



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



**MONDAY, DECEMBER 16, 2019
PENDING APPROVAL**

PRESENT: Eric Combs, Chair
Donald Woodruff, Vice Chair
Terence S. Cooke, Member
Edward R. Fleischman, Member
Morris “Bud” Jacobs, Councilmember

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

ABSENT: Rachel Minchew, Member
Mimi Dale Stein, Member

The Middleburg Planning Commission held their work session and regular meeting on Monday, December 16, 2019 in the Town Hall Council Chambers, located at 10 W. Marshall Street in Middleburg, Virginia. Chairman Combs called the work session to order at 6:30 p.m.

Chairman Combs noted the email reminder that was received from the Town Clerk regarding the need to make sure the members were turning their microphones on when they spoke during the meeting.

Discussion Items

Draft Zoning Text Amendment – Sign Ordinance

Deputy Town Administrator Moore reviewed the history of this item. He noted that the version before them contained proposed signage allotments and advised that they were a starting point for the Commission’s discussion. Mr. Moore reported that the Assistant Town Attorney would be present during the January meeting to assist in their review of the ordinance. He noted that he sent a Word version of the draft ordinance to the members; however, he only received comments from one member, with a promise of comments from a second.

Commissioners Woodruff and Cooke reported that they did not receive the document. They asked that it be resent.

Deputy Town Administrator Moore noted that the version before them was identical to what the Commission saw last month. He advised that Planning & Project Associate Laclare took photographs of examples of signs and identified their total square footage. Mr. Moore noted that the sign examples also included the current total allotment allowed for the property for each example, as well as the proposed total allotment.

The Commission noted that the proposed total signage allotments appeared to increase by ten to fifty percent over the current ones. They also noted that no one appeared to be taking advantage of the current allotments. The Commission questioned whether the proposed total allotments should be changed.

Deputy Town Administrator Moore explained that the goal of the proposed totals was to assure there was not a decrease for any businesses in their maximum allowed signage allotment. He acknowledged that most businesses were not taking advantage of their current allotment. Mr. Moore further acknowledged that most buildings were appropriately signed. He reminded the Commission that currently, buildings were allowed an additional allotment for second stories; however, no one was taking advantage of that. Mr. Moore advised that the question was whether an additional allotment was needed for two-story buildings or whether the base allotment was sufficient.

The Commission requested input from the Historic District Review Committee (HDRC) before discussing the allotments further.

The Commission questioned whether there was existing signage that exceeded the current maximum allotment. Deputy Town Administrator Moore confirmed there was and advised that he would bring examples to the next meeting. He cited the Red Fox Inn as one such example. Mr. Moore advised that those who currently pushed the allotment limit were located on corner lots and suggested the Commission may wish to review the maximum cap for signage.

The Commission inquired as to the issue with the Emmanuel Episcopal Church sign. Deputy Town Administrator Moore confirmed the sign was within the current and proposed maximum sign allotment; however, it had not received HDRC approval with regard to aesthetics and placement.

The Commission inquired as to the relationship between the sign ordinance and the HDRC. They acknowledged that the HDRC reviewed signage from an aesthetic perspective and questioned whether they could deny a sign application that met the sign ordinance.

Deputy Town Administrator Moore confirmed they could and explained that the reviews of the sign permit and the Certificate of Appropriateness occurred simultaneously. He advised that the staff included an analysis of whether the proposed sign met the regulations with regard to size and placement in the memo to the HDRC. Mr. Moore reminded the Commission that although the sign ordinance identified the maximum allowed allotment, the HDRC was not bound to approve a sign that met the maximum limits based on aesthetics.

The Commission opined that, as proposed, the ordinance allowed the Planning Commission to make judgments on signage based on the use of a property. Deputy Town Administrator Moore opined that the proposed language supported the allotment tables. He reminded the Commission that the Town was not allowed to treat signage differently based on content; however, it could do so based on other considerations such as use/zoning.

The Commission suggested the need to assure that the draft ordinance did not create any conflicts. They noted that the Planning Commission should only be dealing with size and should not make judgment on aesthetics. Deputy Town Administrator Moore advised that he would review the language further and discuss it with the Town Attorney to assure there were no conflicts.

The Commission held some discussion of the definition of a “sign”. Deputy Town Administrator Moore advised that he would remove the word “also” from the definition. He reminded the Commission that the zoning ordinance did not use lay terms unless a term was not specifically defined in the ordinance and advised that something may be determined to be a “sign” because it fell within the definition.

The Commission noted that the ordinance contained references to a number of terms that were defined; however, there was no indication of this in the text. They asked that all defined terms be capitalized.

Chairman Combs encouraged the members to email any comments they may have regarding the draft ordinance to the staff.

The Commission held some discussion regarding bulletin board type signs. Deputy Town Administrator Moore advised that such signs for the real estate companies had been approved by the HDRC. He noted the bulletin board sign located on private property at the corner of Washington and Pendleton Streets and advised that it was a non-conforming sign. Mr. Moore opined that he needed to watch the ads that were posted on it closer and advised that it was not used by the occupant of the building. He suggested that he get clarification from the property owner as to who had access to the sign. Mr. Moore advised that this was technically a free-standing, off-premise sign and noted that off-premise signs were not allowed in Middleburg.

The Commission questioned whether, once the revised ordinance was adopted, non-conforming signs were allowed to remain until they were destroyed by fifty percent or more or were changed.

Deputy Town Administrator Moore advised that Middleburg did not have a fifty percent rule for non-conforming structures and suggested that was something the Commission may wish to consider in the future.

The Commission noted that the fifty percent rule was included in the draft sign ordinance. Deputy Town Administrator Moore advised that this conflicted with the zoning ordinance and suggested the need to change it if the Commission wished to include this provision in the sign ordinance.

Chairman Combs adjourned the work session at 7:06 p.m. He called the regular meeting to order at 7:08 p.m.

Disclosure of Meetings with Applicants

The members reported that they had no meetings with applicants.

Approval of Meeting Minutes

Commissioner Cooke noted the need to correct Page 3 of the minutes in that the court decision that was discussed was one issued by the U.S. Supreme Court, not the Virginia Supreme Court.

Commissioner Cooke moved, seconded by Commissioner Fleischman, that the Planning Commission approve the minutes as amended.

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

No – N/A

Abstain – N/A

Absent – Commissioners Minchew and Stein

Council Representative’s Report

Councilmember Jacobs reported that during its last meeting, the Council approved a number of Health Center Fund grants. He further reported that they approved a \$50,000 donation to the Middleburg Community Charter School to be used as matching funds for a \$200,000 grant the school had received.

Councilmember Jacobs reported that the Council heard a presentation from a young lady, who was a competitive shooter, encouraging the Town to become a Second Amendment Sanctuary City.

Councilmember Jacobs reported that the Mayor read a statement during the meeting giving background on the Town's marketing/branding project. He noted that this statement was posted on the Town's website for anyone who may wish to read it.

The Commission questioned whether it was a definite that the new logo would be a horse leaping over a rock wall. Councilmember Jacobs opined that there was still room in the process for change. He advised that while the Council approved the draft logo, the final would definitely not be the version of the horse that was included in it.

Deputy Town Administrator Moore clarified that the Town did not currently have a formal brand although he acknowledged that one may have organically occurred over time. He noted the comments that had been posted on social media, in particular related to the cost of the logo, advised that the logo was a small part of the branding project.

Chairman Combs opined that the branding exercise started as a result of the Town's proposal to install wayfinding signage. It was acknowledged that the money that was being spent was not just on a logo but was the broad effort of branding. It was noted that Loudoun County had provided the Town with funding to help with its marketing.

Discussion Items

2020 and Beyond Commission Goals

Chairman Combs opined that the first suggestion for the Commission's goals was to update the zoning ordinance to bring it in line with the newly adopted Comprehensive Plan. He suggested there may be other items for consideration. Mr. Combs recommended the Commission outline a process for updating the zoning ordinance and identify what resources may be needed.

The Commission held some discussion as to whether the zoning ordinance needed to be amended as a result of the plan update. Deputy Town Administrator Moore suggested the biggest question was related to the Federal Street plans and advised that the current zoning did not support the changes to Federal Street that were recommended in the Comp Plan. He opined that until a developer proposed ideas for changing Federal Street, it would be difficult to craft ordinance amendments. Mr. Moore suggested the Commission wait for a developer to propose some ideas before drafting an ordinance so it would not give anyone a "blank check".

Deputy Town Administrator Moore suggested there was an opportunity for the Commission to do a chapter-by-chapter review and analysis of the existing regulations in relation to how they complimented the new Comp Plan. He opined that some changes may be needed to the building regulations. Mr. Moore suggested the Commission review one zoning district per meeting, to which the Commission agreed.

The Commission questioned whether they needed to review any other ordinances. Deputy Town Administrator Moore advised that while they should look at the subdivision ordinance in relation to the new Comp Plan, this was not as high a priority as there was little undeveloped land in Middleburg that was eligible for subdivision, aside from the Salamander property.

The Commission questioned whether the reviews would create a resource issue for the staff. Deputy Town Administrator Moore confirmed a chapter-by-chapter review would not.

The Commission agreed that updating the zoning ordinance was enough of a goal for 2020. Deputy Town Administrator Moore advised that he would provide a preliminary review schedule to the Commission during their January meeting.

Resignation of Chairman Combs

Chairman Combs announced that this would be his last meeting on the Middleburg Planning Commission as he was being appointed to the Loudoun County Planning Commission.

Quorum for January Meeting

Commissioner Cooke noted that he may not be available to attend the January meeting and advised that he would let the staff know if he could not. The remaining members who were present indicated they would be in attendance.

Status of Development Projects

The Commission asked that the Deputy Town Administrator provide a status report on the Salamander housing project, the Banberry Cross Reserve Subdivision and the Orlich assisted living facility project.

Deputy Town Administrator Moore reported that he had not heard anything from Mr. Orlich since the Council denied his request for amendments to the Comprehensive Plan and advised that he was considering that item as being dead.

Deputy Town Administrator Moore reported that he had not had any communications with the potential applicant on the Banberry Cross Reserve Subdivision since he met with them to discuss the Planning Commission's denial of their initial submission in September. He opined that they would re-apply and advised that he expected they would take their time in preparing their next application so they could address all of the concerns the Commission raised during their consideration of the previous application.

Deputy Town Administrator Moore reported that he spoke with the engineer regarding the Salamander housing project and opined that they planned to resubmit their plans soon. He advised the Commission that their role in this project would be to act on the construction/site plans.

Departure of Chairman Combs

The Commission recognized Mr. Combs for his hard work on the Planning Commission and noted that the County's gain was the Town's loss. They thanked him for his service to Middleburg.

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

RESPECTFULLY SUBMITTED:

Rhonda S. North, MMC, Town Clerk

Middleburg Planning Commission Transcript
December 16, 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: Why don't we get started with the work session and Rhonda, we'll start with you in the microphones.

Rhonda North: Rhonda North Town Clerk.

Ed Fleischman: Good evening, Ed Fleischman.

Eric Combs: Eric Combs,.

Terry Cooke: Terrence Cooke.

Bud Jacobs: Bud Jacobs.

Don Woodruff: Don Woodruff.

Will Moore: Will Moore, deputy town administrator.

Estee Laclare: Estee Laclare Planning and Project Associate.

Eric Combs: Excellent. Thank you, everybody. And first things first, we all probably saw an e-mail from Rhonda regarding microphones and speaking decorum procedures and whatnot. Well heeded advice and thank you for that heads up. So let's all just make an effort on the microphone front and not speak over each other if we can. That being said, I'll do my best, but I guess no real promises. All right. Well, why don't we jump into discussion items right back to our sign ordinance. And we have it looks like the biggest update from our last meeting in November is we now have a whole litany of sign examples. Estee thank you for all those I thought those were really helpful. And Will, if you want to just give everyone a refresher where we are on this, maybe that'll help kick us off.

Will Moore: Certainly. So last month you saw what we still have included in your packet labeled as Draft 2 of our potential text amendment that would rewrite our sign ordinance. We had a little bit of discussion last month. Draft 2 was the first version of this in which we saw at least some initial proposed allotments for sign area depending on the district in which you're located and the type of use we intended that by no means to be the final product. But we just use that as a starting point for discussion. We also had a brief discussion about some verbiage within the draft text amendment that was carryover from the model ordinance, some superfluous use of the word also in a certain line in text. And I know those remain within the current draft. We will have the benefit of the town attorney being able to attend next month. So last month after the meeting, we sent out a word document version of the current draft and we asked it if you had any comments to please pass those along. I have received one so far. Another has been promised to be short shortly forthcoming. But in the meantime.

Terry Cooke: When did you send that out? Because I didn't get it.

Eric Combs: Was around November 26th 5th or 6th.

Don Woodruff: [off mic]

Will Moore: Ok, I'll go back and double check. Yeah, absolutely. We can certainly do a resend of that. Again, the good part here is we weren't going to have the benefit of the attorney's presence this month anyway. So, he will be here I should say it will be our assistant town attorney Olaun Simmons. Martin, who's the town attorney, was on the group of local government attorneys who crafted the model ordinance all on is the person from his firm who's assigned to attend planning commission meetings. He will be well-briefed. They are both currently reviewing the the draft that we have to this point to add any comments. But they'll be here [inaudible] will be here and prepared to answer any questions you might have next month. So, will we resend that out and then at any point time you get those to me, if there's something that I think the town attorney should have the benefit of having that question posed to him before actually attending the meeting, I'll send that forward. So, again, the version of the text that you have before you this month is identical to what you had last month. But what we did in response to, I think, a very good suggestion to give you some maybe reference as to what these different areas of sign actually mean when they're on a building was that Estee around and took the various photos of these different examples. And we give you just a very simple analysis that tells you the total square footage of sign area that you see on those buildings. As well as what the allotment would be based on our current ordinance and then based on the current draft of our proposed ordinance. So maybe if there are comments, if you have if you want to walk through these and just kind of look and talk about what you see here in terms of that analysis.

Eric Combs: Yeah, I think that'll be a great place to start again Estee this is really helpful.

Estee Laclare: [inaudible] It was a good project to work on too. Putting it all together. Visual and kind of quite frankly, going forward. If people have questions when they're doing the signed or giving us certificate of appropriateness, we can give them examples now too. So, it's very helpful. We also have put together a list of prohibited signs, but that will be forthcoming.

Eric Combs: Okay. Great. Well, I guess I'll start off with just some general observations about the sign examples. A few. First of which is that it seems that in every instance the total allotment is due to increase anywhere from maybe 10 to 50 percent based off of the current ordinance and the numbers set forth in the new second draft. And also, in each instance, nobody really seemed to be taking full advantage of their total allotment. Do we need to shuffle anything?

Will Moore: Well, I think that begs the question. So, again, with our first draft of these proposed allotments, our goal was essentially to ensure that no potential allotment was decreased for any business. That was a goal and I think that was probably the right goal. But when you look at a lot of these examples and you realize that most are not even taking even coming close to taking advantage of the full, some of them are, but not most. I think maybe [inaudible] Northwest Federal Credit Union was one that's very close to their allotment. In fact, their original submission to us did not meet and they had to scale back slightly. But I would suggest when you look at their building, they are more than appropriately signed. So, the reason why we had increased it goes back to that strange provision we have in our current ordinance that gives an additional allotment for second floor space. So, there is this base allotment of one square foot of sign area per two lineal feet of building frontage. But then we give extra allotments for upper story space. And quite frankly, nobody has really in our analysis taken advantage of that in terms of we do have some buildings with upper story space. Not many of the few examples generally occur in the area of high cliff clothiers and Mystique Jewelers, J McLaughlin those buildings down through there have some upper story space, but they're just they're signed with simple placards and they still fit within the basic allotment without using that extra allotment. So, I think it does beg the question, does this call for an increase or is to one and a half square feet per two lineal feet as we have proposed in the current draft version or is the base allotment of one square foot per two lineal feet sufficient?

Eric Combs: On that point in particular. I'd be curious maybe to hear from HDRC and their thoughts on sizing since I know they they kind of have the aesthetic review here on these things and size is a big component of aesthetic. I'd be curious to hear whether in looking through the examples, if you then for example, took any one of these examples and then increased the size up to the maximum allotment allowed both under the current and the proposed ordinance, whether that might pose any issues for them from an aesthetic perspective.

Will Moore: Ok. I think that's a good point. What we could do is really start with the same set of photographic examples and start with a baseline and we can certainly they will be meeting a couple weeks, at least prior to your meeting in January, so we could have that discussion with them.

Eric Combs: Don, please.

Don Woodruff: Will is there. Excuse me. Is there any difference between a sign that is directly on the street, basically, or one that is set back? A question that was asked of me yesterday.

Estee Laclare: So, you're talking a freestanding sign?

Don Woodruff: No. The building is not on the street. It's 30 some feet back from the street. Are they under the same regulation as if they were up front?

Will Moore: They are.

Don Woodruff: aesthetics, OK. Are there any signs that are have been in existence that somehow approached that maximum number or exceeded that that are allowed to exist?

Will Moore: Yes, there are. So, and we did not capture those in here. And maybe that's something we could even bring back next month and bring you some examples of signs. I think the one in here, which is a very small deviation, is the Christmas Sleigh, which is just barely over its maximum allotment. And that probably has to do with the fact that a what we call a paddle sign has been hung underneath the original sign. And maybe that went through the approval process. Maybe it maybe it didn't. Maybe that's why it exceeds them. But there are some signs here in town. The total area that is located amongst the various signs on the Red Fox Inn exceeds what the allotment would allow for today. And maybe that's an area that we could look at. Because, you know, the ones that tend to push that limit are ones that are corner lots. And the way our ordinance is currently structured and the way it remains structured in our draft, which maybe could use some tweaking, is that you get an allotment based on your building frontage and four corner lots you get based on two frontages. But we have an absolute cap on that, Max. So regardless of how many lineal feet of building frontage you have, we currently have a maximum cap no matter what of 30 square feet proposed in this draft is 36 square feet to slightly up that. So maybe that's an area, maybe that absolute cap there should be a little more flexibility to allow for adequate signage on one corner.

Don Woodruff: So, with the. Obviously, I got this yesterday morning after church. Would the church's propose or the sign made now, would that come in compliance with the new regulation as you propose it?

Will Moore: So, apologies, which church? Emmanuel.

Don Woodruff: They put a sign on their shelves because it's used so frequently by outside.

Will Moore: So, a couple of things with that sign. A, it has not been approved yet. It is approved on a temporary basis. It has not received the approval of the HDRC for its aesthetics and placement. But in terms of just the basic sign area, it complies with existing regulations and would continue to comply with the current version of the draft regulations.

Don Woodruff: [inaudible] Response to the questions put to me yesterday.

Eric Combs: Ed please.

Ed Fleischman: Will I question about the relationship between what we're working on now, signage and the Historic Preservation Review Committee. So, this ordinance really talks about, if I'm correct, the physical aspects of the sign location, the sizing, the lighting, it's all physical type things. And if someone puts a sign up and passes all those physical constraints. Then it would move if it's in the historic district, which almost I think all or almost all are in the historic. Then they'd go to another review that would look at color and other aspects aesthetics as you said, and it could be turned down by that committee.

Will Moore: It can be correct. So, I will say that those reviews take place at the same time. It's not. There are two separate application forms that are used, but those reviews take place at the same time. And I I or Estee, when we're reviewing the applications and sending them forward to the historic district review committee. We include a very basic analysis for them that simply says the sign does comply with Article 14 pertaining to sign area and placement. So, so they understand that that's not an issue or on occasion they understand that it is an issue where somebody puts a package together that's too large and we're unable to work with that applicant before that meeting to resolve those issues. But that is correct. So, there is this these two separate I think more of our ordinance that you're working on right now is talking about in terms of allotments, the maximum theoretically available. The HDRC is not bound to approve that maximum amount if they deem that maximum amount to be not appropriate to the application based on the aesthetics.

Bud Jacobs: I believe the draft ordinance does have language suggesting that the planning commission does make judgments as to the appropriateness of the [inaudible] to the use of property. How does that jive with what [off mic]?

Will Moore: Right. I think. I think where that distinction is made is that supports the tables of allotment that come later in the draft of the ordinance in. It comes down to going back to the Supreme Court decision where we're not allowed to treat signs differently based on content, but we can treat them differently based on other aspects. So, this allows for us. For example, I'll use the Agricultural Conservancy district as an example. If we're talking about a residential property that's in the A.C. district and we have a number of those. Or if we're talking about a commercial or non-residential or non-agricultural use. So that could be Salamander Resort and Spa. It could be the Middleburg Community Charter School. It might not be appropriate for a residential use as a use to have a fairly large sign in the front yard on a permanent basis. But in that same area of signage might be appropriate for a commercial use or for a school use. So that's where there's some distinction that you're not treating it different based on the content of the sign itself. But you're treating it on the use of the property. And to that end, I'll stop hypothesizing on that. And maybe the best answer would come from the town attorney as to the distinction. But I think that's that's why that term of appropriateness is included there.

Bud Jacobs: I guess what I'm getting at is if the historic district review committee is making judgments on aesthetics and appropriate. We probably want to be careful to avoid setting up any potential conflicts just because of the trouble that [off mic]. All we're saying in our certification to the committee should be the size is OK. And I don't know what the language would be. Without making a judgment on whether the sign is aesthetically correct.

Will Moore: Correct. I'll look a little closer at the language in here and talk that about the town attorney if we think the word appropriate may not be the right word.

Bud Jacobs: That was actually in two of the subsections. And it it looks fairly redundant, actually. It might be an idea to combine those limit somewhat the purview that were examined.

Will Moore: Ok.

Eric Combs: Don, did you have a point?

Don Woodruff: Yeah, I was wondering, how do we define the term sign?

Will Moore: So, there is [inaudible] Let me pull that up for you here. And the what I just showed to Mr. Woodruff here is the definition within the draft ordinance, which is identified as double letters AA and it's. This is based on the model ordinance that is a definition. It was actually one of two or three different possible definitions that local government attorneys had floated. And we felt this was the best of those. Tweaked it a little bit. We did not remove that word also in there, which we'll tweak it a little further. It's a very good point. That zoning ordinance in general, we don't rely on lay terms unless a term is not specifically defined in the ordinance. So, there are times where somebody might claim, well, that's not a sign. Or why are they allowed to have that? Because it's a sign where sometimes based on our definition, something may or may not be assigned. But it is as defined in the ordinance.

Eric Combs: On that point, a global comment that I have with regard to the draft here. And this is something that I'll try to put into a digital comment to you as well. There's a lot of reference here to define terms throughout the whole ordinance, and those defined terms aren't referred to with capital letters or with quotation marks throughout. It's not consistent. And it seems to me that we might achieve a little more clarity if anytime we're referring to a defined term, it is capitalized at least the first letter of each word within that defined term. And I'll give you an example in looking at the definition of minor sign, which is subsection R of the definition section. It reads minor sign means a wall or freestanding sign not exceeding one square foot, an area not exceeding four feet in height and not illuminated. When we look at that, a wall or freestanding sign. Read literally I think, right. The disjunctive there means either a wall or a freestanding sign. But I think if the intent there is a wall sign or freestanding sign as those two terms are defined in the definition section. So that's just one example. But I think there are a lot of those throughout where we might just want to capitalize all define terms as they're used anywhere in the language of this ordinance. And it might clear things up.

Will Moore: I think that's a great suggestion.

Eric Combs: Other comments, questions? Any thoughts on the example signs that Estee has given us?

Will Moore: Or any particular signs throughout town that jump out at you that you might like to have a similar analysis on if something comes up now or between now and the next meeting. Shoot us an email and we can do this pretty quickly. Estee doesn't mind going out in the snow.

Eric Combs: Estee I noticed all of these pictures were taken with the benefit of sunlight. Direct sunlight. May not be so lucky next time.

Estee Laclare: No [laughing].

Will Moore: She doesn't mind coming in overnight. [laughing] it's really up to you.

Estee Laclare: Then I'll bring my children with me. [laughing]

Eric Combs: We'll have Chief A.J. deputize them. Ok. Well, if there aren't any other questions or comments about the the model or the examples. I would encourage anyone if they have any other comments off-line just email them over to Will, Estee and again, as Will suggested, any other signs you want to see analyzed this way. Then maybe we can take all that up next time. Terry, please.

Terry Cooke: Something just occurred to me. I'm looking at the, for example, the sign or the example that depicts the Northwest Federal Credit Union. And this would be true for the community center and I think several of the real estate offices in town where they have. And I'm not sure the proper term is monument sign, but they have like a bulletin board [inaudible] the business that has photographs or messages. What would that be considered?

Will Moore: That's an interesting example. The real estate companies, those are treated as signs. So, the most recent one has been installed is at Hunt Country Sotheby's and that was permitted and went through the process with HDRC and is treated as a sign essentially with an interchangeable message. The interchangeable message being the individual real estate listing that they put within the one at Northwest Federal Credit Union is a little bit of a different animal in that that has been kind of a community sign. That's not typically been associated with advertising that particular structure, but it's something that the property owner, it's been in place so long that we consider it it's use non-conforming, but they use it for community purposes they use it for. I should keep a little better eye on what is actually going in terms of the advertisement there generally. But it's generally not been used in conjunction with the occupant of that building. So, it's a little bit different.

Eric Combs: It's interesting. Who has access to that sign in particular at the credit union? Is that something that anybody can open and post something in?

Will Moore: I don't think so. I can try to get some clarification from the property owner as to who who has that access. I'll have to look a little closer at that.

Terry Cooke: Among our definitions of various types of signs with that. [off mic] What would that be considered what type of sign?

Estee Laclare: Do we consider it posted sign? Is that how we termed it? I can't remember.

Will Moore: I mean, I think technically it would be freestanding. [multiple speakers] But again, a little bit different because of the content does not generally apply to the property on which it's located. So today it would not be permitted because it would be essentially an off-premises sign. It's advertising a use that is not located on the premises, but it's something that's been in place for so long that we would consider it non-conforming, legally non-conforming in any respect.

Bud Jacobs: One more quick question. In the case of the Red Fox signs. Which are currently non-conforming, I guess, and would probably be non-conforming under the ordinance. How does that play out the sign we leave the signs along until the sign is either 50 percent destroyed or the owners decide to change it, that at that point the ordinance comes into play.

Will Moore: Correct although we don't really have the 50 percent rule here, which is interesting. It's something that we've discovered recently with a house project that's underway is that unlike many localities, when it comes to non-conforming structures in particular, they've had typically, ordinances applying to non-conforming situations will have something very similar to that, that once something is destroyed or damaged to the point where reconstruction will exceed a certain percentage of its value, then it can no longer be replaced or repaired except in conformance with the ordinance. Ours does not have that percentage cap in there, which is something that this body and the council may separately be looking at in the coming months, in particular in relation to a house that is essentially being reconstructed on its original foundation, even though it's non-conforming.

Terry Cooke: I think I read it in the draft ordinance. I agree with you Bud. I would encourage staff to take a look at that because I agree. I think I saw something to the effect if a non-conforming sign is destroyed or enlarged beyond 50 percent.

Will Moore: And you know now that you mentioned that they did jump out and I think it's on my master red line that I'm assembling upstairs because that kind of creates a conflict between our separate chapter, which speaks to non-conforming situations in general, so we would probably, if we wanted that to apply to signs, we would probably need to make clarity that except as provided in our current non-conforming chapter, we would might have to say, except as provided for signs in this chapter this applies, but we may be making changes to that chapter separately as well. And to get them better in alignment.

Eric Combs: Gentlemen correct. The references in section 2 0 2 subsection E that discusses the 50 percent threshold.

Estee Laclare: I actually do have a question for all of you since I have you here, as opposed to emailing you. To your point about making it capitalized for the definitions. Would you prefer it in italics or bold? What do you think would be better for you if you're reading this document the most helpful way to put it? You prefer the capitalization of the terminology?

Eric Combs: Yeah, my preference would be after a term. Well, any term that is defined in the document, any reference to it elsewhere would just have the first letter be capitalized as if it's a proper name. OK.

Rhonda North: And that's generally how you do ordinances.

Estee Laclare: I just want to make sure I wasn't sure if that's how you actually did that so I wanted clarification. Thank you very much.

Eric Combs: Other comments questions? If not, we'll roll into the regular meeting. OK. Thank you, everybody. [laughing] [inaudible] Let's recess for a second. [laughing] Okay. Why don't we start with our regular meeting and we'll start off with disclosures of any meetings with applicants or expected applicants. Ed why don't we start with you.

Ed Fleischman: I had none.

Eric Combs: None here either.

Terry Cooke: None for me.

Bud Jacobs: I had none.

Don Woodruff: None also.

Eric Combs: Great. Thank you, everybody. Looks like we can get right past our public comment section. Approval of minutes. Rhonda thank you for the November minutes. Any comments, suggestions, changes, concerns, Terry please.

Terry Cooke: One comment very quickly in the section of the minutes that comes under its own Page 3 discussion items and we dropped down to the 1, 2, 3 4 5th paragraph. Deputy town administrator Moore opined that the business [inaudible] regarding signed ordinances, explained the goal was to reformat it to address the Virginia Supreme Court ruling. That really should be U.S. Supreme Court.

Eric Combs: Good catch there. Thank you, Terry. Any other comments or questions regarding the minutes as drafted? If none, be happy to entertain a motion.

Terry Cooke: Move to accept the minutes as amended.

Ed Fleischman: I second the motion.

Eric Combs: Great. All in favor.

Everyone: Aye.

Eric Combs: Excellent. Thank you, everybody. Moving right on. Oh, Bud you are up sorry for no on deck warning there. Council representative report latest and greatest. [inaudible]

Bud Jacobs: Well, I guess I'll limit my report to a few brief things that came up in the council meeting. We did approve the council did approve a number of health center fund recommendations for funding and a separate one for the Middleburg Charter School was noteworthy the amount of support there is within council for the charter school. They had requested, I think \$20000. They've got a two hundred-thousand-dollar matching fund that they're trying to work on that I guess expires or part of it expires on December 31st. And after some discussion, the council approved a transfer donation of \$50000, which I think there was a general view that it was well worth doing and hopefully will help them meet the goal, get to their two hundred-thousand-dollar goal. We also had a presentation from a very charming young woman who is a competitive shooter. And she wanted to encourage the council to declare Middleburg a Second Amendment sanctuary city. She made her presentation and she was very articulate, gave the council a proposed resolution. And it was she was heard, obviously, and no further action was taken. I was surprised to learn that something on the order of seventy three percent of Virginia's counties have actually declared themselves Second Amendment sanctuaries. I don't know, obviously, if this will come back in any way, but she said her piece and. And as I say, it was it was kind of charming to see you. I don't know how old she is, 14, 15 years old. Stand up and make a presentation. Finally, Bridge went to some lengths to give the public the background on the ongoing branding exercise that the town is doing. I don't know if you guys are familiar with any of this, but basically the idea is to provide an alternate brand to the fox, not doing away with the town seal or anything, but to create other opportunities for businesses and other groups to promote Middleburg. I think it's on the Web site Bridges. His statement if you are asked about the background of this or if you're interested and concerned yourselves, I encourage you to take a look at it. The amount of work that's gone on since 2017, I guess on this project is pretty impressive. And whatever one may think about the idea of rebranding the town, it's very clear from Bridge's presentation that a lot of work has gone into it and as to the maximum extent possible, no voice or no opinion was overlooked. The trigger for this was apparently on Facebook, which I don't use thank God. There have been quite a few rumblings, I guess, among a group of five or eight or 10 people about how awful this is going to destroy the town. And, you know, the usual sort of stuff that you that you see in a democracy. Anyway, I encourage you to take a look at the background statement, that Bridge he actually read the whole thing at the meeting and it was filled with facts that I didn't know. So other than that, I continue with sitting at the feet of these good folks to try to figure things out and get smarter than I currently am about how the town governs itself.

Terry Cooke: Bud just a quick question. My understanding after reading the record of the discussion of the town brand, it's pretty much been it's a [inaudible] as I've read it. I mean, it's going to be the horse leaping over the rock wall. Is that a correct understanding?

Bud Jacobs: I'm not entirely sure that's a correct understanding. I think there is still room in the process for changes and maybe even some substantial ones. Although the council approved the draft of the horse leaping the wall, they didn't approve that horse leaping that wall, there were a lot of concerns about the design and if you can believe it, what kind of horse it is. So, on. [off mic] [laughing] whatever that is. Yeah. I think we should have a fox jumping over the wall that would answer everybody's concerns. [inaudible]

Will Moore: Not to get into the weeds. I think it's important to distinguish between the words logo and brand. So, the town is working on a branding project. I wouldn't even say rebranding because the town is never gone through a formal process to brand itself, although I'd argue it can be made that a brand can

organically happen over time. But a logo is just one part of a branding campaign. A primary logo is a miniscule portion. And one of the clarifications that the mayor made in his statement was there was some discussion in this social media forum about the amount of money that's being allocated toward this. And there were some comments that was essentially a ridiculous amount of money to pay for a drawing. Well no, this amount has been put into this point on what could be the primary logo, but that is only a small part of what a brand is. So, I just want to make that distinction between those terms.

Eric Combs: To sort of dial back a little further, if I recall correctly and correct me if I am wrong. A lot of this conversation started awhile back in connection with the money that had been appropriated from the state or the county with respect to wayfinding signage and whatnot, and the conversation at the time was, well, if you are going to create wayfinding measures and new signage and directional stuff and an opportunity to brand that sort of signage, shouldn't it be consistent with a town branding? And it occurred to everybody that while the town has built up enormous goodwill over the years, it didn't necessarily have a very visual depiction of all of that goodwill and was there to better sort of harness all of that in this wayfinding and then with broader collateral advertising, whatnot. And so, I think I think the money the town had decided to spend awhile back was really largely directed toward that broader effort. And you're right, this is just a small component of it, which it's a wonderful exercise. And I mean, hats off to the council for following through with this. I know it's been a lot of work.

Bud Jacobs: It's a lot of work. I'm not clear on whether they wayfinding issue was a part of this or probably was the initial stimulus. But there is money that I believe one Loudoun has provided to the town or will provide to the town to help with the development of collateral around the brand or the logo, if you will, whenever it is put in place and implemented. And some of the statistics about what the town is getting from its relationship with one Loudoun are pretty impressive in terms of page views and all of the things, all the mentions of Middleburg, not just on social media, but in local media, television, radio. So, I think over time that's going to be a really fruitful avenue for the town to to pursue.

Eric Combs: Great. Thank you, Bud. And thanks to everyone at staff and council for really ushering that whole process through. I know that's been a lot of work. Looking at our agenda, why don't we we jump into our discussion items. One thing that we had raised last month was a contemplation of what goals we all might want to express for the Planning Commission in 2020 and perhaps beyond. I'm not sure we necessarily need to cap the timeframe in that regard, but let's start with 2020. I don't know if anybody had an opportunity to think about that. The first thing that came to mind I know when we addressed this last month was, you know, well, now that we have the comp plan published and out there, the next step is to take a look at the zoning ordinance and bring that into better harmony with the comp plan. That's I know, a very big undertaking that will likely stretch well beyond 2020. But perhaps there are some others sort of longer-term strategic things beyond just the kind of day to day tactical things that we address here at the Planning Commission. And I would just sort of open the floor at anyone who had to spitball some ideas. Well, why don't we start with zoning ordinance. I know that's something we can put on the plans for 2020 at least maybe first step is just outlining the process of figuring out what the bandwidth is for getting through it. What sort of needs you all have at the staff level for pushing that through. What resources might be available for it and maybe just a broad-brush stroke outlining the process and then maybe a little more this specific effort.

Terry Cooke: Just a question. Now that the comp plan has been revised and adopted. Are there things in the comp plan that literally require an amendment to the zoning ordinance to bring it into conformity?

Will Moore: I think the biggest question that remains out there is going to be our federal street plans. Certainly, the existing zoning on the south side of Federal Street, the C3 zoning would not allow for. The wholesale change that we're kind of calling for in some of those aspirational plans that say we would consider many things. I think it would be very difficult to craft an ordinance ahead of time. I think what we're looking at in that situation is for a developer to step forward with their ideas and ordinance would be crafted kind of in conjunction with a development proposal. It would be really difficult to to craft an

ordinance that says exactly what would be allowed without knowing what the interest in and what the markets are for the type of redevelopment that could potentially happen there. So that's. You know, you don't want to give somebody a blank check, but we're not going to give somebody a blank check, because if we intentionally have to go through zoning textual amendments, if we have to go through rezoning processes, those are known certainly to any developer that we would want to be working with to be deliberative processes that take some time to work through. My gut feeling is it would be really hard to have us craft an ordinance that sets the stage and doesn't become too limiting.

Eric Combs: Sounds somewhat I spoke with some planning commissioners in Falls Church City a while back. And one thing that their planning commission had somewhat perfected were these small area plans. And what they would do is they would have some sort of public private partnership to redevelop a certain area. And to your point, they knew a lot of what that private component would look like. Right. And from that and with a discussion of what the public input of resources would be, they would then take that and then create a small area plan. They had gotten from originally taking about a year to write that small area plan into the zoning ordinance to about six months. They felt like they had a pretty routinized, but that was the way that they addressed it. I think much like you're proposing right now, I guess it requires that at least that piece of the information to really kind of address that plan. And that's how they tackled it and it seemed to be working really well for them.

Will Moore: That's the big picture with the big area of emphasis and the plan. But I think there is opportunity to do a chapter by chapter, if not at least a zoning district by zoning district analysis of existing regulations and how those complement what is in our now adopted comp plan. There may be things that are that are ripe for change. Regardless, it may have to do with management of stormwater runoff. We're looking at lot coverage ratios. It may have to do with setbacks of buildings. And in particular, as we see, we always kind of default to the Ridgeview area where we've seen some not huge scale redevelopment, some redevelopment, where some smaller buildings or infill lots have been build upon or small buildings, smaller buildings have been torn down and larger structures have been constructed. And I think there's still a little bit of unease in part of the community as to the scale of those structures kind of going in. So, you know, we've talked in the past about maybe, maybe there needs to be some adjustment of those building regulations and maybe structure. Maybe it's something where you can achieve that height and mass, but only if the lot is a little bit larger and setbacks or a little bit greater. So, I think there are some definite opportunity for analysis and maybe it's a literally a chapter by chapter analysis. We start with residential zoning districts. It might even be just one residential zoning district maybe per month and go through and kind of talk about how each of those regulations that are within their relate to the comp plan.

Eric Combs: I think that's a great suggestion that I know Will over the years you have identified any number of things in the existing ordinance that stood out to you as peculiar or in need of revision. And, you know, I think my first thought was, well, the wholesale effort is going to knock all of those out but I like sort of a more targeted effort that you're proposing. I think that's a a much better way of getting there. Terry, you had a.

Terry Cooke: Oh, I'm just reminded in Will's comments that last month we had some discussion here on the commission about a possible proposal for a special exception use commercial district in town. And you, Mr. Chairman, I think suggested that a wiser way to review this would be or to consider this would be to look more holistically, I think is the term you use at the commercial district and look at the uses that are permitted, those uses that are permitted with special use permit and. Try to make some judgment as to, well, are there enough permitted uses in the commercial district? Should we identify other users that are permitted? Are there some that are permitted with special exception, that we would prefer not to be permitted under any circumstances? And maybe that kind of review should be part of what we do. And that's the district about by district review, I think [multiple speakers] That's less ambitious, perhaps than the Federal Street issue. But I think that's something that we could take on.

Eric Combs: Other thoughts or comments regarding either an effort along those lines or something entirely different in 2020? Bud please.

Bud Jacobs: Just a quick question. Will and Estee apart from the the sign ordinance and apart from zoning ordinances, are there other ordinances that are on your your agenda for review and possible change?

Eric Combs: Like subdivision?

Will Moore: Yes, there are some opportunities within the subdivision and site plan ordinance for updates. I think that's something we will have to look at that in relation to the newly adopted plan as well. I think the zoning ordinance is probably going to be a little higher priority. I think our subdivision regulations and I say this in particular with the fact that we have so little undeveloped land that could be eligible for subdivision, at least under its current zoning. You know, we have a couple properties that if they were re zoned to a residential district from its current agricultural conservancy, zoning, that could open up for subdivision of land. But aside from the already in process salamander residential, we don't have a lot of area where there's really land sufficient land space to be overly concerned with or to be prioritizing that over our zoning ordinance.

Bud Jacobs: So, with respect to Eric's challenge to the commission on looking at our strategic goals, if I can use that term for 2020. Do I understand correctly that you you probably don't have a bandwidth problem or how would you structure the work?

Will Moore: Yeah, I think if we're going with a chapter by chapter approach, I don't think we have a bandwidth problem. If we were to look at something more holistic and try to accomplish something in one fell swoop thing. That would be where we might have to budget for some additional resources.

Eric Combs: Great. Other thoughts? I mean that. Touching the zoning ordinance chapter by chapter might be challenge enough for [laughing] I'm not eager to add more stuff on the strategic.

Will Moore: Yeah, I would suggest maybe your first meeting in January once we hold office elections. Maybe that would be a good time to actually talk about exactly what that looks like and maybe start off with at least a preliminary schedule.

Eric Combs: Much like we did with the comprehensive plan where we just created a plan for [inaudible] Maybe that might help. Ok. Well, before we close our discussion items, this would be a good time, I think, for me to add that this will be my last planning commission meeting. I'll be stepping down from this planning commission because I accepted an appointment at the Loudoun County Planning Commission starting in January 1, I believe. I don't know all the specifics yet, but I don't think I'll be able to handle both obligations very much [multiple speakers] just adopted their comprehensive plan and they're hitting the zoning ordinance, I think pretty hard and pretty heavy early on. So, yeah, it is with a heavy heart that I'll be stepping down, but I have no reservations about you all tackling all the things that the town puts up in front of you. But yeah this will be my last meeting and I guess I will open the floor for determination of a quorum in January knowing that I won't be part of it. January 27th will be the next meeting. Does that pose a conflict for anyone?

Terry Cooke: I may be away I don't know for a fact, but I may be. So, I'll let everyone know if that's [inaudible].

Eric Combs: Otherwise, no? Ok. Excellent. Any other points anyone wants to raise before we bang the gavel? Yeah Ed please.

Ed Fleischman: We had a good council report. Maybe we ought to have a report from Will on what's happening with development. We had a couple of big issues. I'd be good to get an update on Salamander, on Banberry and on Orlich. If you can give us some information on what's happening.

Will Moore: Certainly. So, for those three, the Orlich, I'll take them in reverse. Orlich, we have not heard from the applicant since the council denied his application for a comprehensive plan amendment. So, we're considering that subject dead. In terms of Banberry Cross. I had no further communication with the the potential applicant, I should say, at this point, since the first application was denied. I did meet with that applicant shortly after the action that you took in September. In that meeting, it seemed that it is the applicant's intent to reapply at some point in time. I did expect that he and his consulting engineer to take a good amount of time to deliberately address all the comments that were outstanding with the previous application in great detail before resubmitting. I think they're more accustomed to the situation that we were kind of approaching it at where they come in and there may be a laundry list of things that are outstanding, but their typical expectation in dealing through the county's process is to get this conditional approval and then be allowed to work through all those issues while the application is still active. So, I think that caught them a little off guard, but they're taking their time now and trying to make sure that everything is perfectly in line for re-submission if and when that occurs. But aside from that meeting, I have not heard from the applicant since that time. [inaudible] re-submission to the town. So, we're still at the preliminary plat stage and because of the majority of the development would be occurring in our subdivision control area. We're the processing authority for that application. Both jurisdictions are an approval authority still because there is land outside our subdivision control area that's part of that application. So, both jurisdictions would have to approve of that application. In terms of Salamander, I can tell you that I spoke with the engineer today and they were asking how many copies do we need to submit for our re-submission because we plan on re-submitting today. But I didn't see them today. But over the last several months I've had I couldn't count them on both hands. We need more fingers to count the number of phone conversations I've had between the consulting engineers and then some architects that are working on some designs for the R3 section. As to that process so there's a lot of activity going on in the back in terms of design, but we are still waiting a formal resubmission of plans.

Ed Fleischman: Will on Salamander. Would this commission have any review authority or is it finished as far as the planning commission goes?

Will Moore: No. You will be seeing and will be an approval authority for the. You will be taking action at some point of time on the construction plan/site plan. It's referred to sometimes the construction plan phase. So that will be coming to you.

Ed Fleischman: Thank you.

Eric Combs: Bud please.

Bud Jacobs: I think we'd be remiss if we didn't take a minute to recognize the debt of gratitude that the town owes you, Eric for all the work you've put into this commission, I'm sorry that I wasn't a member and able to watch you in action more than I have been able to. I have to say Loudoun's gain is gonna be our loss for sure. And speaking just for myself, I'm sure you guys all agree. Thank you very much.

Terry Cooke: I second that motion. [laughing]

Ed Fleischman: Yeah, I think you've been, Eric, just a steady hand on this. Appreciate you chairing the commissioner's last year. Thank you.

Eric Combs: It certainly has been a pleasure. [off mic] [laughing] [off mic]