



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



**MONDAY, MAY 23, 2022  
PENDING APPROVAL**

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

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

**ABSENT:** Mimi Dale Stein, Member

The Middleburg Planning Commission held their work session and regular meeting on Monday, May 23, 2022 in the Town Hall Council Chambers. Vice Chair Woodruff called the work session to order at 6:34 p.m. Town Clerk North called the roll.

**Discussion Item**

**Zoning Text Amendment 22-01 Pertaining to Building Lot Coverage and Impervious Lot Covers and Associated Regulations in the R-2 District**

(Chair Cook arrived at the meeting at 6:35 p.m.)

Deputy Town Manager Moore reviewed the history of this item and noted that the Commission had the first draft of the proposed amendments. He reminded the members that The Berkley Group's report contained different levels of intervention that would require ordinance amendments. Mr. Moore noted that Level 1 kept the maximum lot coverage requirement and introduced an impervious surface coverage maximum. He reminded the Commission that they previously reached a consensus to proceed with the Level 1 recommendations. Mr. Moore advised that the Level 2 recommendations included the establishment of a maximum lot size, the reduction of the building lot coverage and the addition of a landscape requirement. He further advised that the Level 3 recommendations included the adoption of architectural design standards. Mr. Moore reminded the Commission that they expressed an interest in debating a maximum lot size requirement; however, they were not interested in pursuing any of the remaining recommendations in Levels 2 and 3. He further reminded them that because they could not reach a consensus on the maximum lot coverage, he offered a hybrid solution of establishing a cap on the area of the lot that could be covered, regardless of the lot size.

Deputy Town Manager Moore reiterated that the Commission had the first draft of the zoning text amendments. He explained that they included retitling "lot coverage" to "building lot coverage" and adding impervious lot coverage regulations. He reviewed the proposed definition of the "building lot coverage." Mr. Moore noted that the ordinance included an allowance for semi-pervious materials/surfaces, which would be calculated at 50% of the area. He explained that the purpose was to encourage the use of partially pervious materials. Mr. Moore advised that the majority of the changes involved adding the word "building" in front of the existing references to "lot coverage".

Deputy Town Manager Moore advised that the the proposed changes would keep the building lot coverage at 30% and establish impervious lot coverage regulations that would cap coverage at a maximum of 45%. He reminded the members that these amendments would only apply in the R-2 District. Mr. Moore noted that this covered all the Level 1 recommendations. He advised that the hybrid option of the maximum lot coverage recommendation would be addressed by adding language imposing a cap of 3,750 square feet in the maximum building lot section and a cap of 5,625 square feet in the impervious lot coverage section. He reviewed the basis for the proposed numbers and explained that they equated to the same cap as for a 12,500 square foot lot regardless of whether it was a larger lot. Mr. Moore noted that there were larger lots in the R-2 District and advised that under the proposed amendments, they would become non-conforming.

Chair Cooke opined that Deputy Town Manager Moore did a remarkable job of preparing a draft ordinance based on the previous discussion.

In response to an inquiry from the Commission as to why mulch was not a pervious surface, Deputy Town Manager Moore explained that some jurisdictions required landscape areas to include plantings to qualify as pervious, as some people tried to only use rocks and/or mulch. He suggested that if an individual wanted it to be considered a pervious surface, it should include a planting bed or living ground cover.

Commissioner Fleischman expressed concern that the determination of whether something was a pervious material would be at the discretion of the Zoning Administrator and opined that this gave that person a lot of power. He suggested the draft ordinance was too complicated and too far reaching. Mr. Fleischman opined that there was not a problem in the R-2 District that had not already been addressed in other ways.

Councilmember Jacobs noted that there was a rain garden in his community and explained that its function was to clean run-off water before it entered the water shed. He advised that the engineer who designed it said it should not be mulched, as the mulch would impede the drainage. Mr. Jacobs questioned whether the benchmark for establishing the maximum lot coverage sizes was a 12,500 square foot lot.

Deputy Town Manager Moore acknowledged that there were many 7,500 square foot lots in the R-2 District. He reiterated that his recommendation was based on 30% maximum lot coverage for a 12,500 square foot lot and noted that this would include both the principal and any accessory structures. In response to an inquiry from the Commission, he confirmed this referred to the building's footprint, not the occupied space.

The Commission held some discussion of allowing the determination of whether a surface was pervious to be at the discretion of the Zoning Administrator. They noted that Mr. Moore would not always be in that position. It was suggested that the definition needed to be concrete, so it was not open to interpretation. The Commission also held some discussion of whether the proposed ordinance was overreaching. The majority opined that it was not and noted that they were tasked with addressing the Council's concerns. They noted there were a lot of water issues already, which would only get worse.

Deputy Town Manager Moore reminded the Commission that under the State Code, a zoning administrator was given a lot of power and was the only person who could interpret the zoning ordinance. He noted that there was an appellate body (BZA) who could hear an appeal of the Zoning Administrator's interpretations. Mr. Moore advised that there was no way to draft a zoning ordinance so it was not open to the interpretation of the Zoning Administrator. He explained that in this case, he would review the material and decide if it met the intent of the ordinance. Mr. Moore further explained that the applicant would have to show him the proposed product as designed and installed would function as proposed.

Commissioner Fleischman expressed concern about unintended consequences and opined that the amendments would force people to construct multi-story houses. He acknowledged that there was a maximum height limit; however, he opined that people would be forced to build to the maximum.

Chair Cooke opined that the proposed language was worthy of consideration and noted that imposing a maximum size on the building would allow the Town to control the mass of new structures in the R-2 District. He reminded the Commission of the height regulations they previously approved and opined that they would serve the interests of the community.

Chair Cooke closed the work session and 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 Minutes**

*Vice Chair Woodruff moved, seconded by Councilmember Jacobs, that the Planning Commission approve the April 18, 2022 regular meeting minutes as presented.*

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

No – N/A

Abstain – N/A

Absent – Commissioner Stein

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

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**New Business**

**Zoning Text Amendment 22-01 Pertaining to Building Lot Coverage and Impervious Lot Covers and Associated Regulations**

*Councilmember Jacobs moved, seconded by Commissioner Roszel, that the Planning Commission initiate Zoning Text Amendment 22-01 and advertise the amendment for public hearing.*

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

No – N/A

Abstain – Commissioner Fleischman

Absent – Commissioner Stein

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

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**Council Representative Report**

Councilmember Jacobs reported that the Council would approve the FY '23 Budget at its next meeting and noted that he had received no comments on it. He opined that people were happy with the reduced real estate tax rate. Mr. Jacobs noted that the water and sewer rates would increase by 3%. He reported that the budget was in good shape.

Councilmember Jacobs reminded the Commission that Loudoun County was accepting public comment on their proposed zoning ordinance rewrites. He opined that they were incomprehensible. Mr. Jacobs suggested it would be worthwhile for the Commission to review the proposed changes and comment on them, either as individuals or as a whole. He noted that the ninety-day review comment period opened April 19, 2022. In response to an inquiry from the Commission, Mr. Jacobs noted that the Mayor suggested the review of Section 2.

## **Discussion Items**

### **Federal Street Redevelopment**

In response to an inquiry from the Commission, Deputy Town Manager Moore confirmed the Town had not applied for any grants for streetscape improvements to Federal Street. He explained that there were staff capacity issues and noted that he could not take on another construction project at this time. Mr. Moore suggested it may be possible to apply for a grant in calendar year 2023. He noted that the Council must prioritize that as a project.

Commissioner Fleischman encouraged the staff and Council Representative to not forget about the safety issues on Federal Street.

### **Wayfinding Signage**

In response to an inquiry from the Commission, Deputy Town Manager Moore reported that the contract was awarded for the installation of the wayfinding signage and advised that the staff was reviewing the final shop drawings for the artwork. He noted that the location of the signage had been staked. Mr. Moore reminded the Commission that this project would involve the replacement of the gateway signs; the placement of pedestrian and directional signage in the downtown area; and, the replacement of the street name signs, to include the consolidation of the stop signs and route number signs on the same pole. He advised that the footers for the poles would be dug in early-June, with the signs being installed mid-to-late June.

Vice Chair Woodruff noted that there was a stake in the Meadowbrook Subdivision, which was a private road. He advised that, as the President of the homeowners' association, he was opposed to the placement of a sign in their driveway.

Deputy Town Manager Moore advised that he would look into that.

## **Information Items**

### **Zoning Text Amendment on Short-Term Rentals**

Deputy Town Manager Moore reported that the draft ordinance would be available for the Commission's review in June.

### **Input Opportunities – BLA Proposals**

Deputy Town Manager Moore reported that the Council held a public input session on the requested boundary line adjustments (BLAs). He encouraged the members to view the webpage related to these requests on the Town's website. Mr. Moore advised that public comments could be submitted via the survey form on the website or by calling or emailing the Town Clerk. He noted that the Council was looking for as much input as possible.

Councilmember Jacobs advised that the Council would also accept public input during the Council meetings over the next several months. He noted that a summary was being kept of the comments received, which allowed the Council to get a sense of how the community looked at the requests. Mr. Jacobs opined that the comments regarding the Homewood Farm proposal were not as negative as he expected.

Deputy Town Manager Moore noted that the public comments, as well as a FAQ sheet, were being posted on the webpage.

**Quorum of June Meeting**

Vice Chair Woodruff and Commissioner Minchew advised that they would not be present during the June meeting.

There being no further business, Chair Cooke adjourned the meeting at 7:29 p.m.

RESPECTFULLY SUBMITTED:

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Rhonda S. North, MMC, Town Clerk

**Middleburg Planning Commission Transcript**  
**May 23, 2022**

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

**Don Woodruff:** We'll call this meeting to order the work session. A roll call.

**Rhonda North:** Chair Cooke is absent. Vice Chair Woodruff.

**Don Woodruff:** Present.

**Rhonda North:** Commissioner Fleischman.

**Ed Fleischman:** I'm present. Thank you.

**Rhonda North:** Commissioner Minchew.

**Rachel Minchew:** Present.

**Rhonda North:** Commissioner Roszel.

**Dev Roszel:** Present.

**Rhonda North:** Commissioner Stein is absent and Council Member Jacobs.

**Bud Jacobs:** Present.

**Don Woodruff:** Ok. We have a discussion item. I'll turn that over to Will.

**Will Moore:** Thank you, sir.

**Don Woodruff:** Introduce it again.

**Will Moore:** Thank you. So, as all of you are, of course, aware, we have been studying all of these. Oh, no worries. Give Mr. Cooke.

**Terry Cooke:** I should never answer the phone when you're trying to get ready to go to a meeting.

**Ed Fleischman:** We're on the fourth agenda item.

**Terry Cooke:** Please, please continue. [off mic] Have we convened? Yeah.

**Don Woodruff:** Will is saying something.

**Will Moore:** Just so. Just began. Just began. So, of course, as you all are well aware, we have been discussing some potential amendments to the R-2 zoning district regulations. You received the presentation from Berkeley, Berkeley Group that is at your March meeting, along with the draft report. There were a couple of tweaks to the draft and the final report was issued. And then you held a pretty lengthy discussion again last month on kind of next steps. So I just want to recap what my takeaways were from your discussions and then what has how those takeaways have led into this first draft to be presented to you for your consideration. And then maybe walk you through this first draft. Kind of line by line as to what's included. And then obviously open it up for discussion.

There's nothing set in stone at this point. It is just an initial draft. So again, I think as a reminder, the Berkeley report included some recommended level. They call it levels of intervention for potential amendments to the ordinance, the first level of which was basically to keep the maximum cover. What's currently called lot coverage, which applies to building areas under roof, was to keep that for the R-2, but then to also introduce a maximum impervious coverage, the impervious coverage which would consist of your lot coverage, the areas on the roof, but other impervious areas on site as well. And my takeaway from the discussion was that there was full consensus to proceed with that level one intervention. The second level included a few different things, not all of which would have to be done at the same time, but included establishing a maximum lot size, reducing the actual building lot coverage. So the area that's under roof, which is currently 30% maximum in R-2 one step under the level two, was considering reducing that to maybe 25% and then adding a minimum tree canopy or landscaping requirements. And then level three was to actually adopt architectural design standards. My takeaway from the discussions with the commission was that the first item under level two, the establishing maximum lot size, there was maybe interest and there was willingness to debate that topic. But the remaining two interventions on the level two and the level three intervention, there was no interest in pursuing those at this time. So as we held that discussion last month, and in particular with the maximum lot size debate, my takeaway was we didn't really have consensus on moving forward with a maximum lot size. There was some interest, but we didn't really have consensus. But I kind of offered my own kind of hybrid option for your consideration. And that was to what what let me back up and say the the benefits, if you will, of having a maximum lot size. There could be potentially two different benefits. One, it would prevent consolidation of smaller lots into larger ones and larger ones beyond that and what happens under the current parameters of the ordinance where you have a percentage allowable of your lot coverage obviously as that lot gets bigger the amount of area can continue in an infinite amount as long as it's in relationship to the lot size. So by establishing a maximum lot size, you obviously you establish a maximum coverage that could occur on that line. The second benefit of establishing a maximum lot size is with concerns, with housing opportunities in the area. It would it would prevent, again, consolidating lots that could otherwise individually be built upon and then building one larger structure. But again, without the consensus on establishing a maximum lot size, the the kind of hybrid option that I offered up was establishing a firm cap in terms of area that could be covered. That is in terms of square feet on a lot, regardless of what size it may be. So as we walk through the the draft proposal, all kind of explain what I've included there. Again, that's just for your consideration. So in the draft draft, one of the zoning text amendment, if I could direct you to that, just to kind of walk you through how this works. Of course, if you go back to the Berkeley Report, their level one intervention fits in about half a page, one one paragraph. A nice little, nice little summation. But it's in practice. We have to do a little more work to make that fit into the ordinance. So under the draft, that's before you starting in the definitions section what I propose doing is taking the lot coverage definition as it currently exists. Keeping the definition the same, but re titling it as building lot coverage. Just to distinguish that from another definition that we will then add that other definition is impervious lot coverage. There's a good bit that goes into this that definition, the length of it is intentional because we want to make it less debatable with the public as to what is considered pervious and what is considered impervious. And I say that, for example, a lot of people will think or even propose that a gravel driveway is much better than an asphalt driveway or concrete driveway. And just from an engineering standpoint, it's not as soon as that sub grade is compacted and the gravel on top of it is compacted, it's essentially an impervious surface, exactly the same as asphalt or concrete. Now, there are ways to construct pervious driveways that are topped with gravel that have other sized gravel underneath them, that allows it to not be fully compacted and allow for that penetration. But so this this definition of impervious would include would be inclusive of your building lot coverage. So that applies there. It would also apply to your unroof porches, decks, patios, those kinds of things that don't currently fall under the lot coverage that only applies to roofed areas. It would include driveways and parking areas, it would include sidewalks, walkways, those kinds of things, and then any other concrete asphalt or compacted gravel surface. So this could be hard scaping swimming pools, things like that. And then just general, we say other surfaces not composed of living ground cover or live planting areas. So a mulch bed that has absolutely nothing growing in it is treated as impervious area. But if you actually using it for plantings, that kind of thing. The other thing that I introduce in here and it was included in a couple of the the benchmark examples of Berkeley included was kind of an allowance for surfaces that are built with pervious, or I'll call it semi pervious materials. So this can be like grasscrete, if anybody's familiar with that. It's it's referred to in the definition as void structured concrete, but it's basically a grid pattern and it has to be installed in a certain way with a certain sub grade. But it's a grid of concrete that allows you, for example, to park upon it or drive across it. But it has living material that grows up through it. So it allows for some penetration of water much more than just an

asphalt service or compacted gravel, but not necessarily the full amount of lawn area. So basically what we say in the definition is if you use a product like that and I can verify that it's being installed correctly, it would only be calculated at 50% of the area. So in other words, if you had a 20 by 20 parking area for two vehicles, that would otherwise be counted as 400 square feet of impervious area. For this calculation, we would only count it as 200 square feet. So it gives an incentive if you're going to do additional parking areas, things like that, it gives an incentive to use those kind of materials that are at least partially pervious. So that's in the definition section. Much of the remainder of this three-page text amendment is simply going through every zoning district that currently refers to lot coverage and putting the word building in front of it. Because changing the definition for clarity sake to call it building lot coverage. So then we have to go through every instance where lot coverage is currently referenced in the ordinance and just change that to building lot coverage and a couple of minor tweaks where we change a percentage symbol to the word percent, just things to clean up in the ordinance. The bulk of the change that is proposed is on page two of the draft amendment in the R-2 district. So again, building lot coverage, we change that term, keeping that at 30% maximum, adding an impervious lot coverage. So that definition that we just created, we're only applying that currently in the R-2 area. We've not heard concerns of this outside of the R-2 area the Berkeley study only focused on the R-2. So this is the only district at the moment where we would apply this standard and then that would be established at a 45% maximum again. And that's the recommendation that Berkeley included. So what I just walked through there would encompass the level one intervention that again, we seem to have consensus on the second part, which is, if you will, that hybrid level two intervention that I introduced in that same section under R-2 where you see building lot coverage 30% maximum, but in no case to exceed 3750 square feet. And then for the impervious lot coverage, 45% maximum, but in no case to exceed 5625 square feet. So where those numbers derive from the Berkeley level two intervention that recommended a maximum lot size of 12,500 square feet, that would be the area that would be allowable for building lot coverage and for impervious lot coverage on a 12,500 square foot lot. So it would put a max cap at those two amounts for building lot coverage and for impervious lot coverage. Your lot could be larger than that, so you could still consolidate lots. If you have a lot that is currently larger than that, your lot would not become nonconforming as to the ordinance. You could create lots via land subdivision that would exceed 12,500 square foot, but there would still exist this maximum cap that would treat it in terms of allowable building area and allowable impervious coverage area, as though it were a 12,500 square foot lot. So that is in a nutshell, again, that's a lot to throw at you at once. But again, the bulk of what you see in here is simply applying that level one intervention that again, I think we had full consensus on. It's that last part, I think that would probably stand to benefit for much of your deliberation and debate, I think.

**Terry Cooke:** Thank you, Will, very much. I applaud your creativity in fashioning at least an approach for consideration. I thinking back to our last meeting, we were as a commission we were kind of all over the place in terms of our concerns and ideas. I think you've done a remarkable job in distilling what we were trying to get at. I'll leave that to the judgment of the individual commissioners. But I appreciate your effort in coming up with this one for consideration. With that said, I will invite the commissioners and I'm reminded and I remind each of you that we have been not very good about observing the the requirements to identify ourselves when we speak, to make sure that our microphones are on and that we we not speak over one another as we as we engage in our conversations up here tonight. So let's try to bring a little more discipline to it. And please don't take offense if I stop you in mid comment and ask you to identify yourself or or wait until you've been recognized. So with that being said, I will open it up to the commissioners for their thoughts to keep some order in this. I will go around the dais and we'll come back again. If someone raises their hand and feels that there's something else, they want to want to discuss. But I'll begin with the Commissioner Fleischman.

**Ed Fleischman:** Thank you, Mr. Chairman. There's a lot of stuff in this one paragraph. When you look at it. So I appreciate your discussion, Will. A couple of things that I didn't understand when you mentioned mulch. I mean, I always thought mulch was open area and the water goes through the mulch. So I don't I don't know why. What's your reasoning if I can ask a question? What's the reasoning for saying mulch is like concrete?

**Will Moore:** Well, and I'm not necessarily saying it's like concrete, but we have intentionally avoided implementing a de facto landscaping requirement. But one thing and honestly, that comment is probably misplaced in certain areas, certain jurisdictions that have larger commercial presences, that have landscaping requirements, they're very specific that your landscaped areas actually have to include plants, because what happens is sometimes people will rip out all their plants, rip out all their living ground cover because they don't

want to maintain it. And we'll just throw mulch down or throw rocks down, which can be effective somewhat as mulch in planting areas, at least in preventing runoff and erosion. But they'll just replace landscaped areas with those kind of things rather than having living ground cover or something along that line. So the expectation would be if you want it to be counted as a pervious surface, that it has either living ground cover or is being used for some sort of planting. It's a planting bed, it's a garden which, depending on the season, may or may not have actual plants growing in it. But it's something that's intended to hold some kind of living material.

**Ed Fleischman:** Thank you, Will. The other item that I'm a little concerned with is that last couple of lines where it says at the discretion of the administrator. I think that gives a lot of. Power to the administrator when a builder or an architect. It's trying to develop something. So I just offhand, I'm not delving into it, but it just didn't sound right to me to leave that to discretion. My general comment now is, I think. This is government overreach. I think we're just going too far. It's too complicated, in my view. I don't think there's a big problem in the R-2 or regarding this. I thought there were some other ways that we attacked it last month. That's sort of solved in my mind most of the problem without going into details such as this. So I. I'm willing to hear other comments, but I just think it's overreach. Thank you.

**Terry Cooke:** Thank you. Council Member Jacobs.

**Bud Jacobs:** Ed on the question of the mulch, our community has a what I love the title. It's called a biodiversity rain garden, which is a collection area at the bottom of our street whose sole function is to clean the runoff of our street before it enters the watershed. And the engineer who built it when he briefed us God seven years ago, whenever it was, we asked about maintenance, obviously, and he said, the only thing you should not ever do is put mulch down on it, that it would impede the drainage sufficiently that the project wouldn't serve its intended purpose. So for what that's worth, I think that's that's maybe why some jurisdictions have thrown mulch in the impervious area.

**Ed Fleischman:** Okay. Thank you.

**Terry Cooke:** That's interesting. This is the chairman. I mean, to me, it's counterintuitive. I mean, I thought you put I mean, I'm a great spreader of mulch, among other things. But I mean, I've always it's always been I have always been advised that you put mulch down to to slow the absorption of rainwater, but to allow the absorption of rainwater. And so this is this is kind of fascinating to me, frankly.

**Will Moore:** If I may, again, I think my intent may be misconstrued that mulch is great when used properly. It's just it shouldn't be a replacement for living material. It's supposed to be there to support living material to hold that moisture. So it has time to be released slowly and absorbed by the plants rather than, yeah, that's intent.

**Terry Cooke:** I don't want to get too deep in the mulch here. [laughter]. So we'll continue on. Other commissioner's comments. Anyone? Council Member Jacobs again.

**Bud Jacobs:** I just have a quick question. The benchmark you're using is a lot size of 12,500 square feet. Is that right?

**Will Moore:** Yes, sir.

**Bud Jacobs:** So a more typical lot, let's say, might be 7500 square feet.

**Will Moore:** There are many 7500 square feet lots in R-2.

**Bud Jacobs:** So in that case, the maximum building size would be 2250 square feet. Is that what we're saying with this?

**Will Moore:** Yes. If you've done the math, if that's 30% of 7500.

**Bud Jacobs:** Well, my iPhone did the math.

**Will Moore:** Yes, that is correct. Yes, it's 30% in relation to your lot size until you hit 12,500 square feet. Once you exceed that, you're still you're capped.

**Bud Jacobs:** Got it.

**Terry Cooke:** And again, just for clarification, mine, if no one else is that that square foot limit relates to the footprint of the building, not the occupant, not the occupied space in the building.

**Will Moore:** Correct. The building lot coverage applies to the footprint of the principal structure as well as accessory structures. So if you have a detached garage, if you have a garden shed, it applies to that.

**Terry Cooke:** But my point was if you have a two-story home. You could have more square footage within that home.

**Will Moore:** Correct.

**Terry Cooke:** The footprint is limited to correct too.

**Will Moore:** So so again, if even if you're on a larger lot and you hit that cap, you still have quite a large footprint to deal with even at one story. Yes, sir.

**Terry Cooke:** Thank you. Others, please. Commissioner Roszel.

**Dev Roszel:** Yes. Hi. Commissioner Roszel I would like to make two comments. One is Ed talked about the discretion of the administrator and what came to me was as we move forward, if your Will is no longer here, I think we do need to have something in place so that there's not the next Will that comes in can change it because he thinks differently than you do. So and that leads me to my next question is that I don't believe it's government overreach as Commissioner Fleischman say, we were tasked by the mayor and the town council to come up with a solution for these lots and house sizes on these lots. So I think, you know, we talk about the impervious thing that's sort of secondary to it. We were actually tasked to do so. I do believe that it's important that we come up with a plan because we were asked to come up with a plan and our role is to advise the Council on what it is that they've asked it to come up with. I was just the thing about the administrator is I think that if we leave it to open and one day Will's not here, how does the you know, we need something that's fairly concrete so that the next Will comes in and it's not like, yeah, I don't really think that's the way it should be. Maybe I'm misunderstanding it, but I want to address that. But I do want to say we're tasked with coming up with this. It's not overreach. If we don't want to come up with it, we need to come up with a solution that we can present to the town council that says, okay, we really don't care about that. That's fine, but we still have to come up with a response to what they've asked us to do.

**Will Moore:** If I might just quickly respond to the at the discretion of the administrator part.

**Terry Cooke:** [inaudible]

**Will Moore:** The let me first speak generally and then specifically to this. Generally, zoning administrators are given by code a lot of power. I'm the one person in this organization, including elected officials, including my boss back here. I'm the only one who can interpret our zoning ordinance. So I any time that there's a gray area, I am the one person to interpret that. And then there's an appellate body, which is the Board of Zoning Appeals. So somebody who's aggrieved by a determination I make, there's a method for appeal. That's statewide. There's no possible way to write an ordinance that is foolproof and not subject to interpretation. So that's always going to exist. In this case, where I'm getting it kind of going back to that comment about some people think gravel is a pervious surface. The discretion of the administrator simply means that I, I get to review the materials you're going to propose if you want those to be subject to that 50% reduction. And at the end, I have to decide whether it meets the standard for that. And so I'm not going to question an engineer or an architect, but they have to show that they're using a product and they're following the proper manufacturer's recommendations for

installation, such that it functions like it's supposed to be. And I get to make that decision. You can't just bring in the concrete grid and lay it down over top of fully compacted soil and say it's now pervious. No, you have to prepare the subgrade correctly. That's what it gets to. So that's why that line is in there.

**Terry Cooke:** Thank you, Will.

**Will Moore:** Thank you.

**Terry Cooke:** Anyone else, please?

**Rachel Minchew:** Commissioner Minchew. The one thing I do, the administrative amount of workload seems like this could be a lot at times, and I don't know how unrealistic we really are on that by implementing all of these new, I guess, codes or whatever you want to call them. So that's one concern. The other, I think the impervious there's lots of water issues out here. I think if we don't address it, we're doing a disservice to the town itself because that's been any of these places that have had some renovations or knockdowns. It's the first thing they come back is the water and it's only going to get worse because it's all being paved out there. So I think it's I think we really are mandated to say something about this and to address it. Other than that, I think everything else makes sense to me. That's it.

**Terry Cooke:** Thank you. Thank you. Good point. Anyone else. Council Member Jacobs.

**Bud Jacobs:** Bud Jacobs. I want to join the Chairman in commending you for this very creative solution to the, to the conundrum we found ourselves in over maximum lot size. For the record, I would still support a maximum lot size ordinance, but if we can't do that, then it seems to me you've come up with pretty much the ideal solution, recognizing, of course, that there are no ideal solutions. This may be as good as we're going to be able to do.

**Terry Cooke:** Thank you. Thank you. Commissioner Fleischman?

**Ed Fleischman:** Yes. Thank you, Mr. Chairman. Edward Fleischman. One of the things I was just thinking about is that I always worry about unintended consequences. So that and this gets back to the certain square footage can be a maximum lot coverage. Does that force people then to go up or down? So they put in two or three levels. So that's just a. An unintended consequence that.

**Terry Cooke:** We do have where we do have height limits, though. So we do.

**Ed Fleischman:** Right. But then more. We do have a height limit, but it pushes more people to go up to the maximum height limit. In other words, someone has I don't know, you have to look at the specifics, but I just thought it's just something to consider. That's all. Thank you.

**Terry Cooke:** Anyone else? Seeing no other folks who want to speak to this issue. I go back to my original view that I think the suggestion that Will is put before us is worthy of consideration. I do not. As I said, I think last month, I personally do not favor maximum lot sizes, but I think the limitations on the on the size of the square foot for buildings is a good one and helps us get to where we need to be in terms of controlling the mass of of new structures that are built in the R-2 district. I think what we did a few months back in terms of establishing new zoning regulations to help control the height of new structures is is worthwhile and will serve the interests of the community. We do have a a suggested motion which if made and approved, would bring this matter for public hearing. And I would welcome a motion to that effect. And we'll see how the commission feels about it.

**Will Moore:** If I may, Mr. Chairman, we typically don't take action during the work session time. Sorry. Excuse me. So I do have this later. Later on? Yes, sir.

**Don Woodruff:** You didn't miss the work.

**Terry Cooke:** I forgot that we were in the work session. [inaudible] But we'll wait till the appropriate time to give that further consideration. I believe that's the only matter we had up for consideration during the work session. Correct. So with that, we will adjourn the work session and move into the regular meeting of the May 23rd meeting of the Middleburg Planning Commission. And we will call that meeting to order. The first order of business would be disclosure by commission members of any meetings or discussions they've had with applicants with matters before the Commission. Commissioner Fleischman.

**Ed Fleischman:** I've had no discussions or meetings with applicants that have business before the Commission.

**Terry Cooke:** Thank you. As the Chairman, I have had no no meetings or discussions with applicants having matters before the Commission. Commissioner Roszel.

**Dev Roszel:** I have had no meetings or discussions with any applicants before the Commission.

**Terry Cooke:** Commissioner Minchew.

**Rachel Minchew:** I've had no meetings or discussions.

**Terry Cooke:** Council Member Jacobs.

**Bud Jacobs:** I've had no meetings or discussions with any applicant who has any matter before this commission.

**Terry Cooke:** Vice-chair Woodruff.

**Don Woodruff:** I've had no such pardon me. I've had no such meetings either.

**Terry Cooke:** Thank you all. We're now come to the public comment period. This is an opportunity for any members of the public who have matters. They want to bring to the commission's attention to make their feelings known on that. Do we have anyone Rhonda signed up for that? Ok there being no. No members of the public with who wish to address the commission, we will close the public comment and we will now turn to approval of the minutes of our April 18 work session and regular meeting. Do we have a motion, please?

**Don Woodruff:** I move that they be accepted as presented.

**Bud Jacobs:** Second.

**Terry Cooke:** Been a motion and a second. All in favor?

**Everyone:** Aye.

**Terry Cooke:** There being no nays. The minutes are approved. Thank you all. New business. We have a motion to initiate a zoning text amendment 22-01. An ordinance to amend articles 2. How's my Roman numerals?

**Will Moore:** Nine, ten and eleven.

**Terry Cooke:** Nine, ten and eleven of the Middleburg Zoning Ordinance pertaining to definitions of building lot coverage and impervious lot coverage and associated regulations thereof. I will simply refer to my earlier comments on that matter, but I would invite motion if anyone cares to make one. Go ahead. Council Member Jacobs

**Bud Jacobs:** I move that the commission initiates zoning text amendment 22-01 and advertise the amendment for public hearing.

**Terry Cooke:** Do we have a second?

**Dev Roszel:** I'll second that. Commissioner Roszel.

**Terry Cooke:** We have a motion and second. I'll call the roll if I may. Commissioner Fleischman.

**Ed Fleischman:** I abstain.

**Terry Cooke:** Chairman Well, excuse me. The Chairman doesn't vote in case of a tie. Commissioner Roszel.

**Dev Roszel:** I vote for.

**Terry Cooke:** Commissioner Minchew.

**Rachel Minchew:** Yes, I vote aye.

**Terry Cooke:** Council Member Jacobs.

**Bud Jacobs:** Aye.

**Terry Cooke:** Vice Chair Woodruff.

**Don Woodruff:** Aye.

**Terry Cooke:** Thank you. The motion passes. Thank you. Will.

**Will Moore:** Yes, sir.

**Terry Cooke:** Council Member Jacobs. We turn to the council representatives report.

**Bud Jacobs:** We will be approving fiscal year 23 budget this Thursday evening. I think everybody generally knows what's in it. There have been ample opportunities to review the budget and provide comments. I at least have received none. People seem fairly happy with the reduction in our real estate tax rate, and I think everyone knows that we will be following our utility rate model and increasing water and trash services by 3% this year, which is actually an achievement because we could have justifiably, I think, raised it even further. But we don't have to. We're not going to. And I think the budget by Thursday, correct me if I'm wrong, folks, is in pretty good shape. We should be we should be pretty happy with it. The other thing I'd like to highlight, you saw I think everyone Will's email, which had a couple of links in it, one of which I'd like to draw to your particular attention, which is the public comment site is now open for comments to the Loudoun County Zoning rewrite. I haven't been following this very closely and I have attempted to go through the zoning rewrite language once, and I confess it is incomprehensible to me. However, I know with the expertise that exists in this commission, it's probably worthwhile for folks to try to go through the material that's available on the Loudoun County website, the link for which Will kindly provided and either as individuals or perhaps maybe even as a planning commission, if we have comments that should be included in the on the Loudoun County site, perhaps we ought to consider doing them. We've got a 90-day window, which I think opened on April 18th or 19th, something like that. So there is a little bit of time for us to do the work. And if anybody can tell me what most of the language in the rewrite actually means, I'd be very, very grateful.

**Terry Cooke:** I'll get back to you on that.

**Bud Jacobs:** Well, when I said significant expertise on the commission, I'm looking at you Fleischman.

**Ed Fleischman:** Ed Fleischman, what section again do you want us to look at rather than looking at the 500 pages?

**Bud Jacobs:** I think the mayor the mayor called out section two. Is that correct? I think it was 2, yeah.

**Rachel Minchew:** The link takes you right to the sections where all of it is.

**Ed Fleischman:** Okay, that's the answer. Good. Yeah. Thank you.

**Bud Jacobs:** Thank you.

**Rachel Minchew:** Enjoy your reading.

**Don Woodruff:** And I concur with you. It's gobbledygook.

**Bud Jacobs:** The other charming feature of this, by the way, is that the Loudoun County is actually posting it for public comment and the rewrite itself is not yet complete. So I guess I guess they'll be adding sections to it as they go along. Add that's all I have, Mr. Chairman.

**Terry Cooke:** Wouldn't be the first time that Congress passed a law they hadn't read.

**Will Moore:** This is a non-legislatively [inaudible].

**Terry Cooke:** Next item on the agenda or discussion items. Any matters that any individual commissioners have they would like to bring to the Commission's consideration. Commissioner Fleischman.

**Ed Fleischman:** Thank you, Mr. Chairman. Last weekend was very busy in Middleburg, and I participated in the audience member, the Hunt Country Music Festival. I went over to the Art in the Burg festival, and I was impressed how many people were there and everybody seemed to be under control. So it was very, very pleasing even though there was beer available. I did park on Federal Street. So my comments regarding Federal Street really in that when I was walking with my wife on Federal Street, we again were reminded that there are problems with the curbs and the sidewalks and crosswalks. And so there really is a safety problem on Federal Street right in that area. And then I went back to the comprehensive plan that we had the Berkeley group work on for a few years. And then we, as a body, massaged it a little bit and approved it and sent it to the council. And then I looked at it and it said that the first step in the redevelopment of Federal Street, because there was a whole section on Federal Street and there were some diagrams of what could be done. It said the town should concentrate on the street itself and seek a grant or other public funding for streetscape improvements. And that the city of the town should work on some sidewalk projects in that particular area on the east and west side of Madison Street. That's the area that has more pedestrians and is more concern from a safety standpoint. So let me direct a question then to Will. Has the town, gone ahead and done anything in this regard.

**Will Moore:** So we have not applied for any grants for planning or constructing sidewalks to this point. Part of that is a simply capacity issue with our own project going on here with the management aspects that we have with the Residences at Salamander. We just don't have the ability to take on another construction project at this time. We do have one of our on-call engineers that has a particular specialty in seeking out grants that are available for these types of things and has assisted us with those in the past. And we will not be able to meet any application periods for grants for this current year. But quite possibly in calendar year 2023, we will be able to get such a grant application in. We have to obviously there's lots that goes into that council prioritizing it. We do have the sidewalk plan in the comprehensive plan that already prioritizes areas where we seek to do sidewalk improvements. So again, no, we have not applied for any grants to this point, but that is something that is on the radar when the capacity to manage that frees up.

**Ed Fleischman:** Thank you for your response Will. I just encourage the town staff and then looking to our council member representative here that we shouldn't forget about Federal Street, that it's a potential safety issue really, and that with everything else happening in town, we still have to deal with Federal Street also. Thank you.

**Terry Cooke:** Thank you for your comment. Following up this, the chairman following up on on Ed's comment about sort of where we are on things, where are we on the wayfinding project? I've been hearing about this for five years at least.

**Will Moore:** Yes, sir.

**Terry Cooke:** Are we doing anything? I mean.

**Will Moore:** We absolutely are. So wayfinding went out to bid late last year of contract, was approved and entered into in January. So over the last couple of months, I've been working with the contractor on making sure all the specifications are correct. They're doing the final shop drawings for the artwork. As of right now, if you drive around town and look at closely at most intersections, you will see some white stakes here and there. So not not only does the plan involve wayfinding, which will be new gateway signs at either end of the town on Route 50, there'll be some pedestrian wayfinding signs in the core of downtown. There will be some signs along Route 50 directing you to both the Pendleton Street parking lot and the Liberty Street parking lot and signage at those. But we were also replacing town wide, all of the street signs, all the street name signs, consolidating them with stop signs, consolidating them with VDOT route number signs. So some intersections where you might have two or three signposts, you're going to have just one signpost. They are will be digging the new footers for these signs early June and installing the middle of June toward the end of June. So by July one, as long as we don't hit any snags, we'll have fresh signs all throughout town.

**Terry Cooke:** Good to know. Thank you. Thank you. Vice-chair Woodruff.

**Don Woodruff:** Don Woodruff comment we seem to have one of those white stakes inside the stone wall at Meadowbrook. What would that be?

**Will Moore:** That is likely for the Meadowbrook Court sign, street named sign to be replaced. But if if that was a privately installed sign and you prefer to keep the one you have, you certainly could do that. But that was the plan that we would replace that private sign.

**Don Woodruff:** I think we have a large Meadowbrook Court sign there. I don't see putting up a signpost in the driveway as a any help to anybody. So I would I think as the president of the HOA, I would say we would be opposed to it.

**Will Moore:** Okay. I'll stop down and take a look.

**Don Woodruff:** Thank you.

**Will Moore:** Yeah, absolutely.

**Terry Cooke:** Any more comments by commissioners. Very good. We'll close that item and move on to the next item on our agenda, which is information items, the first of which is the zoning text amendment on short term rentals. The initial draft for review in June.

**Will Moore:** That is the information item essentially that I much like you had an initial draft for the R-2 district this month. I intend to have an initial draft based on the study and discussion we've been doing over short-term rentals for your consideration next month.

**Terry Cooke:** Thank you. Thank you. Next item is input opportunities regarding the corporate boundary line adjustment proposals. Will.

**Will Moore:** Again, an information item. So obviously everyone's aware of the public information session that happened. The commission, of course, was aware of the proposals. You'd had a closed session briefing back in January on that. So we've tried to keep you in the loop as to where we are in receipt of those proposals, and now we're kind of in an input gathering mode. So the email I distributed to you with with the agenda also included a

direct link to the input page on our website. I would encourage each and every one of you to please visit that if you weren't able to attend the session, or if you just want to refresher. The presentation slides are available on there as well as a video recording of the presentation. And then there's an actual form set up on there that you can fill out to provide input or you can email Rhonda directly or you can call Rhonda directly and speak with her and give her your comments. So, please, we're looking for as many sets of inputs from our residents as we can get on this. So again, you have that link in that email or it's there's a prominent link to it on our home page if you don't have that email any longer.

**Terry Cooke:** It's been a couple of weeks, frankly, since I've looked at it. We it seems we're getting a fair amount of written comments from residents. But are you seeing folks coming in at the town council meeting and speaking directly about this?

**Bud Jacobs:** We're going to continue the public comment sessions on the BLA proposals for the next month or two anyway. As I recall last Council, we didn't really have that many. We, we had some on the.

**Rhonda North:** We had three comments in the last meeting.

**Bud Jacobs:** Yeah. And do you remember in the first public comment session, I think we had a few more than that. Anyway it seemed to taper off and but we're going to continue to have the space open for people to speak. I haven't read the last batch of submissions of written comments, but I have to say it's useful, it's instructive. And some of the comments comments are actually quite helpful. So it's turned out, I think, to be a pretty useful tool, at least for me to get a sense on how people are looking at this. And I would say they do not appear to be looking at it, at least the Homewood proposal in nearly as negative a light as I would have expected.

**Will Moore:** And I should also say that those comments that we receive are collated and they're posted on that same page. And then there's kind of a frequently asked questions document as well, where people who may have asked a question in lieu of making a comment have asked that question, and we've provided some responses on there as well.

**Terry Cooke:** Very good. Thank you. Next information item is Loudoun County Zoning Ordinance rewrite. Council Member Jacobs brought us up to date on that. Anything else to add on that from anyone? No, thank you. Looks like we're up to our last substantive agenda item, which is a quorum. Oh, did you have something?

**Ed Fleischman:** Number 12 is also [inaudible]. [laughter]

**Terry Cooke:** Quorum for June 27. Is everyone here available on the 27th of June?

**Rachel Minchew:** I'm not here on the 27th.

**Don Woodruff:** I'm not here on the 27th.

**Terry Cooke:** You're not here either. Okay. Oh, one, two, three, four. That gives us a quorum. We don't know what Mimi status is. All right. Are you going to go away?

**Ed Fleischman:** No, no, no. I just wanted to ask a question if I might.

**Terry Cooke:** Commissioner Fleischman.

**Ed Fleischman:** If there are a few people being away, is there an opportunity to have remote call ins then so we can have a quorum? What's the rule on that? I forgot.

**Will Moore:** Well, so we have to have a quorum physically present. Physically, yes, but. But you are able and there are some qualifying things that go along with it. And Rhonda can help you out with that. But you are able to participate remotely a certain number of times, depending on the situation. If it has to do with medical

reasons, it's an unlimited amount of time. But if you have questions on that process, contact Rhonda. As long as we have a quorum physically present, we can also have members attend remotely.

**Ed Fleischman:** Great. Thank you.

**Terry Cooke:** Very good. Thank you. So thank you all for your attention and comments. [off mic] The last item on our agenda is adjournment. Thank you all. We are adjourned.