only listing express requirements, not review comments. And just one final thing. Mr. Woodruff makes me nervous again in my role is trying to advise you and to protect the town when he uses terminology that we need to see that this is something good for the town or that is good. I can't stress this enough is we cannot make a land use policy decision when acting on a subdivision plat. You cannot. The comments made here tonight by the public were I think absolutely wonderful to the point that the mayor stated the woman from Piedmont Environmental in terms of these are things that can be helpful. These kind of comments and actionable. As we look forward with engaging with the county as they look to amending their zoning regulations, these are the kind of comments that if we were at a rezoning stage, they they at a discretionary action stage, that they could be incorporated. But we can't make a land use policy decision when acting on a subdivision plat. It's not legal.

Don Woodruff: Well let me give you an example. One of the things that bothers me is that when we're told that everything's hunky dory with the water and the wellhead and the chairman goes up and expresses a real concern that it hasn't been done completely or fully in his estimation. And he's the chairman of the committee that is charged with looking after these water resources. And to me, what he said was a grave concern that some aspect of the hydrology, etc. was not being addressed properly.

Will Moore: So his comment was that he would like to see things included in the study that that were not in the study. So what I characterized before is we provided this to members of wellhead and they found

no issues with the study, was simply relaying what I had received [inaudible]. Correct. I think it's also important to note that 421-page study and I'm not a hydrologist. Not a geologist. But those findings that study was accepted and indicated support for its findings by the Loudoun County Health Department. That's the authority that we have to rely on. They're the ones that review that study and comment over and decide whether it's the appropriate level study for that kind of development.

Kevin Hazard: Quick question. The archaeological sites and they're going to come back and they're going to have to come back with a.

Will Moore: Correct. So my reading of the county regulations is that the identification and the submission of that there is the Phase 1 archaeological study does have to be submitted. My reading is that it has to happen construction plat phase. They included notes regarding archaeological sites on the cover sheets so the county turned around and requested identification of where the sites are on the plats so identification of the location will be required before anybody would sign off on the preliminary plat. And they're now requesting a copy of the study.

Kevin Hazard: And then they'll have to do a phase one before construction and will that be out of our review?

Will Moore: So the phase according to the notes provided on the plan, has already been done. It's just the copy of the plat that study was not submitted with the first iteration of the plat.

Kevin Hazard: It says the related Phase 1 will be required with the second submission.

Will Moore: Oh, you're referring to the review comment? Yes. So when I refer to the note, a note on the cover sheet of the plat set that indicates that it has already been done. It was a copy of the phase one was simply not included with the first iteration.

Kevin Hazard: Another point that was raised that's well raised was the the steep slopes. And how. Is that part of our purview?

Will Moore: Is there a particular review comment that you're?

Kevin Hazard: Several people and they they seemed like knowledgeable people. And, you know, I know from being in the business that you got a steep slope, you're open to erosion and it would be erosion back towards us. Is there a way that we can address that? As part of our purview on a preliminary site plan?

Will Moore: As far as purview on a preliminary plat I would say no. And again, that is addressed at construction plat phase. In particular, I think a comment had to do with steep slopes existing on some of the lots that might potentially [inaudible]. And what I can say is, again, at the preliminary planning stage and there's a legal precedent that I have I believe it's the countryside case where you can't look at the individual plans for each lot at the plat stage. So in other words, when you're doing the subdivision, you can't look at each. You know, that a house is going to be built there. But you can't say identify where exactly you're going to put the house on that two to four-acre lot at this stage.

Kevin Hazard: So question. I think we're very limited. But I think there is a lot of really good information here. And this is outside of what we're doing. What would be the best way to go to the county with that? I mean we're gonna make a report based on the comments and give it back to the county. But people here what would be their next best step? And just editorialize.

Will Moore: It's tough. It's tough to editorialize. Again, I don't want. I had some had a few conversations with with folks last week that were you know adjoining landowners who were quite frankly on the verge of tears at times. Absolutely sympathize with the situation. My professional side tells me I have to advise

you that with a subdivision once the rules are in place you can't take a discretionary action based on those types of feedback. You can't do that. The rules are in place here. By rate development there are a lot of concerns that need to be addressed but those are addressed through subsequent technical reviews and particularly at the construction plan phase that that's when all our hands are off at that point in time. [off mic] That is correct.

Eric Combs: Terry please.

Terry Cooke: Just following up on Kevin's comment about very steep slopes, I'm looking at the comments from the Department of [off mic] Development. Page three. Number 18. I'm having trouble with this sentence. It says a review of the preliminary plat appears to identify land disturbance, a very steep slopes at a point of a new intersection of Sea Biscuit Park Place [off mic]. It is staff's understanding that the [off mic] are very steep slopes. What is that? [multiple speakers]. Do you know what they were trying to say?

Will Moore: I do not.

Eric Combs: Will you had mentioned that the restriction on the commission's ability to make a disapproval decision is that it must articulate express requirements. Consistent with regulations I guess. What are the limitations in terms of the conditions that can be put on a conditional approval? The reason I'm asking is. I'm troubled that we as a planning commission have zero time to make a decision and articulate what those express requirements may or may not be without having had really any opportunity to deliberate as a planning commission. Understanding that this is a ministerial decision to be made, it nonetheless has been deemed worthy enough to be put to the planning commission. And we without the opportunity to to review analyze and determine what those express requirements are. I would like to know what our limitations on our other options here.

Will Moore: So in terms of conditions [inaudible].

Eric Combs: Is there are there any limitations on the conditions that can be tacked on to a conditional approval?

Will Moore: I would refer you to the updated draft motion that I included in your packet that was made in consultation with the town attorney and I think it's pretty broad in terms of requiring satisfactorily addressing the review agency's comments. And he went further to give a definition of what that means. I'm not comfortable. [inaudible].

Eric Combs: Are there any options available to the planning commission in light of there being virtually no time to articulate those express requirements with any sort of comprehensiveness? Are there any options available to the Planning Commission short of getting a waiver by the applicant for additional time to review?

Will Moore: I mean the only option available would be for us to go and happy to do it line by line through each review comment from each review agency and to identify to the best of our ability knowing that some of those referral agencies that they're referring to requirements in Loudoun County regulations, which we are not as familiar with, but to go line by line and and to identify which ones would qualify as express requirements and which line would not. What I guess what I would suggest is that the review that we've done to this point identified some express requirements, but those again, in consultation with the town attorney. The recommendation was that no recommendation was that none of those would meet a threshold where we could recommend disapproving based on that. And I take you back to the the maximum lot size of four, one of the largest four point zero seven acres, that's an express requirement of the identification of all 18 inch or greater caliper trees. That's a requirement. It was not included in the first iteration of the plan. It will be before it can be signed off on. We've already met with the [inaudible].

We've already met with the applicant and you know gone over line by line our review comments. So it was clear what they would need to do to satisfactorily address those. So I hope that somewhat answers the question. [off mic]

Eric Combs: Other thoughts. Ed please.

Ed Fleischman: I'm not a lawyer so I can't speak to all the legal ramifications but I am an engineer. I've been involved in construction. I've been involved in numerous staff decisions. And I've made a lot of executive decisions. And a lot of times something is submitted to me. And this preliminary plat has been submitted to us as commissioners. And it's a simple thing to say. Revise and resubmit and I think. It's sort of a no brainer to me that the applicant can take a look at the comments and he can respond rather than Will sitting down and coming up. I mean let's burden on the applicant to respond to everything and then resubmit it.

Will Moore: I just repeat as I did before. That's what conditional approval is. It's requiring the applicant to revise and resubmit.

Ed Fleischman: Mr. Chairman can I make a motion?

Eric Combs: Are we all ready to entertain a motion? Is there further conversation? That's perhaps necessary. Our timing Will remind me again is the 26th?

Will Moore: Correct.

Eric Combs: And the conversation has not been had with the applicant whether they would waive the 90 days in order for the planning commission to actually have the opportunity.

Will Moore: The applicant has stated to me that they are seeking conditional approval this evening.

Ed Fleischman: With a fragmented sentence on the steep slope is that going to express some concerns?

Will Moore: If a reviewing agency and I'm sorry I'm not in the habit of answering questions from but if a reviewing agency failed to properly articulate a comment that you can't say the applicant is failing to meet an express requirement based on a fragmented sentence from a reviewing agency that that's not on the applicant. It's not my job to defend the applicant. It's my job to advise you on compliance with the ordinance and to try to steer the town clear of legal exposure or to some point that's actually the town attorney's job. But I'm passing on the discussion that happens there.

Eric Combs: So the planning commission has to act by or before September 26th?

Will Moore: I mean I would have to go back and count days. I think it was September or June 26 when so you probably might be a day or two earlier.

Eric Combs: Other thoughts or comments anyone?

Ed Fleischman: Well I'm ready to make a motion [laughing]. I think that. Not knowing what's the applicant is going to be doing. There's been no presentation or any kind of statement by him that he's going to follow through on the comments. It seems to me that we should. I move [inaudible]. I have the floor. So I move. The commission disapproves the request of Middleburg Land 1, LLC for approval of the preliminary plat of the subdivision with 38 lots on 570.8383 acres of land consisting of parcels 503-46-4523 502-28-1672 and 502398957 zone agricultural rule two for the following reasons. 1 preliminary plans for fire protection order, storage tanks, dry hydrants, etc. need to be identified on the preliminary plat two a survey of all trees 18 inches in caliper or greater within the area of development and the

Middleburg subdivision control area needs to be provided through revisions to some road with and the construction of shoulder sections are necessary to meet the required design for fire apparatus access road. The preliminary plat needs to be revised for two archeological sites found within the property need to be identified on the preliminary plat. 5 some flood plain boundaries in the area of Sam Fred Road are not depicted consistent with the map floodplain overlay district. This needs to be corrected on the preliminary plat. 6. The preliminary plat should allow a minimum of 14-foot public access easement along the site frontage on U.S. 50. In order to permit approval by the Middleburg Planning Commission. The above corrections or modifications to the preliminary plat must be made in the preliminary plat needs to be resubmitted. In addition, responses to comments previously transmitted from the town of Middleburg, the town's consulting engineer, the Virginia Department Transportation and Loudoun County must be submitted. Thank you.

Eric Combs: All in favor.

Eric Combs: Motion carries.

Will Moore: I think it would be helpful to ask all opposed just so you have on the record.

Eric Combs: Any opposed?

Kevin Hazard: Opposed.

Eric Combs: Thank you. Kevin I didn't give you an on-deck reminder but you're up.

Kevin Hazard: [inaudible] So first of all you know, this is my last meeting and I just want to say what an absolute pleasure. I think I'm in my 12 or 14th year, I've lost track, but this this particular group is among the the smartest and hardest working groups I've ever been associated with. And I forever will be proud to have been part of this group. And I just thank all of you. It's just been really, really it's been a good run.

Eric Combs: Even Don?

Kevin Hazard: Even Don. Except when he punches me.

Don Woodruff: I'm going to add to that Kevin. You've been on 15 years because I've been on 3 more than you have.

Kevin Hazard: [multiple speakers] I ran out of fingers.

Don Woodruff: I'm going to have a hard time coming to meetings without you here. To lean on.

Kevin Hazard: That said let's talk about what council did in the last and what's coming up just in the last meeting. We started the meeting and you know chief Panebianco, we had all the safety patrols from the charter school. And he gave them their badges. So it was a really nice community event. And then the daughters of the American Revolution asked and we agreed and we declared last week as Constitution week in the town of Middleburg, we did staff reports. And, you know, one of the biggest things we talked about was October 1st. And I think if you were here in town it was a really nice event. And I think it's going to grow and be a really good. If you were there, you know, there's some growing pains, but it will be a better event for the town. And it just it was really nice. [inaudible] It was jammed. And you know, we've been working on the bronze fox and it's in casting and it's going to be put at the community center. So that's gonna be a nice addition to the town. [applause] And then we spend a lot of time going through with Will's help going through the comp plan. We did the first six chapters and we're going to finish up this this week. And there was Loudoun County has a fund capital improvement fund. And Danny is working on there. There are certain criteria that you have to meet. And we're working on a couple of

things for us. They're very specific items that you can get. But they've got up I don't know how many millions of dollars. Rhonda could tell me in a second. All right. I'll look it up. I've got it right here.

Eric Combs: Kevin what was the nature of council's impression of the first six chapters?

Kevin Hazard: Basically, we went through them, not line item by line item, but we went through them in a general sense and made the decision not to not to parse into wordsmith. I think the general overall feeling it was really good. And I know that Bridge has some items he'd like to see and there were a couple others. I did caution them. Couple of people said, well, what are our deliverables? And I said, this is really more of a guidance document than than, you know, a day by day plan. You really don't. I said this is not a plan for this council. This is a plan for the town for the next decade. And we don't want to get down that deep in the weeds with it. It's where we go back and we look and we see this is the direction we want to go. So I think overall it was, you know, very well received. And, you know, part of that is we did on occasions as we were going long did it keep them in the loop on it. I couldn't find the amount Rhonda either. And then we worked up a process for the appointment of an interim council member. And that was pretty much it. Oh, take that back. We are going forward. You know really looking hard at a new town hall. And Rhonda and Danny took the outline schedule that I put together and really flesh that out. And so and I don't know if everybody saw, but we have hired an engineer to start doing some preliminary planning. That is going to happen. I mean it's something that's we're going to need going forward. I mean there's a significant amount of money involved, but the amount we're paying in rent for the police department once we put all that together, I think it's it's gonna be a really good for the town. [inaudible] Not officially. I don't think we're there yet. But we're in the process of identifying the proper location.

Don Woodruff: Kevin will that include bringing in the maintenance facility in that area? Or will that remain where it is now?

Kevin Hazard: Probably not. The main thrust of it is gonna be council staff and police all in one place with parking and maybe some amenities space. You know in conjunction with it.

Don Woodruff: I think that's wise.

Eric Combs: Thank you, Kevin. I'll take these discussion items in reverse order. The comprehensive plan. I understand that council has another you mentioned another meeting teed up within which to finish. So Thursday to finish its review of the remaining chapters. I'm assuming you've left land use and [inaudible]. What are the next steps for the process? So council's gonna review those. Come back to you Will with any specific comments and then council has to act by when on the draft?

Will Moore: Ok, so steps are. So this Thursday's meeting. First, it's the required public hearing that council has to hold on the comprehensive plan. So that will be conducted this Thursday. Council will then proceed with its ongoing review, which, as you stated, will primarily consist of the land use and transportation chapters, which are really the meat of the plan. They will also review some revisions that were made based on their review two weeks ago with their September 12th meeting. So we've incorporated a few of their comments. Nothing the commission should be concerned up to this point. I would highlight that probably the main changes. There were a couple of different paragraphs within one of them actually is in the land use chapter. But it was responding to a general comment that we had some language within that referenced. For example, as of the writing of this draft, Loudoun County is in the process of adopting their comp plan. So now that their comp plan has been adopted that language is simply being updated to reflect that it has indeed been adopted. And small changes like one council member thought the environmental section should reference the fact that we are in the Middleburg AVA which is a [inaudible] cultural area that was approved on the federal register a number of years ago. And it was a good inclusion. So nothing substantive to this point. There was some discussion about whether or not the plan should include more concrete implementation steps. So we had some conversation back and forth with council about why the plan was structured in the way it was why we took out some of the

different the multi-level strata of goals objectives on down to individual action steps. We explained that to them. It was somewhat well received. But I think that conversation will probably continue at the review this coming week, if anything I think it's something there. Whether or not the plan is revised to include more detailed implementation steps, it might be something that this body works on. Subsequent to adoption of the plan is more of a work plan that we decide that this is the way we're going to implement certain parts. But subsequent to review this Thursday, I'll continue to work with the consultant to incorporate any comments, revisions that council might ask at that time. And then tentatively the October 10th meeting would review any of those revisions that were made based on the review this week. And then they could potentially adopt that day they would be required to adopt within 90 days of your recommending resolution which was July 22nd I believe. So there's been some discussion that if they're not prepared to take action on the 10th, they could potentially schedule a special meeting for the following Thursday the 17th to consider action at that time. And their options are approve, amend and approve, which means that they're making some revisions or disapprove, which would mean it would come back to you for additional work.

Eric Combs: And so that public hearing is this Thursday evening?

Will Moore: It is this Thursday. Yes.

Eric Combs: The diehards in the room. [laughing] The comprehensive plan will be taking a public hearing on Thursday.

Will Moore: And I would encourage any commissioners as well. Obviously, the public to make comments on our comprehensive plan but especially with it being the land use and transportation chapters. You know, I would appreciate any support that you could give. You know, it's helpful. I should say, Kevin always does a wonderful job in representing the commission's kind of deliberations. And we tag team on that sometimes or in those meetings. But in particular for this work product since there was so much time and effort put into it. If any of you were available to attend and you're welcome to sit at the table and have those discussions along with staff and Mr. Hazard. [off mic] Yes. Thank you. Yes. The council meets this Thursday at 6 p.m. [laughing]

Eric Combs: Okay. Thanks Will. I see we have potential zoning text amendments.

Will Moore: Yeah. So just this is more of just a heads up that we anticipate that we will have two draft zoning text amendments for you to consider beginning next month. I've been working along with Estee on a couple of items. One of them was council's direction. We've been discussing some potential revisions to our ordinance chapter on zoning violations and penalties. So basically to bring us up to the enabling legislation. So we have some penalty provisions in there that were based on earlier iterations of the code of Virginia. That's since been amended. So to just kind of bring us up to date there. The second one in a much larger effort that we're working on is basically a complete rewrite of our sign ordinance. [inaudible] We touched it a little while ago. Basically it was a capacity issue for staff working on now with Estee's addition we're working through that much more. You may remember there was a model ordinance that was prepared by a group of local government attorneys in Virginia, including Martin, our town attorney was one of those who participated in that. And then there are choices that you have to make selections to tailor that to your individual locality. So we've been going through that and are continuing to do that. And we anticipate having an initial draft of that for you next month.

Eric Combs: Kevin that seems to be the only one who listened to [off mic] [laughing]. I guess a good Segway to Thursday 5pm reception for Kevin. Going away reception. [laughing] There's an invite that's going out? Is that correct? [laughing] And then you have a council meeting right on the heels of that. [off mic] Okay. Any other discussion items before we look at calendars? We've had plenty. October the 28th. Does that present a conflict for anyone as of right now? OK. So we should be good for quorum purposes. OK. Unless there's anything further we're done. Thank you everybody.