

MIDDLETOWN PLANNING COMMISSION

Middletown Municipal Center
31 West Main Street
Middletown, MD 21769

AGENDA
Monday, April 22, 2013
7:00 p.m.

- I. Public Comment
- II. Minutes of March 2013 Planning Commission meeting Approval
- III. Plan Review
 - Thompson Parking Lot Site Plan Discussion/Approval
 - Fire Department Activities Center Improvement Plans Discussion/Approval
 - Fire Department Station Concept Plan (Meeting only) Discussion
 - Valley Child Care Center special exception use Discussion/Recommendation
 - Cross Stone Shopping Center special exception use Discussion/Recommendation
- IV. Zoning
 - Violations
- V. Miscellaneous
 - 2012 Annual Report draft Discussion/Approval
- VI. Additional Public Comment

**** All requests to be on the Planning and Zoning Agenda must be received at the Middletown Planning and Zoning office in the Middletown Municipal Center, 31 W. Main Street, Middletown by noon on the Monday two weeks prior to the monthly meeting held on the third Monday of each month. All plans being submitted for review must be folded, although electronic plans are preferred.**

MIDDLETOWN PLANNING COMMISSION
31 West Main Street
Middletown, Maryland

Regular Meeting

March 18, 2013

The regular meeting of the Middletown Planning Commission took place on Monday, March 18, 2013 at 7:00 p.m. at the Middletown Municipal Center, 31 West Main Street, Middletown, MD 21769. Those present were Chairman Carney, Commission members David Lake, Bob Miller, Bob Smart, Rich Gallagher, Ron Forrester, Commissioner Chris Goodman, Bruce Carbaugh, Director of Operations & Construction and Cindy Unangst, Staff Planner.

- I. PUBLIC COMMENT - none**
- II. Regular Meeting Minutes of February 18, 2013 – approved as submitted.**

III. PLANS

Coblentz Property Preliminary Plan Review – Chairman Carney stated that the Burgess & Commissioners approved the master plan modification for the Coblentz Property. Bruce Carbaugh stated that he looked at the plan and ARRO comments and our design manual standards requires 150' roadway centerline radius and the plan shows 63' radius on some and 75' radius on some. Bruce stated that he has tried all vehicle types and all can get around these radius' but if a tractor trailer would come through on the 63' radius it will need to take both lanes to get around, but it works. Bruce also stated that at the entrance the existing water quality structure will be destroyed due to the entrance construction; therefore the applicant will need to look at this area and account for the structure being removed. Bruce also stated that an accel/decel lane will more than likely be required when considering the ultimate buildout. The applicant stated that he didn't see the need for an accel/decel lane with the first phase of this development as it will probably only be 35 houses for some time due to the fact that he has to provide another water resource before phase 2 of this development can be built. The applicant agreed to look at putting the accel/decel lane in but if they feel it's not necessary at this time a note will be added to the plans. All parties agreed that a note on the plans would suffice regarding the requirement for the accel decel lane and the timing with respect to phasing would be determined. Bruce stated that he is completely fine with this.

Motion by Lake to approve the preliminary plan with the following conditions: 1)waiver requests identified on plan, 2)waiver for mountable curbs required, 3)center line radius of roads waiver to be added, 4)traffic volume analysis to determine the need for accel/decel lane, 5)curb & gutter along Green Street, and 6)plan showing all revisions of Fred. Co. comments, seconded by Smart. Motion carried. (5-0).

Parking Lot Special Exception Use – Commission member Lake stated that he left the workshop with the impression that this property was consistent with the zoning ordinance. Mr. Lake wanted to get clarification on the process of this request. Mr. Lake was questioning who exactly is approving the site plan. Per the ordinance Section 17.44.060 C it states that all applications for a special exception request shall be referred to the Planning Commission for a recommendation. Mr. Lake then stated that 17.44.060 D states that the Board of Appeals, in passing upon special exception applications, may attach conditions considered necessary to protect the public welfare and the comprehensive plan, including conditions which are more restrictive than those established for other uses in the same zone.

After much discussion it was determined that the Planning Commission needed to make recommendations on the Site Plan in front of them tonight to the Board of Appeals as they will not be able to do so later.

Motion by Lake to recommend approval of the Special Exception use on the following conditions: 1)removal of space #12, 2)separate ingress/egress, add to the proposed signs at Green Street, 3)remove spaces 7 & 8, mark pavement no parking, hazard pole guidelines?? (guy wires??), 4)minimum 3' shrub plantings along both east & west side of parking area at the end of the parking spaces to defer the car lights from adjoining properties, 5)50' setback of paved area to address the protection of adjacent land and buildings, 6)driveway curved to center of parking lot, 7)sign above garage doors on apartment building stating parking for funeral home only, and 8)conditional on SWM approval by Fred.Co., seconded by Miller. Motion carried (5-0).

IV. ZONING

Violations – Camper on Groff Court – removed

V. MISCELLANEOUS

2012 Annual Report Draft – defer to next month.

VI. ADDITIONAL PUBLIC COMMENTS – none

Meeting adjourned at 8:26pm.

Respectfully submitted,

Ann Griffin
Administrative Specialist

Middletown Planning Office

MEMORANDUM

Date: 4/16/2013

Hansen#

To: Middletown Planning Commission

From: Cynthia K. Unangst, Middletown Staff Planner

RE: **THOMPSON FUNERAL HOME PARKING LOT SITE PLAN**

Tax Map Parcel #03-0133583

Applicant: Donald B. Thompson

Property Owner: Donald B. Thompson

Plan Dated: January 30, 2013

Date Received: March 15, 2013

GENERAL INFORMATION

Proposal: Proposed improvements include a parking area, landscaping and parking/entrance signs for use as a parking lot for patrons of the Thompson Funeral Home.

Location: 32 East Green Street to the rear of the Funeral Home located at 31 East Main Street.

Zoning: R-2 Medium Residential. This district permits multi-family dwellings and parking lots by special exception. The funeral home use at 31 East Main Street is a non-conforming use.

Present Use: Apartment building

COMMENTS

The following issues should be considered in your review of this Site Plan:

1. **Permitted uses in the R2 District** – The applicant received Board of Appeals conditional approval on March 27, 2013 for the parking lot as a special exception use in the R-2 District. The conditions are as follows:
 - a) 35-foot setback – *The site plan shows a 35-foot setback for the parking lot.*
 - b) Separate entrance and exit as indicated by proper signage off East Green Street – *The site plan shows two entrances/exits, but does not indicate which is to be the entrance and which is to be the exit. The site plan should also show the proposed signage for the entrance and exit.*
 - c) Parking space #12 should be indicated as a compact car parking space only – *The site plan should be revised to show the proper wording for parking space #12.*
 - d) Parking spaces 7 and 8 should be eliminated due to the electric pole guy wires – *The site plan should be revised to show the elimination of parking spaces 7 and 8.*

- e) Minimum 3-foot high shrub plantings at the edge of the pavement on both the east and west sides of the parking lot to shield auto headlights from adjoining properties – *The site plan should show the shrub plantings along the edges of the paved parking spaces. The plan should also show the species of shrubs to be planted along with the quantity of shrubs to be planted.*
- f) Signage above the west garage door on the apartment building stating the lot is for parking for the funeral home only – *The site plan shows a proposed sign in the area indicated as well as a detail of the signage language.*
- g) Stormwater management approval from Frederick County – *Staff has not heard whether Frederick County has approved the stormwater management plan for the property yet.*

This review will be included in the Middletown Planning Commission materials for the April 22, 2013 public meeting. The applicant is encouraged to attend this meeting and the workshop on the Wednesday prior to the meeting which will be April 17, 2013.

cc: William Ryan
Donald B. Thompson
Burgess John Miller

Middletown Planning Office

MEMORANDUM

Date: 3/27/2013

Hansen# 6174

To: Middletown Planning Commission

From: Cynthia K. Unangst, Middletown Staff Planner

RE: **MIDDLETOWN FIRE DEPT. ACTIVITIES CENTER REVISED SITE PLAN**

Tax Map Parcel #03-146545

Applicants: Bill Brennan, B & R Design Group

Property Owner: Middletown Volunteer Fire Department

Plan Dated: November 2012, revised February 21, 2013

Date Received: March 21, 2013

GENERAL INFORMATION

Proposal: Construction of a banquet hall/activities center for the Middletown Volunteer Fire Department. Work includes construction of banquet hall/activities center, roadways, parking areas, stormwater management, utilities and sediment control.

Location: On Fireman's Lane off Franklin Street adjacent to Middletown Primary School

Zoning: OS Open Space (9.27 acres) and R1 Residential (7.73 acres). The Open Space district permits schools, churches, community centers and other public buildings, and those accessory uses commonly associated with them. The R1 District permits churches, schools, libraries, museums and parks, playgrounds, and family day care homes, and permits public safety services and community centers by special exception.

Present Use: Existing storage building and grounds used for carnival during the summer.

COMMENTS

The following issues should be considered in your review of this Site Plan:

1. **Changes from previously approved plan** – This revised plan shows revisions based on meeting the new energy code which required a vestibule be added to the front of the building. The locations of lighting on the building and for the parking areas has been added as well and as shown more clearly on the lighting plan which has also been submitted.
2. **Parking** – The site plan shows that the parking requirements have been met.
3. **Use** – The proposed use is for an activities center for the volunteer fire department. There is no definition of activities center in the Middletown Town Code. There is a definition of community

center which is: “the use of property for a building which serves a public function, to be used for cultural, recreational or social activities, including senior centers, and similar community or government facilities.” The Planning Commission has discussed adding a definition for ‘activities center’ to the Town Code. The hours of operation have been discussed as being from 7am – 10pm Sunday thru Thursday and 7am – Midnight Friday and Saturday as shown in Note #17.

4. **Prior use and other uses on subject parcel** – The prior use of this property is as the carnival grounds for the fire department as well as for storage in the existing storage building on site.
5. **Phases** – The plans were revised to show no phases anymore.
6. **Landscape plan** – The revised landscape plan, as shown in the current plans, was approved by the Planning Commission in October 2011. The prior plan showed six honey locust trees to be planted in the area of the parking lot near the loading zone. The revised plans show two honey locust trees to be planted in that general vicinity. The previous plans showed more parking in the area of the loading zone.
7. **Signage** – Signage has not been addressed yet, but should be at the Improvement Plan stage especially if a monument or freestanding-style sign is being proposed.
8. **Lighting** – A Lighting Plan has been added to the plans. There will be building-mounted lights around the building, as well as 18-foot tall pole lights along Fireman’s Lane and in the parking lot. The pole lights have shields so as to deflect the lighting downward and not upward. Photometrics are also shown on the plan.
9. **Water and Sewer requirements** – The Fire Department has had a discussion with the Town Board regarding water taps.
10. **Approval by Frederick County** – The Stormwater Management Concept Plan/Development Plan has been sent to the County for review and approval. All comments have been received and addressed.
11. **Comments received from ARRO** – All comments received from ARRO have been incorporated into the site plan.
12. **Remainder of property** – As a reminder to the Planning Commission and the applicant, the proposed plans show the end of the public right-of-way of Fireman’s Lane. Given the fact that the ingress to the “community center” will be a private road and the remaining parcel behind the building is zoned R-1, use of the remainder for residential purposes may be prohibited under existing regulations which state that residential development must front on a public street.

This review will be included in the Middletown Planning Commission materials for the April 22, 2013 public meeting. The applicant is encouraged to attend this meeting and the workshop on the Wednesday prior to the meeting which will be April 17, 2013.

Middletown Planning Office

MEMORANDUM

Date: 3/27/2013

Hansen# 13202

To: Middletown Planning Commission

From: Cynthia K. Unangst, Middletown Staff Planner

RE: **MIDDLETOWN FIRE DEPT. ACTIVITIES CENTER IMPROVEMENT PLAN**

Tax Map Parcel #03-146545

Applicants: Bill Brennan, B & R Design Group

Property Owner: Middletown Volunteer Fire Department

Plan Dated: November 2012, Revised January 2013

Date Received: February 5, 2013

GENERAL INFORMATION

Proposal: Construction of a banquet hall/activities center for the Middletown Volunteer Fire Department. Work includes construction of banquet hall/activities center, roadways, parking areas, stormwater management, utilities and sediment control.

Location: On Fireman's Lane off Franklin Street adjacent to Middletown Primary School

Zoning: OS Open Space (9.27 acres) and R1 Residential (7.73 acres). The Open Space district permits schools, churches, community centers and other public buildings, and those accessory uses commonly associated with them. The R1 District permits churches, schools, libraries, museums and parks, playgrounds, and family day care homes, and permits public safety services and community centers by special exception.

Present Use: Existing storage building and grounds used for carnival during the summer.

COMMENTS

The following issues should be considered in your review of these Improvement Plans:

1. **Site Plan approval** – The Planning Commission conditionally approved a Revised Site Plan for the Activities Center on October 17, 2011 contingent on the hours of operation to be noted on the Site plan, and conditional on the Town Engineer's comments and ARRO's comments. Another Revised Site Plan was received on March 21, 2013 with revisions based on meeting the new energy code which required a vestibule be added to the front of the building, as well as the elimination of the previously proposed two phases and the addition of the locations of lighting on the building and in the parking area.

2. **Use** – The proposed use is for an activities center for the volunteer fire department. There is no definition of activities center in the Middletown Town Code. There is a definition of community center which is: “the use of property for a building which serves a public function, to be used for cultural, recreational or social activities, including senior centers, and similar community or government facilities.” The Planning Commission has discussed adding a definition for ‘activities center’ to the Town Code.
3. **Prior use and other uses on subject parcel** – The prior use of this property is as the carnival grounds for the fire department as well as for storage in the existing storage building on site.
4. **Phases** – The Improvement Plans reflect that there no longer are the two phases that were shown previously.
5. **Signage** – Signage has not been addressed yet, but should be at the Improvement Plan stage especially if a monument or freestanding-style sign is being proposed.
6. **Lighting** – A Lighting Plan was submitted with the revised site plan that shows both building-mounted lighting and pole lighting along Firemen’s Lane and in the parking lot.
7. **Water and Sewer requirements** – The Fire Department met with the Town Board on February 6th to discuss water taps and it was determined that three water taps would be needed for the project.
8. **Approval by Frederick County** – The plans have been approved or conditionally approved by all County agencies.
9. **Bruce Carbaugh’s comments** - Bruce’s latest comments from January 8, 2013 have been addressed.
10. **ARRO’s comments** – ARRO’s comments from January 24, 2013 have been addressed.
11. **Error on plan sheets** – The Town of Middletown signature block on the sheets should state approval of the Planning Commission or approving authority and not the mayor.
12. **Remainder of property** – As a reminder to the Planning Commission and the applicant, the proposed plans show the end of the public right-of-way of Fireman’s Lane. Given the fact that the ingress to the “community center” will be a private road and the remaining parcel behind the building is zoned R-1, use of the remainder for residential purposes may be prohibited under existing regulations which state that residential development must front on a public street.

This review will be included in the Middletown Planning Commission materials for the April 22, 2013 public meeting. The applicant is encouraged to attend this meeting and the workshop on the Wednesday prior to the meeting which will be April 17, 2013.

cc: Bill Brennan, B & R Design Group
Middletown Volunteer Fire Department

FIRE HOUSE IMAGES

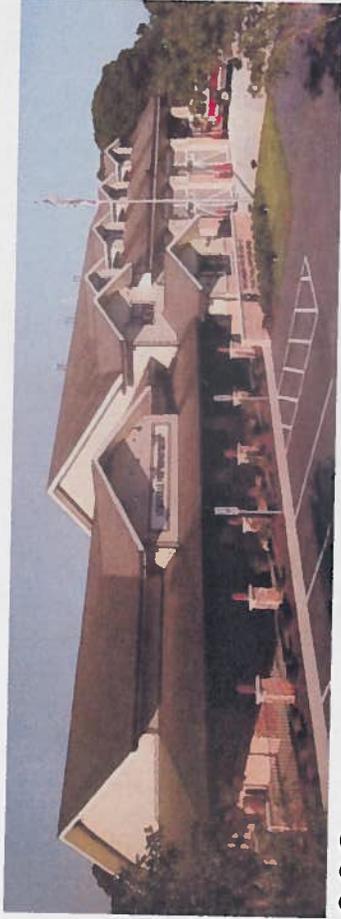
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TOWN OF MIDDLETOWN, MD.



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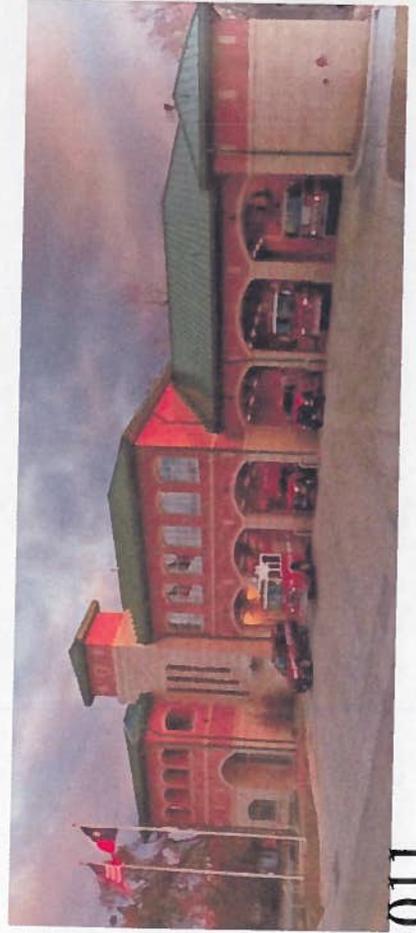
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FIRE HOUSE IMAGES



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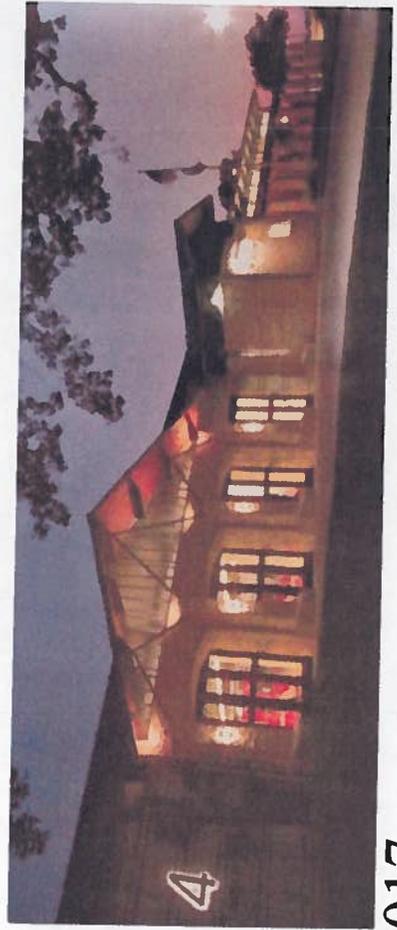
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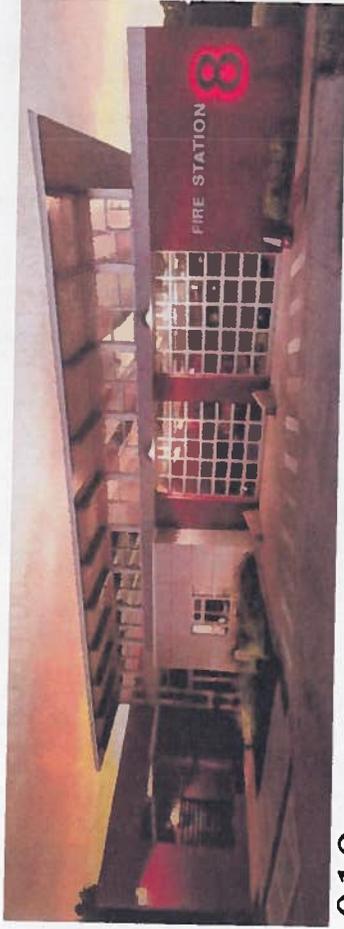


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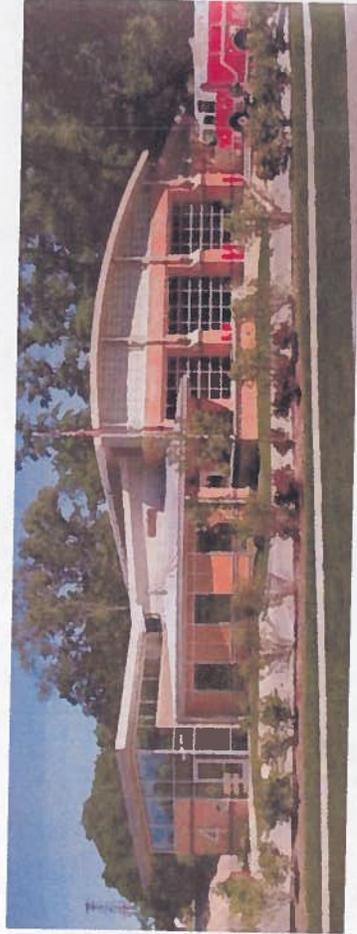
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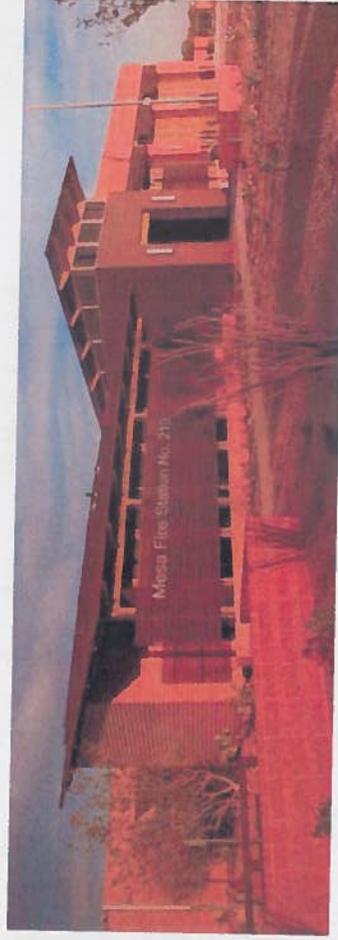
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FIRE HOUSE IMAGES



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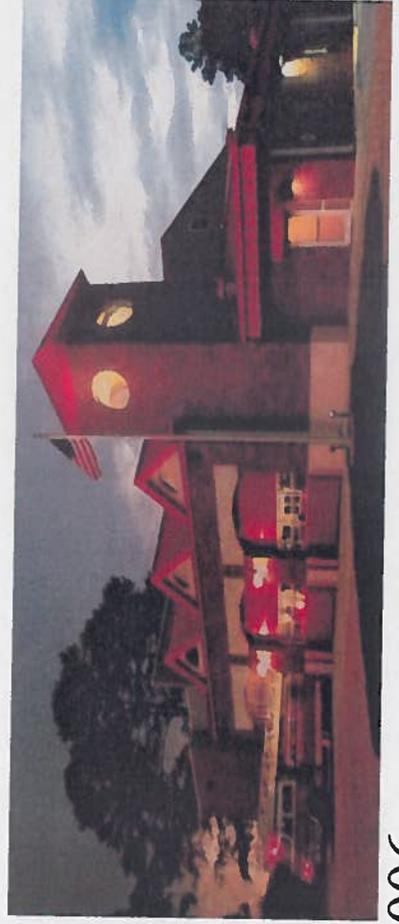
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MEMORANDUM

Date: 4/15/2013

To: Middletown Planning Commission, Middletown

From: Cindy Unangst, Middletown Staff Planner

RE: THE VALLEY SCHOOL SPECIAL EXCEPTION

Attached is an Appeal for Special Exception (and related material) submitted by LAM Properties LLC requesting that the Board of Appeals of Middletown consider the request for a child daycare center at 30 East Green Street.

From staff review and analysis this request is being forwarded to the Middletown Board of Appeals for decision at a Public Hearing to be held May 8, 2013. However, as is stipulated in the Middletown Municipal Code, a recommendation is requested from the Middletown Planning Commission for all special exception requests.

TOWNHALL
31 West Main Street
Middletown, MD 21769

Town of Middletown

Phone: 301-371-6171
Fax: 301-371-6474

Middletown Board of Appeals

April 15, 2013

STAFF REPORT

MT-B-13-02

Applicant: LAM Properties LLC
Location: 30 East Green Street
Middletown, MD 21769
Request: Special exception approval for a child daycare center
Zoning: R-2 Residential District

Section(s) of the Code that Apply:

17.44.060 Board of Appeals Special Exceptions
17.16.030C. Special Exceptions in the R-2 Residential district
17.48.170 Nursery schools and child care centers

Staff Comments:

The applicant is filing for a special exception use for a child daycare center in the R-2 Residential District at 30 East Green Street.

The Board must determine that the Specific Standards under Section 17.48.170 (attached) are in compliance with the proposed use of the property. Based on staff review and site inspection, staff would offer the following:

- A. Lot area – twelve thousand (12,000) square feet minimum. *The property for the proposed use is 27,878 square feet in size.*
- B. Lot width – one hundred (100) feet minimum. *The property for the proposed use has a lot width of 167 feet.*
- C. The floor area devoted to the use for the child care center or nursery school shall contain at least thirty-five (35) square feet of usable floor space for each child, exclusive of corridors, kitchens, bathrooms, offices, isolation rooms or areas, storage space, and permanent sleeping space. Required space may include non-fixed children's chairs, tables and play equipment. *The schematic floor plan shows a total of 753 square feet for the 20 occupants in the 3-4 year old room which equates to over 37 square feet per child, a total of 481 square feet for the 12 occupants of the 2-year old room which equates to 40 square feet per child, a total of 410 square feet for the 9 occupants of the infant/toddler room which equates to over 45 square feet*

per child, and a total of 1,063 square feet in the school age room which equates to over 35 square feet per child. The schematic floor plan also shows the square footage of a mechanical room, kitchen, office, receptionist area and two bathrooms.

- D. One parking space shall be required per seven pupils plus one per employee not to be less than four parking spaces. The site plan indicates that there will be 20 spaces, one for each of the 10 employees plus the 10 spaces required for the number of pupils (71 students/7 = 10). One of the spaces will be a handicap accessibility space.*
- E. Yards – twenty-five (25) feet from all property lines. The site plan shows the proposed daycare building being 27 feet from the side property line to the east, 26 feet from the rear property line to the south, 71 feet from the side property line to the west, and 76 feet from the front property line to the north. Landscaping is shown on all property lines with stormwater management shown as bio-retention facilities along the west and north sides of the property within landscaped areas. The parking spaces on the north side of the lot are within 10-16 feet of the front property line. There are no code requirements which state that the parking area cannot be within the front yard area.*
- F. There shall be an adequately sized play area, fully fenced and enclosed. The site plan shows a play area of 5,890 square feet which is well over the minimum required size per Maryland State regulations for daycare centers. The plan also shows the play area to be fully fenced with a 5-foot chain link fence.*

In addition to those specific requirements above, the general requirements to be used by the Board of Appeals are as follows:

17.44.060 General Standards. A special exception may be granted when the Board of Appeals finds from a preponderance of the evidence produced at the hearing that:

1. The proposed use, including its nature, intensity and location, is in harmony with the intent of the district;
2. That adequate water supply, sewage disposal, storm drainage and fire and police protection are or can be provided for the use;
3. That the use of adjacent land and buildings will not be discouraged and the value of adjacent land and buildings will not be impaired by the location, nature and height of buildings, walls and fences;
4. That the use will have proper location with respect to existing or future streets giving access to it, and will not create traffic congestion or cause industrial or commercial traffic to use residential streets;
5. That the specific standards (Chapter 17.48) set forth for each particular use for which a special exception may be granted have been met.

The Staff has reviewed the above standards and the subject property and makes the following findings:

- A. The subject property is zoned R-2 Residential and is adjoined on the east side by a parking lot for a commercial use, on the southeast side by an existing non-conforming commercial use, and on the west, south, and southwest sides by single-family dwellings. Across East Green Street is a farmer's field that in future years will be a single-family dwelling development with a library/senior center site directly across from the proposed child daycare

center. The proposed child daycare center will be a change in intensity from the current mostly vacant use of the property. There currently are two existing accessory buildings on the lot. The proposed child daycare center would be open five days a week from 6:30am-6:30pm with most children being picked up by 6:00pm. Due to its location within 700 feet of the Middletown School Complex and its hours of operation being during the daytime hours on week days, the proposed use appears to be in harmony with the intent of the district and a good location for a child daycare center.

- B. The subject property as an existing lot of record has adequate water and sewer supply. Storm drainage for the proposed use will be reviewed by Frederick County. Fire service is within 1,500' and there are deputy sheriff's assigned to the Town for police protection.
- C. The use of adjacent land and buildings should not be impaired by the proposed use since it will only be open during daytime hours on weekdays. The proposed building will be one-story in height and thus will not exceed the height of adjacent homes. The proposed five-foot fence will be screened by evergreen plantings.
- D. The existing street already handles commercial traffic and the proposed use should not generate much more traffic than what previously existed. The daycare center will have children arriving and departing throughout the day and should not be concentrated during any one hour.

Staff Recommendation: Given that all of the specific standards for the parking lot use seem to be met, the location of the use should not significantly increase traffic congestion, water and sewer taps are available for the use, and the nature and intensity of the use will not adversely affect the surrounding neighborhood, staff recommends approval of the child daycare center use on the R-2 Residential district site. Even though site plan approval by the Planning Commission isn't required by the specific standards for child daycare centers, it is required by Section 17.32.230 of the Middletown Code. (Section 17.32.230 – Site plans required for approval by PC)

Board of Appeals
Town of Middletown, Maryland

Date Filed April 8, 2013
Map/Grid/Parcel/Lot map 500/parcel 705
Zoned R-2

APPEAL FOR SPECIAL EXCEPTION UNDER ZONING ORDINANCE

Petition is hereby made for a special exception under the Zoning Ordinance, as follows:

Location South Side East Green Street 750' +/- East of Church Street
N S E W side of road; distance N S E W from nearest intersecting road

Subdivision _____ Lot _____ Block _____

Street and Number East Green Street Zoning Classification R-2

Use proposed Child Daycare Center

Zoning Ordinance subsection(s) providing for proposed use: 17.16.030 and 17.48.170

Owner of property: Name Harold J. and Muriel A. Taylor
Address 806 Blakely Court, Apt. 273, Frederick, MD 21702

Appellant's present legal interest in above property: (Check one)

Owner (including joint ownership) Lessee Contract to lease or rent
 Contract to purchase Other(describe) _____

Has any previous petition or appeal involving this property been made to the Board: If so, give Case Number(s): No

Further comments, if any:

I hereby affirm that all of the statements and information contained in or filed with this appeal are true and correct

[Signature]
Signature of Petitioner

9093 Ridgefield Drive, Suite 207
Address of Petitioner
Phone # 240-422-5759



BURGESS AND COMMISSIONERS OF MIDDLETOWN

MUNICIPAL CENTER
31 West Main Street
Middletown, MD 21769

April 15, 2013

Phone:(301)-371-6171
Fax:(301)-371-6474
E-mail:
Office@ci.middletown.md.us

NOTICE TO ADJACENT PROPERTY OWNERS

M-B-13-02

An Appeal has been received that applies to the property located at 30 East Green Street. An application has been made for the following request for a special exception:

Special exception for a child daycare center in the R-2 Residential District at 30 East Green Street

The property is located in the R-2 Residential district and the application was referred to the Middletown Board of Appeals because only the Board of Appeals may grant rulings on special exceptions. The hearing will be held on Wednesday, May 8, 2013 at 7:00 PM in the Middletown Municipal Center, at 31 West Main Street.

Citizens are welcome to attend the meeting at which time citizens wishing to be heard will be recognized in public session. The hearing is not limited to those receiving copies of this notice, and if you are aware of any property owners who, for any reason have failed to receive a copy of this notice, it would be appreciated if you would inform them of this public hearing.

For further information contact the Middletown Office at your earliest convenience. Individuals requiring special accommodations are requested to contact Andrew Bowen, Town Administrator to make arrangements.

Cynthia K. Unangst

Middletown Zoning Administrator

**Town of
MIDDLETOWN, MARYLAND**

LIST OF ADJOINING AND CONFRONTING PROPERTY OWNERS

Case Number M-B-13-2

Appellant LAM Properties LLC

Proceedings under the Zoning Ordinance require that notice of public hearing be given.

It is the responsibility of the appellants and petitioners to supply ACCURATE names and CORRECT addresses (must have house numbers or P.O. Box numbers) of all adjacent and confronting property owners on this form, as shown in current County Land Records.

Court decisions indicate that compliance with notice requirements is essential to jurisdiction of the approving body and therefore to the validity of its decision.

<u>NAME</u>	<u>ADDRESS</u>
Mary E. Lear TM 500 P 704 Lot 2	28 E Green St., Middletown, MD 21769-7910
Edward R. & Jane E. Weir TM 500 P 704	27 E. Main St., Middletown, MD 21769-7933
Ann M. Parsons & Diane K. Nichols TM 500 P 705	29 E. Main St., Middletown, MD 21769-7933
Donald B. Thompson TM 500 P 706 LT 1 SEC 2	PO Box 18, Middletown, MD 21769-0018
Donald B. Thompson & Sharon M. Davidson TM 500 P 706 LT 2 SEC 2	PO Box 18, Middletown, MD 21769-0018
Coblentz LLC TM 55 P 53	262 W. Patrick St., Frederick, MD 21701



NOTICE OF PUBLIC HEARING TOWN OF MIDDLETOWN

Notice is hereby given that the Board of Appeals of Middletown will hold a Public Hearing on **Wednesday, May 8, 2013 beginning at the hour of 7:00 P.M., at the Middletown Municipal Center, 31 West Main Street, Middletown, MD** to consider the Special Exception use of a child daycare center at 30 East Green Street in the R-2 Residential district.

The proposed Special Exception use of a child daycare center in the R-2 district is made by LAM Properties LLC and is proposed to be located at 30 East Green Street.

Copies of the proposed Special Exception are available at the Middletown Municipal Center for any citizens wishing to receive a copy of the proposed special exception for review.

All citizens wishing to be heard will be recognized at this hearing. Any person desiring a stenographic transcript shall be responsible for supplying a competent stenographer.

Individuals requiring special accommodations are requested to contact Andrew Bowen, Town of Middletown, at (301) 371-6171, at least 48 hours prior to the Public Hearing.

17.44.060 Special exceptions.

A. Filing of Special Exception. For any use permitted by special exception, a special exception must be obtained from the board of appeals. In addition to the information required on the building permit application, the special exception application must show:

1. Site plans, ground floor plans and elevations of proposed structures;
2. Names and addresses of adjoining owners.

Unless otherwise specified or extended by the board of appeals, a special exception authorized by the board expires if the applicant fails to obtain, where required to do so, a building permit or use certificate within twelve (12) months of the date of the authorization of the special exception.

B. Temporary Special Exceptions.

C. Referral to Planning Commission. All applications for a special exception shall be referred to the town planning commission for a recommendation.

D. Conditions. The board of appeals, in passing upon special exception applications, may attach conditions considered necessary to protect the public welfare and the comprehensive plan, including conditions which are more restrictive than those established for other uses in the same zone.

E. Application of Extent-of-Use Regulations. The lot area, lot width and yard requirements as set forth in this title must be followed as the minimum by the board of appeals. Where no extent-of-use regulations are set forth for the particular use, the board must impose extent-of-use requirements as necessary to protect the public welfare and the comprehensive plan.

F. General Standards. A special exception may be granted when the board of appeals finds from a preponderance of the evidence produced at the hearing that:

1. The proposed use, including its nature, intensity and location, is in harmony with the intent of the district;
2. That adequate water supply, sewage disposal, storm drainage and fire and police protection are or can be provided for the use;
3. That the use of adjacent land and buildings will not be discouraged and the value of adjacent land and buildings will not be impaired by the location, nature and height of buildings, walls and fences;
4. That the use will have proper location with respect to existing or future streets giving access to it, and will not create traffic congestion or cause industrial or commercial traffic to use residential streets;
5. That the specific standards (Chapter 17.48) set forth for each particular use for which a special exception may be granted have been met.

G. Burden of Proof. The applicant for a special exception shall have the burden of proof, which shall include the gathering and forwarding of evidence and the burden of persuasion on all questions of fact which are to be determined by the board of appeals.

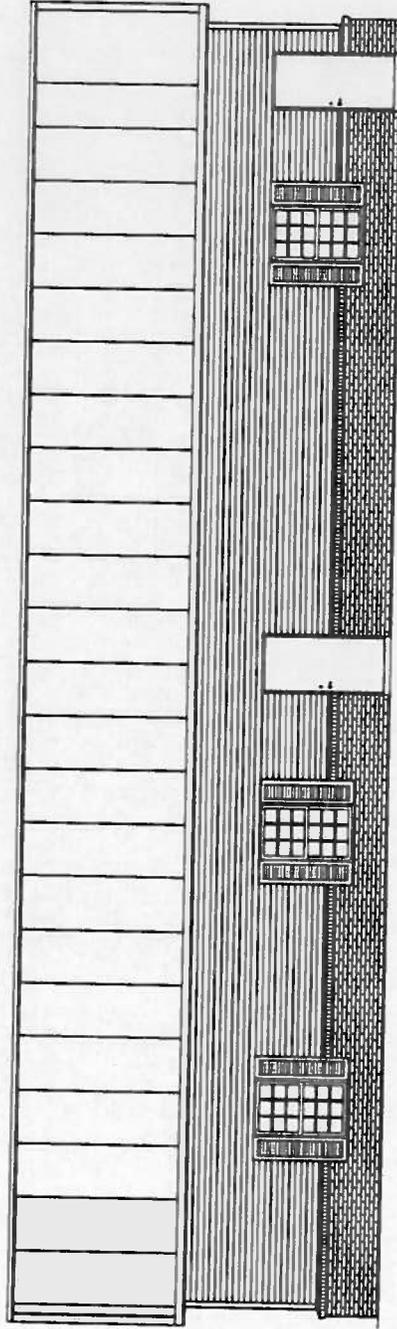
17.48.170 - Nursery schools and child care centers.

Nursery schools and child care centers in R and GC districts are subject to the requirements of that district except as herein modified and provided:

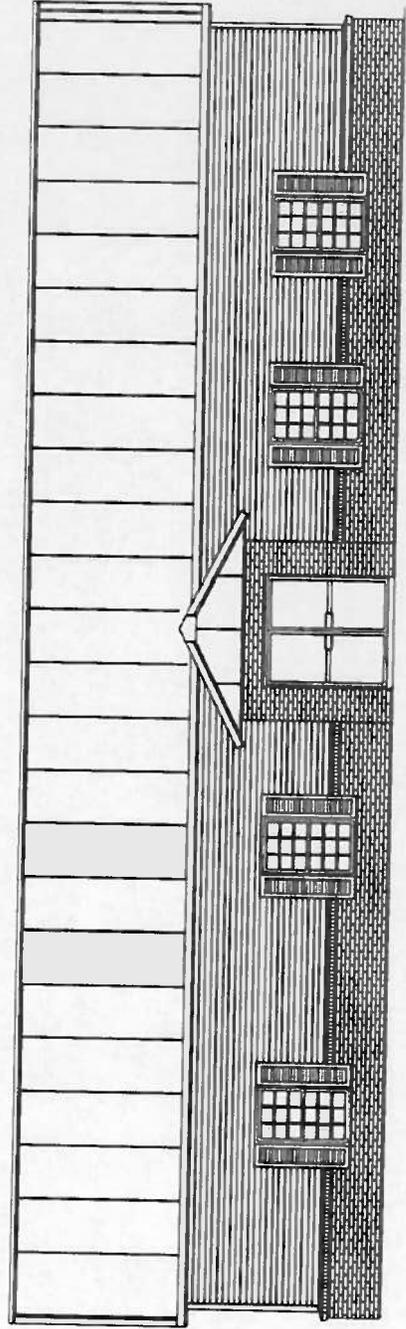
- A. Lot area—twelve thousand (12,000) square feet minimum;
- B. Lot width—one hundred (100) feet minimum;

- C. The floor area devoted to the use for the child care center or nursery school shall contain at least thirty-five (35) square feet of usable floor space for each child, exclusive of corridors, kitchens, bathrooms, offices, isolation rooms or areas, storage space, and permanent sleeping space. Required space may include non-fixed children's chairs, tables and play equipment;
- D. One parking space shall be required per seven pupils plus one per employee not to be less than four parking spaces;
- E. Yards—twenty-five (25) feet from all property lines;
- F. There shall be an adequately sized play area, fully fenced and enclosed.

SCHEMATIC BUILDING ELEVATIONS
THE VALLEY SCHOOL
APRIL 2013 NTS

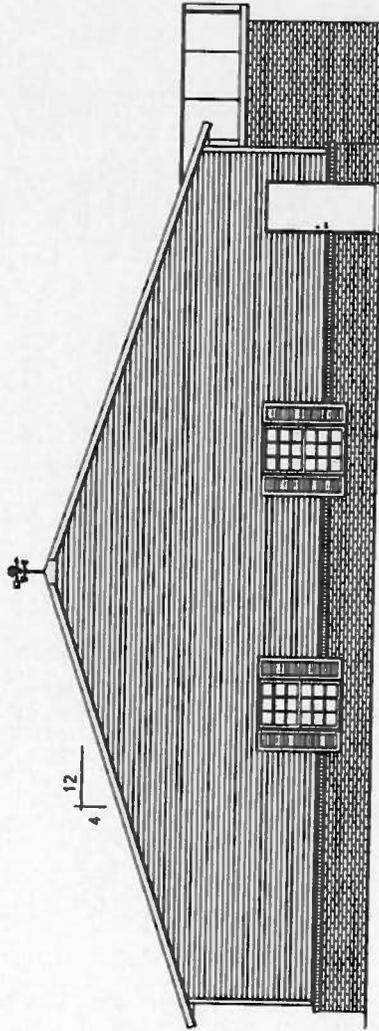


Rear

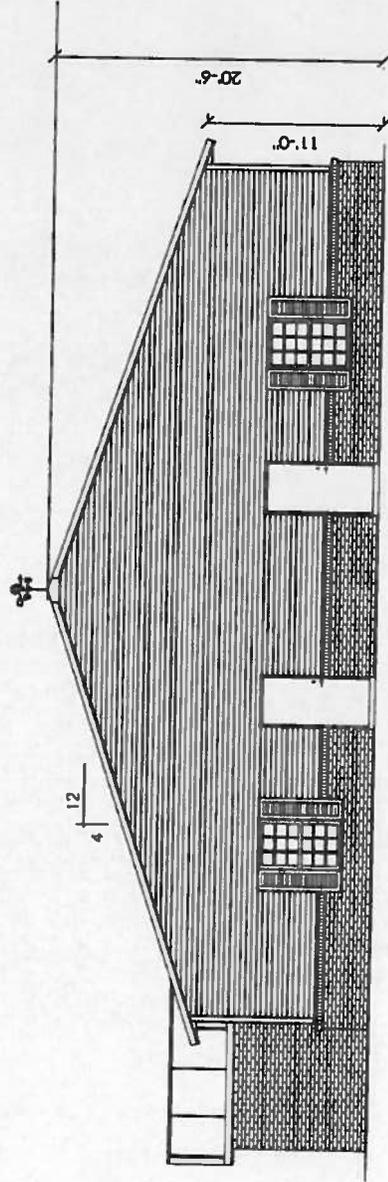


Front

SCHEMATIC BUILDING ELEVATIONS
THE VALLEY SCHOOL
APRIL 2013 NTS

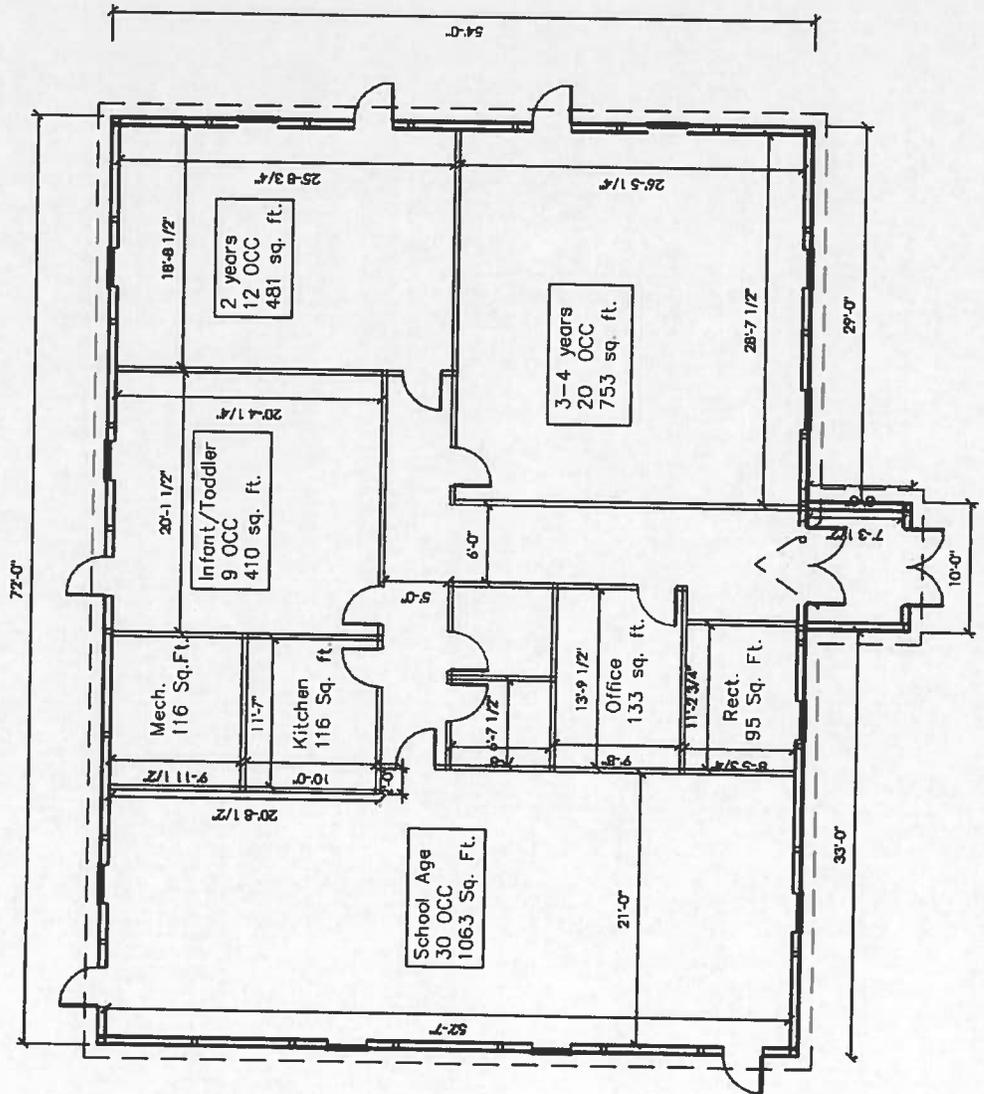


East Side



West Side

SCHEMATIC FLOOR PLAN
 THE VALLEY SCHOOL
 APRIL 2013 NTS





Harris, Smariga & Associates, Inc.

Planners/Engineers/Surveyors

125 South Carroll Street, Suite 100 Frederick, MD 21701

(301) 662-4488, FAX (301) 662- 4906

Middletown Board of Appeals
Special Exception Justification Statement

For The Valley School

East Green Street

Middletown, Maryland 21769

Per Section 17.44.60 of Code

- 1. The proposed use, including its nature, intensity and location, is in harmony with the intent of the district;**

The Valley School, a proposed child care center serving children ages 6 weeks to 12 years of age, is in harmony with the intent of the R-2 district, its nature, intensity and location.

The proposed site is located on East Green Street in an area characterized by mixed use development. It is a neighborhood consisting of commercial, residential and institutional uses. The proposed daycare center is adjacent to the Thompson Funeral home property to the east and a private residence to the west. It is directly across the street from future public library site as identified on the Coblenz Property Preliminary Plan dated November 2012. Adjacent to the Coblenz Property and within 700 feet of the proposed Valley School are the Middletown Elementary and Middle Schools. Existing commercial properties located at the intersection of Green and Church Streets are within 300 feet of the daycare center site.

The Valley School will operate Monday through Friday only and will open at 6:30 am and close at 6:30 pm. It is anticipated that this use serving the Middletown community will create a minimal increase in traffic to the area's roads as pick up and drop off by parents occurs at different times during the day.

- 2. The adequate water supply, sewage disposal, storm drainage, and fire and police protection are or can be provided to for the use;**

There is adequate water supply, sewage disposal, storm drainage and fire and police protection to serve The Valley School.

The child care center is proposed for a lot of record situated on East Green Street. It is the second and third parcel as described in the deed Liber 789 Folio 72. Because it is an existing parcel, the Town of Middletown has water and sewer service reserved for the site. A 10 "sanitary sewer line and a 12" water line are located in East Green Street in front of the site. The daycare center will also tie into the 15 " storm drain located in East Green Street with bio-retention measures located on site.

Fire Service will be provided by Middletown Volunteer Fire Department and police service will be provided by County Deputy assigned to Middletown.

- 3. That the use of the adjacent land and buildings will not be discouraged and the value of the adjacent land and buildings will not be impaired by the location, its nature and height of buildings, walls and fences;**

The proposed child care center use will not discourage use of and value of adjacent land and values nor will be impaired by the location, its nature and height of buildings, walls and fences.

The building is proposed to be one story with a semi-brick front and will not exceed the height of the adjacent homes. The daycare will not operate on weekends. The playground is enclosed by a five (5) foot chain-link fence for the protection of the children and in accordance with Maryland child care licensing regulations. This fence will be supplemented by an evergreen screen meant to act as a buffer and prevent visual intrusion onto existing properties.

- 4. That the use will have proper location with respect to existing or future streets giving access to it, and will not create traffic congestion of cause industrial or commercial traffic to use residential streets;**

The proposed Valley School will be located on a collector road that also serves three public schools and other commercial uses. Traffic congestion is not anticipated. The school will have students arriving and departing throughout the day and not concentrated during any one hour. A 14-passenger bus owned by the school may also transport school-age children between the daycare center and their elementary schools, which is standard procedure for child care centers. The alley behind the school will not be used for any vehicular access excepting maintenance vehicles when required.

- 5. That the specific standard (Chapter 17.48) set forth for each particular use for which a special exception may be granted have been met.**

The specific standards set forth in Chapter 17.48 of the town regulations have been met for the special exception use as follows:

Section 17.48.170 Nursery schools and child care centers.

Nursery schools and child care centers in R and GC districts are subject to the requirements of that district except as herein modified and provided:

A. Lot area-twelve thousand (12,000) square feet minimum;

The lot for the proposed Valley School is approximately .64 acres or 27,878 square feet in size and therefore meets the minimum size required.

B. Lot width –one hundred (100) feet minimum;

The proposed Valley School site has approximately 114 feet of frontage on East Green Street and therefore meets the minimum lot width required.

C. The floor area devoted to use for the child care center or nursery school shall contain at least thirty-five (35) square feet of usable floor space for each child, exclusive of corridors, kitchens, bathrooms, offices, isolation rooms or areas, storage space, and permanent sleeping space. Required space may include non-fixed children's chairs, tables and play equipment.

The Valley School will satisfy Maryland child care regulations (COMAR 13A.16.05.03) which require a minimum of thirty-five (35) square feet of usable floor space for each child (exclusive of corridors, kitchens, bathrooms, offices, isolation rooms or areas, storage space, and permanent sleeping space) for each child. The daycare center will not be able to obtain its child care license without fulfilling this requirement, at which time a state licensing specialist will come and measure each room as part of the center's initial application process. A floor plan is attached as well as a copy of the relevant Maryland state regulation.

D. One parking space shall be required per seven pupils plus one per employee not be less than four parking spaces.

The proposed Valley School will have a maximum student population of 71 children with 10 employees. This will require the school to provide 10 parking spaces plus and additional 10 for employees or 20 parking spaces. The site plan is designed for 20 parking spaces including one handicap accessible space. Off site parking is also available on East Green Street.

E. Yards-twenty-five (25) feet from all property lines;

The site plan situates the school building 90 feet from the northern (front) property line, 30 feet from the eastern (side) property line, 25 feet from the southern (rear) property line, 67 feet from the western (side) property line.

F. There shall be an adequately sized play area, full fenced and enclosed.

An approximate 5900 sf play area, enclosed by a five (5) foot high chain link fence is proposed for the site. Maryland regulations (COMAR 13A.16.05.12) require at least 75 square feet of usable play space for one half of the approved capacity of the center. If the Valley School has a capacity of 71 children, it is required to provide at least 2700 of usable play space. The proposed play area exceeds this requirement and will be fully fenced and enclosed.

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13A.16.05.03

.03 Indoor Space.

A. A minimum of 35 square feet of floor space shall be provided for each child in care, except that:

(1) A minimum of 30 square feet of floor space shall be provided for each child in a:

(a) Child care center licensed before December 1, 1971; or

(b) Nursery school holding a certificate of approval to operate or a letter of exemption from approval that was issued by the State Board of Education before December 1, 1971, and is still in effect; and

(2) A child care program currently approved by the office to operate with less square footage per child than required by §A of this regulation may continue to operate with that reduced square footage as long as the:

(a) Operator demonstrates to the satisfaction of the office the impossibility of complying with the minimum square footage required by §A of this regulation while maintaining the economic viability of the program; and

(b) Office determines that the reduced square footage does not threaten the health, safety, or welfare of any child in care.

B. In calculating the square footage of floor space provided for each child, the following may not be included:

(1) Any floor space, rooms, or areas that are not suitable or available for the daily program activities of the children, such as but not limited to columns, vestibules, and corridors, food preparation areas, kitchens, bathrooms, adult work areas, permanently equipped isolation areas or sleeping rooms, storage units, and storage space; and

(2) Furniture, except for:

(a) Children's chairs and tables which are nonfixed and multipurpose;

(b) Moveable equipment used for infant care, such as high chairs and swings;

(c) Moveable play equipment;

(d) An adult-size rocking chair or other adult-size comfortable chair;

(e) An adult-size couch; and

(f) Open shelves for children's daily activities.

C. In centers that care for infants or toddlers, diapering stations shall be included in calculating the square footage of floor space provided for each child.

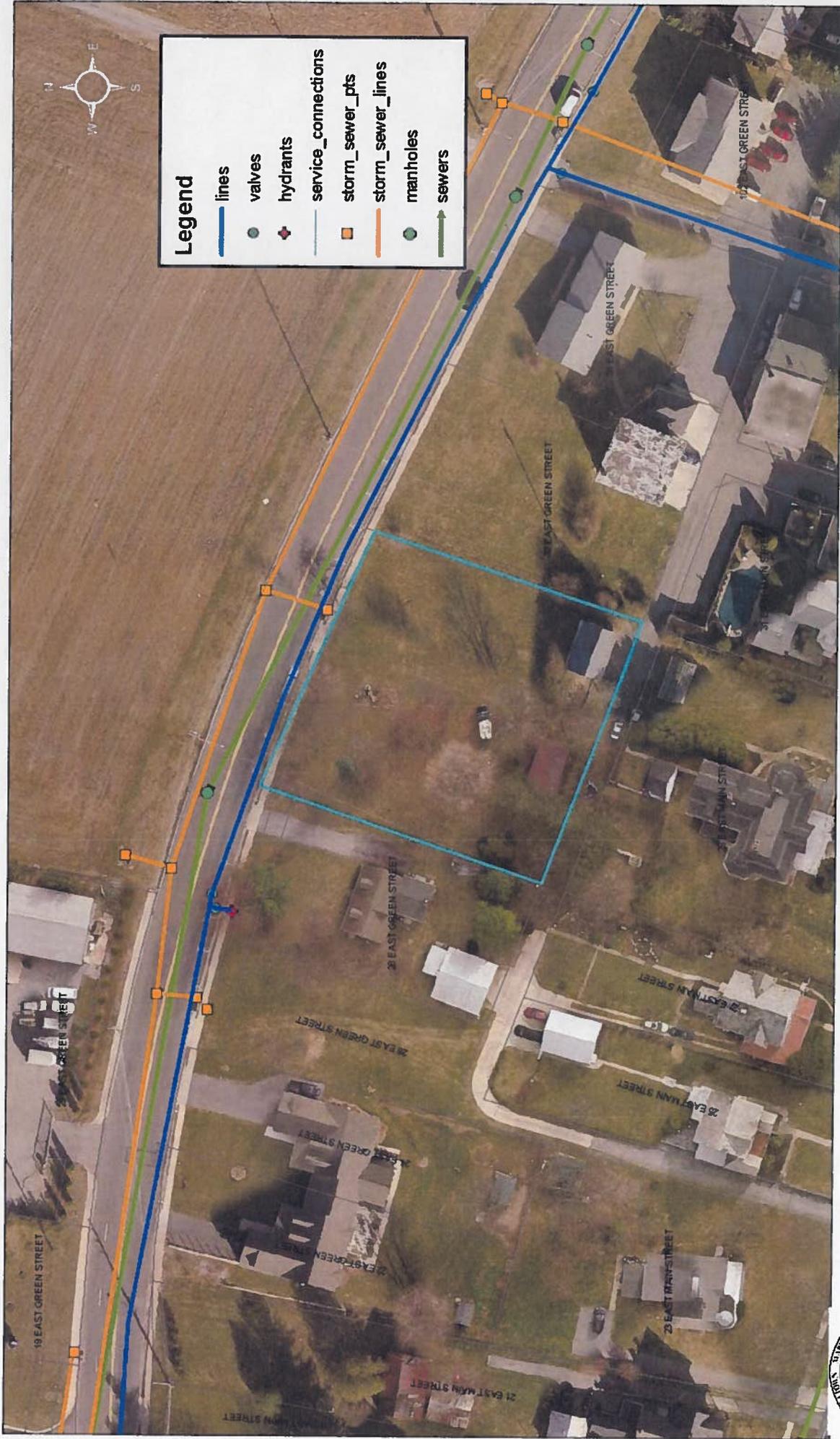
D. In a small center, the space for children may include space within the family living area.

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13A.16.05.12

.12 Outdoor Activity Area.

- A. A center shall have an outdoor activity area on the premises of, adjacent to, or near and safely accessible to the center that provides adequate usable play space for the approved capacity of the center.
- B. A center for which a notice of intent, filed pursuant to COMAR 13A.16.02.02A(2), is received by the office on or after January 1, 2009, shall have an outdoor activity area that provides at least 75 square feet of usable play space for:
- (1) One half of the approved capacity of the center; or
 - (2) Each child, if the center has an approved capacity of 20 or fewer children.
- C. Usable play space may include only the area and the activity equipment approved for use by children in care.
- D. The activity area shall be free from potential hazards to child health or safety.
- E. All outdoor activity equipment shall be safe, in good repair, clean, and nontoxic.



Town of Middletown - Frederick County



MEMORANDUM

Date: 4/15/2013

To: Middletown Planning Commission, Middletown

From: Cindy Unangst, Middletown Staff Planner

RE: CROSS STONE COMMONS SHOPPING CENTER SPECIAL EXCEPTION

Attached is an Appeal for Special Exception (and related material) submitted by Middletown Valley Investment Partners, LLC requesting that the Board of Appeals of Middletown consider the request for a shopping center at the intersection of the Middletown Parkway and Route 40-A.

From staff review and analysis this request is being forwarded to the Middletown Board of Appeals for decision at a Public Hearing to be held May 8, 2013. However, as is stipulated in the Middletown Municipal Code, a recommendation is requested from the Middletown Planning Commission for all special exception requests.

Town of Middletown

TOWN HALL
31 West Main Street
Middletown, MD 21769

Phone: 301-371-6171
Fax: 301-371-6474

Middletown Board of Appeals

April 15, 2013

STAFF REPORT

MT-B-13-03

Applicant: Middletown Valley Investment Partners LLC

Location: Intersection of Middletown Parkway and Old National Pike (Route 40-A)
Middletown, MD 21769

Request: Special exception approval for a shopping center

Zoning: GC General Commercial District

Section(s) of the Code that Apply:

17.44.060 Board of Appeals Special Exceptions
17.16.030C. Special Exceptions in the R-2 Residential district
17.48.230 Shopping centers

Staff Comments:

The applicant is filing for a special exception use for a shopping center in the GC General Commercial District at the intersection of Middletown Parkway and Old National Pike.

The Board must determine that the Specific Standards under Section 17.48.230 (attached) are in compliance with the proposed use of the property. Based on staff review and site inspection, staff would offer the following:

- A. Lot area – five acres minimum in GC district. *The property for the proposed use is 7+ acres in size.*
- B. Lot width – three hundred (300) feet minimum in the GC district. *The property for the proposed use has a lot width of approx. 1,270 feet along Middletown Parkway and over 200 feet along Old National Pike.*
- C. All buildings must be setback at least fifty (50) feet from any property line and one hundred (100) feet from a street line. *Three out of the four buildings are proposed to be at least 50 feet from property lines. Building 1 is proposed to be 26 feet from the Nancy Newton property line. The applicant intends to seek approval from the Middletown Planning Commission for an exemption from the yard requirements as set forth in Section 17.48.230, and requests that the Board of Appeals approve the application upon the condition that the Planning Commission grant such exemptions as may be necessary in order to permit the applicant to construct the*

shopping center with the building setbacks and yards shown on the attached concept plan. Section 17.20.070 of the Middletown Municipal Code states "Upon a review and approval of the planning commission, subdivision lots in shopping centers may not have to comply with yard or frontage requirements of the zoning ordinance or subdivision regulations, providing the planning commission finds the appropriate recorded easements are established to provide perpetual access to public streets and public utilities".

- D. *Parking must be provided at the minimum ratio of five point five (5.5) parking spaces for each one thousand (1,000) square feet of total floor area. The concept plan shows a proposed 236 parking spaces provided, which is properly over the minimum of 195 parking spaces required.*
- E. *Access must be on a minor arterial as designated in the town master plan. The concept plan shows access to the site from both Old National Pike and Middletown Parkway which are both considered minor arterials in the town's comprehensive plan.*
- F. *A buffer yard one hundred (100) feet wide must be provided on the site in all instances where the site adjoins an R district. The buffer yard shall be naturally landscaped, have no impervious cover and shall not be used for building, parking, loading or storage purposes. The concept plan shows landscape screening along all yards adjoining the residential properties to the west of the site. Due to the constraints of the shape of the property as noted in C. above, the applicant intends to request approval from the Planning Commission for an exemption from the yard requirements of this section. Section 17.20.070 of the Middletown Municipal Code states "Upon a review and approval of the planning commission, subdivision lots in shopping centers may not have to comply with yard or frontage requirements of the zoning ordinance or subdivision regulations, providing the planning commission finds the appropriate recorded easements and established to provide perpetual access to public streets and public utilities". The applicant is requesting that the Board of Appeals condition its approval of the application on the Planning Commission's grant of the exemption.*
- G. *When adjacent to an R district except for street frontage, a screen planting as approved by the planning commission and at least six feet in height must be provided along the R district boundary. The concept plan shows a proposed 6-foot high white vinyl privacy fence and landscape screening along the R district boundary. The BOA approval should be contingent on the Planning Commission approving the landscaping plan for this development.*
- H. *In a GC district the maximum building size for any individual unit (individual ownership) in the shopping center shall not exceed sixty thousand (60,000) square feet. The largest building size shown on the concept plan is 13,000 square feet which is considerably less than 60,000 square feet.*
- I. *A shopping center shall consist of no more than one large retail/commercial establishment, and shall not exceed two hundred thousand (200,000) square feet of total floor area. The total floor area of the proposed buildings would be less than 36,000 square feet.*
- J. *Uses. Any commercial use permitted in this title is permitted in a shopping center. The shopping center will be developed with uses permitted in the GC zoning district.*
- K. *Shopping centers shall receive architectural review approval by the Middletown Planning Commission. The BOA approval should be contingent on the architectural review approval by the Planning Commission.*

In addition to those specific requirements above, the general requirements to be used by the Board of Appeals are as follows:

17.44.060 General Standards. A special exception may be granted when the Board of Appeals finds from a preponderance of the evidence produced at the hearing that:

1. The proposed use, including its nature, intensity and location, is in harmony with the intent of the district;
2. That adequate water supply, sewage disposal, storm drainage and fire and police protection are or can be provided for the use;
3. That the use of adjacent land and buildings will not be discouraged and the value of adjacent land and buildings will not be impaired by the location, nature and height of buildings, walls and fences;
4. That the use will have proper location with respect to existing or future streets giving access to it, and will not create traffic congestion or cause industrial or commercial traffic to use residential streets;
5. That the specific standards (Chapter 17.48) set forth for each particular use for which a special exception may be granted have been met.

The Staff has reviewed the above standards and the subject property and makes the following findings:

- A. The subject property is zoned GC General Commercial and is adjoined on the east and south sides by a golf course, on the west by single-family dwellings, and on the north by a shopping center. The intent of the GC district is to provide areas for general commercial activities that service the needs of the entire community and the surrounding area. The proposed shopping center is well suited for the subject property given its location across from an existing shopping center and the location of one of the few traffic signals within the town. Given that the property has been an agricultural field for decades, the proposed use will be quite a change from its use in the past. Staff will note that the applicant has met with, or has attempted to meet with, all of the adjoining property owners to the west of the subject site in order to understand and alleviate their concerns about the proposed development.
- B. The subject property as two existing lots of record has adequate water and sewer supply for the proposed development. Storm drainage for the proposed use will be reviewed by Frederick County. There are deputy sheriffs assigned to the Town for police protection and first responders for fire services will have trouble-free access to the site due to its location along two major roadways.
- C. The use and value of the golf course to the east and south of the site should not be impacted at all by the proposed shopping center. The existing shopping center to the north should have minimal impact of competition from the proposed shopping center due to the fact that two of the four proposed buildings have drive-thru facilities as depicted on the concept plan and the existing shopping center cannot accommodate drive-thru facilities. Any general commercial development that would occur on the subject property could negatively impact the existing shopping center even if it was individual retail stores permitted by right in the GC district. Regarding the use and value of the adjacent residential dwellings to the west of the subject property, it was determined during the last comprehensive plan update that the parcel of land in between the existing zoned commercial properties along the Middletown Parkway, and the rear of the adjoining residential lots, should be rezoned general commercial to more easily facilitate the development of the property. Any of numerous general commercial uses are permitted on the site by right without needing special exception approval by the BOA. As

stated above, the applicant has met with the adjoining residents to discuss how to mitigate the impact of the development of the site on their properties.

- D. The existing streets already handle commercial traffic. A Traffic Impact Study was done for the proposed development and indicates that both Middletown Parkway and Old National Pike will operate at acceptable levels of service under the full build-out of the proposed shopping center.

Staff Recommendation: Given that most of the specific standards for the shopping center use will be met, the location of the use should not significantly increase traffic congestion, water and sewer taps are available for the use, and the nature and intensity of the use will be mitigated as much as possible in regards to the surrounding neighborhood, staff recommends approval of the shopping center use on the GC General Commercial district site. The specific standards that won't be met can be exempted by the Planning Commission due to the regulations in Section 17.20.070 of the Middletown Municipal Code. The Board of Appeals should include in their approval that it be contingent on the applicant receiving approval from the Planning Commission of an exemption from the yard requirements set forth within the specific standards for shopping centers as outlined above in the report, as well as Planning Commission approval for the landscaping plan and architectural review.

Board of Appeals
Town of Middletown, Maryland

Date Filed 4/8/2013
Map/Grid/Parcel/Lot 65/214 and 501/549
Zoned GC

APPEAL FOR SPECIAL EXCEPTION UNDER ZONING ORDINANCE

Petition is hereby made for a special exception under the Zoning Ordinance, as follows:

Location Corner of Old National Pike and Middletown Parkway
Parcel 1: ^{NSEW side of road; distance NSEW from nearest intersecting road} Roderick Farm Lot Remainder 4.40 Acres
Subdivision Parcel 2: Airview Acres Remainder Lot _____ Block 2.62 Acres
Street and Number Old National Pike/800 Main St Zoning Classification GC
Use proposed Shopping Center

Zoning Ordinance subsection(s) providing for proposed use: 17.20.020(c)(6), 17.48.230

Owner of property: Name Nancy R. Newton and Marianne C. Roderick
Address 800 East Main Street, Middletown, MD 21769

Appellant's present legal interest in above property: (Check one)

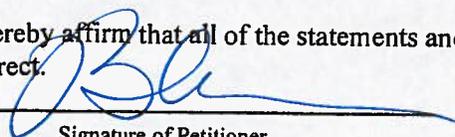
Owner (including joint ownership) Lessee Contract to lease or rent
 Contract to purchase Other(describe) _____

Has any previous petition or appeal involving this property been made to the Board: If so, give Case Number(s): N/A

Further comments, if any:

Applicant: Middletown Valley Investment Partners, LLC is the Contract Purchaser of these parcels. The undersigned is counsel for this Contract Purchaser.

I hereby affirm that all of the statements and information contained in or filed with this appeal are true and correct.


Signature of Petitioner

8 West Third Street, Frederick, MD 21701

Address of Petitioner

Phone # 301-620-1175

Bruce N. Dean, pursuant to
attached Agent Authorization



BURGESS AND COMMISSIONERS OF MIDDLETOWN

MUNICIPAL CENTER
31 West Main Street
Middletown, MD 21769

Phone:(301)-371-6171

Fax:(301)-371-6474

E-mail:

Office@ci.middletown.md.us

April 15, 2013

NOTICE TO ADJACENT PROPERTY OWNERS

M-B-13-03

An Appeal has been received that applies to the property located at the intersection of the Middletown Parkway and Route 40-A (Old National Pike). An application has been made for the following request for a special exception:

Special exception for a shopping center in the GC General Commercial District at the intersection of the Middletown Parkway and Old National Pike.

The property is located in the GC General Commercial district and the application was referred to the Middletown Board of Appeals because only the Board of Appeals may grant rulings on special exceptions. The hearing will be held on Wednesday, May 8, 2013 at 7:00 PM in the Middletown Municipal Center, at 31 West Main Street.

Citizens are welcome to attend the meeting at which time citizens wishing to be heard will be recognized in public session. The hearing is not limited to those receiving copies of this notice, and if you are aware of any property owners who, for any reason have failed to receive a copy of this notice, it would be appreciated if you would inform them of this public hearing.

For further information contact the Middletown Office at your earliest convenience. Individuals requiring special accommodations are requested to contact Andrew Bowen, Town Administrator to make arrangements.

Cynthia K. Unangst

Middletown Zoning Administrator

Adjoining and Confronting Property Owners List

Tax ID No.	Tax Map	Parcel	Lot	Owner Address
03-141276	501	580	2.22Acres	Byron Eric Moser Leslie A. Zerby 714 E. Main Street Middletown, Maryland 21769
03-141268	501	582		John T. Moser, Jr., Et. Al. c/o Marilyn E. Moser 718 E. Main Street Middletown, Maryland 21769
03-144356	501	577	70 x 200	Jeffrey Straits Lera Straits 720 E. Main Street Middletown, Maryland 21769
03-161587	501	549	1-R	Nancy R. Newton 800 East Main Street Middletown, Maryland 21769
03-133095	501	570	2.25 Acres	Robert D. Fulton Helene H. Fulton 713 E. Main Street Middletown, Maryland 21769
03-140385	501	568	1.38 Acres	Middletown Valley Bank P.O. Box 75 Middletown, Maryland 21769
03-151727	501	567	Lot 1 7.317 acres	Middletown Assoc. Ltd. Part. 3907 Winterset Drive Annandale, Virginia 22003-2242

Adjoining and Confronting Property Owners List

N/A	501	223	Open Space A, J, K, Glenbrook	Klein Golf Associates, LLC c/o Stephen Klein, Resident Agent 12165 Clarksville Pike Clarksville, Maryland 21029

**L&B 2337912v1/12233.0001



NOTICE OF PUBLIC HEARING TOWN OF MIDDLETOWN

Notice is hereby given that the Board of Appeals of Middletown will hold a Public Hearing on **Wednesday, May 8, 2013 beginning at the hour of 7:00 P.M., at the Middletown Municipal Center, 31 West Main Street, Middletown, MD** to consider the Special Exception use of a shopping center at the intersection of the Middletown Parkway and Old National Pike (Route 40-A) in the GC General Commercial district.

The proposed Special Exception use of a shopping center in the GC district is made by Middletown Valley Investment Partners, LLC and is proposed to be located at the intersection of Middletown Parkway and Old National Pike on the property formerly known as the Newton Property.

Copies of the proposed Special Exception are available at the Middletown Municipal Center for any citizens wishing to receive a copy of the proposed special exception for review.

All citizens wishing to be heard will be recognized at this hearing. Any person desiring a stenographic transcript shall be responsible for supplying a competent stenographer.

Individuals requiring special accommodations are requested to contact Andrew Bowen, Town of Middletown, at (301) 371-6171, at least 48 hours prior to the Public Hearing.

17.44.060 Special exceptions.

A. Filing of Special Exception. For any use permitted by special exception, a special exception must be obtained from the board of appeals. In addition to the information required on the building permit application, the special exception application must show:

1. Site plans, ground floor plans and elevations of proposed structures;
2. Names and addresses of adjoining owners.

Unless otherwise specified or extended by the board of appeals, a special exception authorized by the board expires if the applicant fails to obtain, where required to do so, a building permit or use certificate within twelve (12) months of the date of the authorization of the special exception.

B. Temporary Special Exceptions.

C. Referral to Planning Commission. All applications for a special exception shall be referred to the town planning commission for a recommendation.

D. Conditions. The board of appeals, in passing upon special exception applications, may attach conditions considered necessary to protect the public welfare and the comprehensive plan, including conditions which are more restrictive than those established for other uses in the same zone.

E. Application of Extent-of-Use Regulations. The lot area, lot width and yard requirements as set forth in this title must be followed as the minimum by the board of appeals. Where no extent-of-use regulations are set forth for the particular use, the board must impose extent-of-use requirements as necessary to protect the public welfare and the comprehensive plan.

F. General Standards. A special exception may be granted when the board of appeals finds from a preponderance of the evidence produced at the hearing that:

1. The proposed use, including its nature, intensity and location, is in harmony with the intent of the district;
2. That adequate water supply, sewage disposal, storm drainage and fire and police protection are or can be provided for the use;
3. That the use of adjacent land and buildings will not be discouraged and the value of adjacent land and buildings will not be impaired by the location, nature and height of buildings, walls and fences;
4. That the use will have proper location with respect to existing or future streets giving access to it, and will not create traffic congestion or cause industrial or commercial traffic to use residential streets;
5. That the specific standards (Chapter 17.48) set forth for each particular use for which a special exception may be granted have been met.

G. Burden of Proof. The applicant for a special exception shall have the burden of proof, which shall include the gathering and forwarding of evidence and the burden of persuasion on all questions of fact which are to be determined by the board of appeals.

17.48.230 - Shopping centers.

These standards are intended to ensure that shopping centers are compatible with their surrounding areas and contribute to the unique community character of the Town of Middletown. Shopping centers in the GC district are subject to the requirements of the district in which located except as herein provided:

- A. Lot area—five acres minimum in GC district;

- B. Lot width—three hundred (300) feet minimum in GC district;
- C. All buildings must be setback at least fifty (50) feet from any property line and one hundred (100) feet from a street line;
- D. Parking must be provided at the minimum ratio of five point five (5.5) parking spaces for each one thousand (1,000) square feet of total floor area;
- E. Access must be on a minor arterial as designated in the town master plan;
- F. A buffer yard one hundred (100) feet wide must be provided on the site in all instances where the site adjoins an R district. The buffer yard shall be naturally landscaped, have no impervious cover and shall not be used for building, parking, loading or storage purposes;
- G. When adjacent to an R district except for street frontage, a screen planting as approved by the planning commission and at least six feet in height must be provided along the R district boundary;
- H. In a GC district the maximum building size for any individual unit (individual ownership) in the shopping center shall not exceed sixty thousand (60,000) square feet.
- I. A shopping center shall consist of no more than one large retail/commercial establishment, and shall not exceed two hundred thousand (200,000) square feet of total floor area.
- J. Uses. Any commercial use permitted in this title is permitted in a shopping center.
- K. Shopping centers shall receive architectural review approval by the Middletown Planning Commission.

JUSTIFICATION STATEMENT
FOR SPECIAL EXCEPTION PURSUANT TO §17.44.60
SHOPPING CENTER IN THE GENERAL COMMERCIAL DISTRICT
MIDDLETOWN BOARD OF APPEALS
MIDDLETOWN VALLEY INVESTMENT PARTNERS, LLC, APPLICANT

This request by Middletown Valley Investment Partners, LLC (the "Applicant") is for special exception approval to operate a shopping center on two parcels of land zoned General Commercial ("GC") in the Town of Middletown (the "Town") and situated on the northwest side of Middletown Parkway at its intersection with US Route 40-A (Old National Pike). Pursuant to Chapter 17 of the Middletown Municipal Code (the "Zoning Ordinance"), Sections 17.44.060 and 17.48.230, a special exception from the Middletown Board of Appeals (the "Board") is required before a shopping center can be placed on property located in the GC zoning district.

I. LOCATION AND USE OF SITE.

The property which is the subject of this application for approval of a special exception (the "Site") consists of two parcels of undeveloped land, having a combined acreage of seven (7) acres. The first parcel, identified as parcel 214 on tax map 65 ("Parcel 1"), contains 4.40 acres, and was annexed into the Town boundaries in 2001 as part of the Glenbrook annexation. The second parcel, identified as parcel 549 on tax map 501 ("Parcel 2"), contains 2.62 acres of land adjoining Parcel 1 to the west. Parcel 2 was recently rezoned to GC by the Town in 2010 as part of its comprehensive rezoning. Both parcels are narrow and oddly shaped. Parcel 1 consists of one triangle tract of land connected by a single point on Middletown Parkway with another tract land that is roughly semicircular in shape. Parcel 1's odd shape is a result of dedication of right of way in connection with the realignment and construction of Middletown Parkway. This realignment rendered a portion of Parcel 1, the semicircular tract, virtually unbuildable. The triangular portion of Parcel 1 also has limited development potential due to its lack of any considerable depth. Parcel 2 is largely an interior parcel that runs along the rear boundary lines of four existing residential lots that front onto Old National Pike. Parcel 2 is also narrow and oddly shaped due to the fact that it is wedged between Parcel 1 and these existing residential lots. Both parcels are under common ownership, and the Applicant intends, as part of its proposed development of the Site to consolidate the two parcels to create one parcel consisting of approximately seven (7) acres. The proposed consolidation of the lots will increase the developable area of the lots significantly; however, even as consolidated, the Site presents considerable development challenges because the Site narrows to widths of 209.3 feet and 183.6 feet at two points where the parcel abuts two of the residential lots.

The Site is located within the Town's only major commercial area outside of its historic downtown area along Church and Main Streets. It also comprises the only undeveloped GC land in the Town. The existing Valley Shopping Center, which is zoned GC and contains approximately 58,000 square feet of retail space, adjoins the Site to the north (across Old National Pike) and the commercial portions of the Glenbrook subdivision are located to the southeast of the Site (across Middletown Parkway). Several of the Glenbrook open space areas adjoin the Site to the south and east, and existing residential parcels, zoned R-1 Residential, adjoin the Site to south

and west.

The Site is accessible by vehicular traffic via Old National Pike and Middletown Parkway, both minor arterial roads. The Site has 1,270 linear feet of frontage onto Middletown Parkway and approximately 230 linear feet of frontage onto Old National Pike. The Applicant is proposing to construct a 35,357 square foot shopping center containing four small free-standing buildings. The largest building, located in the northeast quadrant of the Site will contain 13,000 square feet of floor space, and three remaining buildings will contain 10,800 square feet, 7,000 square feet, and 4,557 square feet. As part of the proposed shopping center, the Applicant would provide integrated parking for 236 vehicles. In addition, and as shown on the concept plan attached to this Application as Exhibit A, the Applicant would construct and maintain a landscaped buffer area approximately twenty (20) feet wide, along the western boundary of the Site.

II. REQUIREMENTS OF THE ZONING ORDINANCE.

The Applicant is requesting approval of a special exception, pursuant to Section 17.44.060 of the Zoning Ordinance, in order to operate a shopping center in the GC Zoning District, in accordance with the specific requirements for the shopping centers outlined in Section 17.48.230 of the Zoning Ordinance. In addition, and as explained in greater detail below, due to the narrowness of the Site, the Applicant also intends to request that the Middletown Planning Commission ("Planning Commission") grant it an exemption, pursuant to Section 17.20.070 of the Zoning Ordinance, from the yard requirements that would otherwise be applicable to a shopping center constructed on the Site.

A. General Requirements

Section 17.44.060 of the Zoning Ordinance sets forth the general requirements for uses that require special exception approval by the Board. Those requirements, addressed individually herein below, are that: 1) the use is in harmony with the intent of the district, that there is adequate water supply, sewage disposal, storm drainage and fire and police protection to serve the use, 2) the use of adjacent land and buildings will not be discouraged and the value of adjacent land and buildings not be impaired by the location, nature and height of buildings, walls and fences, 3) the use will have proper location with respect to existing or future streets giving access to it, and will not create traffic congestion or cause industrial or commercial traffic to use residential streets; and 4) the specific standards set forth in Chapter 17.48 of the Zoning Ordinance for each particular use have been met (Section 17.44.060 (F)). The specific standards for shopping centers are addressed in Section II (B) of this Justification Statement.

- (1) **The proposed shopping center is in harmony with the intent of the GC zoning district, in terms of nature, intensity and location.**

The purpose of the GC zoning district is to "provide areas for general commercial activities that service the needs of the entire community and the surrounding area." See Zoning Ordinance at Section 17.20.020. The uses permitted in the GC zoning district are intended to

provide for "comparative shopping needs, service and repair needs, office uses, specialized commercial and entertainment activities and those establishments which cater primarily to the motoring public," and the uses permitted by right include a variety of retail sales uses (hardware, food, appliances, furniture), services (personal, office, business, and repair), commercial recreation, and food and beverage establishments. Fourteen specific uses require special exception approval in the GC district, shopping centers being one such use. All development within the GC zoning district is intended to be grouped together in an attractive and convenient manner and located on major thoroughfares.

The location of a shopping center on the Site fully complies with the intent of the GC zoning district. The Site is across Old National Pike from the Town's only existing shopping center and across Middletown Parkway from the commercial portions of the Glenbrook subdivision. These three existing and proposed general commercial areas (the Site, Glenbrook and the Valley Shopping Center) together create a shopping district at the easternmost portion of the Town that allows residents to meet their commercial shopping and service needs within one area of the Town, all as the Zoning Ordinance intends. Moreover, locating these commercial uses on the eastern end of Town and along the Town's largest thoroughfares, Middletown Parkway and Old National Pike, allows these commercial needs to be met with minimal disruption to the Town's residential sectors. While the Site could be developed with several standalone commercial buildings occupied by retail sale and/or service establishments, its development as an integrated shopping center allows for these commercial uses to be "grouped together in an attractive and convenient manner" in accordance with the Zoning Ordinance's design.

While the nature and intensity of the proposed shopping center is addressed more fully in Section II (B) below, the Applicant is proposing to construct four buildings, each of which is far below the maximum building size (60,000 square feet) permitted in the GC zoning district. In fact, the total square footage of floor space in all four of the buildings combined amounts to roughly half of the maximum square footage permitted in the GC zoning district. The Applicant is proposing to construct single story buildings at or below the maximum building height of 35 feet permitted in the GC zoning district. In contrast, if the two parcels were developed with a large standalone retail building, and not as a shopping center, then the Applicant could construct a building containing at least 30,000 square feet and possibly as much as 60,000 square feet of floor space. A building of this size would likely also be higher, and would be a significantly more intense use, in terms of visual impact, noise, parking, than the small four-building shopping proposed in this Application. In sum, the development of the Site with a shopping center containing four small buildings with integrated parking is a less intense use than other uses permitted by right

in the GC district.

- (2) **The Town's water supply, sewage disposal facilities, storm drainage facilities and fire and police protection resources are adequate to serve the propose shopping center.**

As noted above, the Site consists of two existing lots of record (Parcel 1 and Parcel 2) that were zoned GC (or in the case of Parcel 1, confirmed as GC) as part of the Town's 2010 comprehensive rezoning process. As part of that zoning review, the Burgess and Town Commissioners considered adequacy of public services, such as water, sewage disposal, fire and police protection. These facilities were deemed adequate to serve these existing lots of record at that time. With respect to fire, rescue, and police services in particular, the Site's location along minor arterial roadways facilitates access by these first responders. Storm drainage facilities are or will be made adequate, as the Applicant is required to obtain the approval of the Frederick County Development Review Engineering Department for a stormwater management plan prior to the commencement of construction on the Site. The Applicant has prepared the stormwater management concept plan attached hereto as Exhibit B and incorporated herein by reference, and has submitted it to Frederick County for review and comment. Based upon this concept plan, the Applicant believes that it will be able to fully mitigate stormwater drainage onsite and in compliance with the 2009 Maryland Department of Environment regulations. Lastly, with respect to the adequacy of the public water supply, the provision of public water to the Site will not violate the terms of the Town's long-standing consent agreement with the Maryland Department of the Environment because the two parcels are existing lots of record, for which the existing water supply has been deemed adequate to serve. The Town Administrator has assured the Applicant that sufficient water is available to serve this development as long as no additional lots over and above the two existing lots are created through subdivision. The two existing water taps available to the Site are adequate to serve the proposed shopping center, and the Applicant is not proposing to subdivide either parcel.

- (3) **The use of adjacent land and buildings will not be discouraged and the value of adjacent land and buildings will not be impaired by the location, nature and height of buildings, walls, and fences.**

Because all of the land located to the east of the Site consists of undeveloped open space parcels located within the Glenbrook subdivision, the only land and/or buildings that will be impacted by the development of the Site with a shopping center are the residential parcels that adjoin the Site to the north and west, and the existing Valley Shopping Center north of the Site. The Valley Shopping Center is a fully built out, strip-style

shopping center with a long-standing anchor tenant, the Safeway grocery store. Competition between the two shopping centers should be minimal, as two of the four buildings proposed as part of this shopping center would be constructed with drive-thru facilities that the Valley Shopping Center cannot offer to new prospective tenants. Regardless, any negative impact on the Valley Shopping Center resulting from the development of the Site as a shopping center will not be any greater than development of the Site with individual retail stores permitted by right in the GC zoning district.

With respect to the adjoining R-1 lots, when the Burgess and Town Commissioners made the legislative decision to rezone Parcel 2 from R-1 to GC in 2010, they determined that the establishment of commercial uses on the Site to the rear of these adjoining residential lots was appropriate. As noted above, the GC district allows for the establishment of many different types of commercial uses on the Site by right and without Board approval. The establishment of any commercial use on the Site would have some impact upon these residential properties by increasing the noise, light and traffic generated by the Site, which is currently vacant and undeveloped. The development of the Site with a shopping center should not result in an additional or more negative impact on these properties over and above that generated by these other commercial uses permitted by right on the Site. In fact, development as a shopping center allows the Applicant to integrate the use of parking, loading, and lighting among the four commercial users, which should lessen the collective impact on the adjoining residential properties.

Nevertheless, the Applicant has met with the owners of three of the adjoining residential properties (the fourth property is currently being marketed for sale, and the Applicant has not yet been able to make contact with the contract purchaser of this lot) in order to discuss how to mitigate the impact of the development of the Site on their properties. The Applicant has agreed, as a result of these meetings, to execute and record among the land records of Frederick County a buffer easement that would require it to construct and maintain a six foot privacy fence along the western boundary of the Site and to install a vegetated landscape buffer within that buffer easement area. A copy of the proposed buffer easement is attached hereto as Exhibit C and is incorporated herein by reference. Two of the adjoining residential property owners have agreed that this buffer easement will adequately protect their property values.

- (4) **The shopping center is properly located in relation to existing a/or future streets and will not create traffic congestion or cause industrial or commercial traffic to use residential streets.**

The proposed shopping center will front onto both Middletown Parkway and Old National Pike, both of which are minor arterial

roadways. There will be no vehicular access to the Site from residential streets. Commercial traffic will access the proposed shopping center from one of two access points along Middletown Parkway. An additional right-in only ingress is proposed from Old National Pike. The Applicant has provided a Traffic Impact Study that demonstrates that both Old National Pike and Middletown Parkway will operate at acceptable levels of service under the full build out of the proposed shopping center.

B. Specific Requirements

Section 17.48.230 of the Zoning Ordinance sets forth the specific requirements applicable to shopping centers within the GC Zoning District. These specific requirements are intended to ensure that shopping centers are compatible with their surrounding areas and contribute to the unique community character of the Town of Middletown. The Applicant's proposed establishment of a shopping center at the Site satisfies the intent of these specific requirements, as explained more fully below.

- (1) **Lot area – five acres minimum in GC district:** the consolidated lot will contain approximately seven (7) acres of land.
- (2) **Lot width – three hundred (300) feet minimum:** the width of the consolidated lot is approximately 1,270 feet.
- (3) **All buildings must be setback at least fifty (50) feet from any property line and one hundred (100) feet from a street line.** As shown on the attached concept plan, the proposed buildings to be constructed on the Site are consistently set back fifty (50) feet from property lines, except for one location in which the proposed building setback is 26 feet. Due to the Site's odd shape and the fact that it narrows to widths of 209.3 feet and 183.6 feet in two locations, the Applicant is significantly constrained in its ability to develop the Site as an integrated shopping center with 50' setbacks strictly observed. Exhibit D to this Justification Statement illustrates that the Site's building envelope is drastically reduced when the setbacks and buffer yards specified in Section 17.48.230 of the Zoning Ordinance are imposed on the Site. The Applicant intends to seek approval from the Middletown Planning Commission for an exemption from the yard requirements set forth in Section 17.48.230 of the Zoning Ordinance, and hereby requests that the Board approve this Application upon the condition that the Planning Commission grant such exemptions as may be necessary in order to permit the Applicant to construct the shopping center with the building setbacks and yards shown on the attached concept plan. The Applicant submits that such an exemption is appropriate, as the purpose of the yard requirements set forth in Section 17.48.230 (building setbacks and buffer yards) is to ensure that shopping centers are "compatible with their surrounding areas and contribute to the

unique community character of the Town of Middletown.” As discussed above, the Applicant has met with the owners of the residential properties adjoining the Site, and has agreed to take specific measures to buffer the impact of the shopping center on these residences. The Planning Commission’s grant of the requested yard exemption would grant the Applicant the flexibility that it needs to develop the Site as an integrated shopping center without unduly burdening the adjoining residential properties.

- (4) **Parking must be provided at the minimum ratio of five point five (5.5) parking spaces for each one thousand (1,000) square feet of total floor area.** Based on the proposed shopping center’s total floor space of 35,357 square feet, a minimum of 195 parking spaces are required. The Applicant’s proposed concept plan (attached as Exhibit A) proposes 236 parking spaces.
- (5) **Access must be on a minor arterial as designated in the town master plan:** All three proposed access points into the shopping center will be via minor arterial roadways – Middletown Parkway and Old National Pike.
- (6) **A buffer yard one hundred (100) Feet wide must be provided on the site in all instances where the site adjoins an R district. The buffer yard shall be naturally landscaped, have no impervious cover and shall not be used for building, parking, loading or storage purposes.**

As explained in response to item No. 3 above, the Applicant intends to request approval from the Planning Commission for an exemption from the yard requirements of this section pursuant to Section 17.20.070 of the Zoning Ordinance, so that the Applicant can construct the shopping center with the yards shown on the attached concept plan. The Applicant is requesting that the Board condition its approval of this Application on the Planning Commission’s grant of this exemption. The Applicant agrees that buffer yard shown on the attached concept plan shall not be used for building, parking, loading or storage purposes and will be naturally landscaped.

- (7) **When adjacent to an R district except for street frontage, a screen planting as approved by the planning commission and at least six feet in height must be provided along the R district boundary.** As explained in Section II (A) above, the Applicant intends to record a buffer easement that requires it to construct and maintain a six foot fence and landscape buffer along the western boundary of the Site that adjoins the existing residential lots. The Applicant will obtain planning commission approval of the plantings to be installed within this landscaped buffer area.

- (8) **In a GC district the maximum building size for any individual unit (individual ownership) in the shopping center shall not exceed sixty thousand (60,000) square feet. The largest building in the proposed shopping center contains 13,000 square feet.**
- (9) **A shopping center shall consist of no more than one large retail/commercial establishment, and shall not exceed two hundred thousand (200,000) square feet of total floor area. The proposed shopping center will not contain any large retail/commercial establishments, as the largest building will contain only 13,000 square feet of floor area. The total floor area of the shopping center will be 35,357.**
- (10) **Any commercial use permitted in this title is permitted in a shopping center. The shopping center will be developed with uses permitted in the GC zoning district.**
- (11) **Shopping centers shall receive architectural review approval by the Middletown Planning Commission. The Applicant will obtain architectural review approval from the Middletown Planning Commission.**

III. CONCLUSION.

This Application proposes to construct a small shopping center, consisting of four commercial buildings containing an aggregate of 35,357 square feet of floor space, on seven acres of undeveloped land situated along two of the Town's largest thoroughfares – Old National Pike and Middletown Parkway – and within the Town's eastern commercial district. Development of this Site as a shopping center, rather than with individual commercial uses permitted by right in the GC zoning district, furthers the vision for the GC zoning district, by grouping commercial uses together in a convenient and integrated manner. Due to the uniqueness of the Site's shape and the resulting constraints on the Applicant's ability to construct a commercial development of significant size on the Site, the Applicant intends to request Planning Commission approval, pursuant to Section 17.20.070 of the Zoning Ordinance, for an exemption from the yard requirements otherwise applicable to shopping centers in the GC zoning district. Nonetheless, the Applicant has designed the proposed shopping center to include a significant landscaped buffer area along the western boundary of the Site that adjoins existing residential lots, in order to comply with the intent of Section 17.48.230 and minimize the impact of the proposed development on these residential properties. The Applicant requests that the Board approve this special exception request upon the condition that the Applicant obtain approval from the Planning Commission for an exemption from the yard requirements set forth in Section 17.48.230 of the Zoning Ordinance.

EXHIBIT C

DECLARATION OF EASEMENT
(BUFFER AREA)

THIS DECLARATION OF EASEMENT (Buffer Area) is made this _____ day of _____, 2013, by Middletown Valley Investment Partners, LLC, a Maryland limited liability company ("Declarant").

RECITALS

R1. Declarant is the record owner of certain real property known as "Cross Stone Commons Shopping Center" located within the Town of Middletown (the "Town"), Frederick County, State of Maryland, which property was conveyed unto the Declarant from Nancy R. Newton, by Deed dated _____, and recorded among the Land Records for Frederick County, Maryland, in Liber _____, folio _____ (the "Property").

R2. The Declarant intends to develop the Property as a retail shopping center, and upon receiving all necessary final approvals from the Town, to construct up to four (4) separate buildings on the Property along with parking areas, landscaping areas, stormwater management areas, sidewalks, pathways and drive aisles as an integrated retail shopping center use (collectively, the "Shopping Center").

R3. In connection with its proposed development of the Property into the Shopping Center, the Declarant desires and intends to establish an easement on, over, under, and upon that portion of the Property described and depicted as "Proposed Buffer Area Easement, _____ sq. ft. or _____ acres +" on the Easement Plat attached hereto as EXHIBIT A and made a part hereof (hereinafter the "Easement Area"), which easement shall be for the purpose of establishing and maintaining, in perpetuity, an adequate landscaped buffer area between the Shopping Center and certain parcels of land adjoining the Property along its western boundary line.

NOW THEREFORE, the Declarant does hereby declare that the Property, and the Shopping Center, shall henceforth be held, used, occupied, leased, transferred, sold, and conveyed subject to and together with the easements which are hereinafter established and described, and subject to and together with the conditions, restrictions, covenants, and reservations, which are hereinafter set forth, and all of which are for the purpose of protecting the value and desirability of, and shall run with the real property and be binding on all parties having any right, title, or interest in the Shopping Center, or any part thereof, and their heirs, successors, personal representatives and assigns, and shall inure to the benefit of each subsequent owner thereof.

The Declarant, for itself, its successors and assigns, hereby covenants and agrees as follows:

1. The Declarant hereby establishes a non-exclusive, perpetual easement in, through, on, over, under, across and within the Easement Area for the purpose of establishing and maintaining, in perpetuity, an adequate landscaped buffer area within the Easement Area, which easement shall be binding on all parties having any right, title or interest in the portions of the Property identified on EXHIBIT A, and shall inure to the benefit of the Town and those parcels of land adjoining the Shopping Center along its western boundary line, and their respective heirs, personal representatives, successors, and assigns. The landscaping and plant materials used within the Easement Area to create the desired buffer shall be determined in the discretion of the Declarant in consultation with the Town, but any combination of the following elements shall be deemed "adequate" for the purposes of this Declaration: _____.

2. The Declarant promises, prior to obtaining a Use and Occupancy permit for the first tenant within or user of any portion of the Shopping Center, to construct a fence within the Easement Area on the area shown on Exhibit A as "Fence to be Constructed", which location is on the Declarant's side of the Property line, of the following type and height: six (6) feet high, and constructed of white vinyl. Said fence shall be maintained and repaired in perpetuity for as long as the Shopping Center or other commercial use exists on the Property. Other than said fence, neither the Declarant, nor the future owners of all or any part of the Property, shall erect any building or structure of any nature whatsoever within the Easement Area except as shown on Exhibit A, nor otherwise block, encumber or obstruct the Easement Area without obtaining the Town's prior written consent.

3. Neither the Declarant, nor the future owners of all or any part of the Property shall fill or elevate the grade within the Easement Area without the prior approval of the Town Planning Commission, nor construct any improvements within the Easement Area except for the fence described in Section 2 of this Declaration and the landscaping and plant materials which shall serve as the buffer between the Shopping Center and the adjoining properties located to the west of the Property.

4. If the Easement Area becomes or remains obstructed, Declarant, or the future owners of the Property, as the case may be, will take any and all actions necessary to restore the Easement Area to its unobstructed state, including but not limited to, trimming, excavation, and removal of obstructions.

5. The Declarant reserves the right to make any and all uses of the Easement Area not inconsistent with the establishment and maintenance of a landscaped buffer area within the Easement Area.

6. The benefits and burdens of this Declaration of Easement shall run with the title to the Property and bind the future owners holding title to any portion thereof, whether or not any reference to this Declaration of Easement is contained in the instrument by which such person acquired such interest in the Property.

7. The Declarant warrants specially said easement and will execute such further assurances thereof as the Town may request.

8. The terms and conditions of this Declaration of Easement shall be governed in accordance with the laws of the State of Maryland.

9. This Declaration of Easement shall be recorded among the Land Records of Frederick County, Maryland.

WITNESS the hand and seal of the Declarant on the date and year first above written:

WITNESS:

Middletown Valley Investment Partners, LLC,
a Maryland Limited Liability Company

By: _____ (SEAL)
_____, title _____

STATE OF MARYLAND
COUNTY OF FREDERICK, TO WIT:

I HEREBY CERTIFY, that on _____ 2013, before me, the undersigned Notary Public of said State, personally appeared _____ of Middletown Valley Investment Partners, LLC, a Maryland Limited Liability Company, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that he executed the same on behalf of Middletown Valley Investment Partners, LLC, as its authorized signatory, for the purposes therein contained, and that as an authorized signatory he is authorized to execute this instrument.

WITNESS my hand and Notarial Seal.

Notary Public
My Commission Expires:

This instrument has been prepared under the supervision of the undersigned, an Attorney duly admitted to practice before the Court of Appeals of Maryland.

Bruce N. Dean, Esq.

Middletown Planning Office

MEMORANDUM

Date: 3/8/2013

To: Middletown Planning Commission

From: Cindy Unangst, Middletown Staff Planner

RE: **DRAFT ANNUAL REPORT**

The following document is enclosed for your review and direction:

- Draft Annual Report for the year ending 2012, and all planning and zoning activity reflected for that year, conducted by the PC, staff, zoning administrator, and Board of Appeals. This report must be reviewed, and staff would request comments, especially on goals for the new year, before forwarding with recommendation of adoption by the Town Board to submit to the State.



MIDDLETOWN PLANNING COMMISSION

2012 ANNUAL REPORT

Approved _____, 2013 by Burgess & Commissioners

BURGESS & COMMISSIONERS

John Miller, Burgess (4/2012-4/2016)

Jennifer Falcinelli, Burgess Pro-tem (4/2010-4/2014)

Larry Bussard (4/2010-4/2014)

Richard Dietrick (4/2010-4/2014)

Anthony Ventre (4/2012-4/2016)

Vincent O'Reilly (4/2008-4/2012)

Chris Goodman (4/2012-4/2016)

Andrew J. Bowen, Town Administrator

Middletown Planning Commission

Mark Carney, Chairman (12/2011-12/2016)

Robert Smart (12/2011-12/2016)

David Lake (2/2012-2/2017)

Richard Dietrick, Comm. Ex-Officio (4/10-4/14)

Bob Miller (1/2010-5/2013)

Chris Goodman, Alternate (1/2010-4/2012)

Chris Goodman, Comm. Ex-Officio (4/2012-4/2016)

Rich Gallagher, Alt. (2/2011-2/2016)

Ron Forrester, Temp. Alt (6/2012-6/2017)

Middletown Board Of Appeals

Fred Rudy, Chairman (6/2010-6/2013)

Thomas Routzahn (1/2008-2/2014)

Kenneth Kyler (1/2008-2/2014)

Chris Stimac, Alternate (1/2008-2/2014)

Planning Department Staff

Cynthia K. Unangst

Town Zoning Administrator

Cynthia K. Unangst

Engineering Staff

Bruce Carbaugh, Director of Operations and Construction

INTRODUCTION

Section 3.09 of Article 66B of the Annotated Code of Maryland requires that the Planning Commissions of non-charter counties and municipalities prepare, adopt and file an annual report with the local legislative body and a copy of the report be mailed to the Director of the Maryland Office of Planning. The report is a retrospective look at development activity within the jurisdiction with a focus on whether that activity is or is not consistent with a variety of adopted plans. The report thus informs both the Planning Commission and local legislative body about the strengths and weaknesses of the local planning program.

POPULATION IN MIDDLETOWN

<u>YEAR</u>	<u>POPULATION</u>	<u>INCREASE OR DECREASE</u>
1970 Census	1,262	N/A
1980 Census	1,748	486
1990 Census	1,834	86
2000 Census	2,668	173
2001 Estimate	2,768	100
2002 Estimate	2,951	183
2003 Estimate	3,237	286
2004 Estimate	3,655	418
2005 Estimate	3,833	178
2006 Estimate	3,966	133
2007 Estimate	4,105	139
2008 Estimate	4,198	93
2009 Estimate	4,239	41
2010 Census	4,136	-103
2011 Estimate	4,163	27
2012 Estimate	4,272	109

TEN YEAR PERIODS OF POPULATION GROWTH based on Census

1970 – 1980	486
1980 – 1990	86
1990 – 2000	834
2000 – 2010	<u>1,468</u>
	2,874

MIDDLETOWN PLANNING COMMISSION

The Middletown Planning Commission is a five-member commission, which has review and approval authority of site plans and subdivisions. In addition, the Planning Commission makes recommendations to the Burgess and Commissioners on rezoning, text amendments, annexations, and any other issue, which is planning related. The Middletown Planning Commission also makes recommendations to the Middletown Board of Appeals on cases involving special exceptions. (Numbers/letters in front of plan names correspond to numbers/letters on attached map.)

CONCEPT PLANS PRESENTED-2012

<u>Name</u>	<u>Units</u>	<u>Zoning</u>	<u>Request for:</u>
1A. Cone Branch Trail	N/A	OS	Approval of trail alignment plans (Approved 3/19)
1B. Newton Property Middletown Parkway	4	GC	Review of commercial building plans (6/18 and 11/19)

SITE PLANS-2012

<u>Name</u>	<u>Units</u>	<u>Zoning</u>	<u>Request for:</u>
2A. Wren's Nest West Main Street	1	TC	Approval of temporary storage container (Approved 1/16; expired 7/16)
2B. Putman Plumbing Revised Boileau Drive	1	TC	Approval of site plan for plumbing business (Approved 4/16)
2C. Christ Reformed Church South Church Street	1	OS	Approval of special exception use for farmer's market (Approved 2/11) (3-year approval)
2D. Main Cup Expansion West Main Street	1	TC	Approval of the expansion of the Main Cup restaurant (Approved 6/18 and 10/15)
2E. Stadium Concession Stand Schoolhouse Drive	1	OS	Approval of expansion of concession stand (Approved 6/18)
2F. St. Thomas More Academy Prospect Street	1	R-2	Approval of change of use to a private school (Approved 7/16 and 10/15)
2G. Mtn. Spirit Yoga Expansion West Main Street	1	TC	Approval of expansion of yoga studio (Approved 8/20)
2H. Main St. Groomers West Main Street	1	TC	Approval of dog grooming business (Approved 9/17)
2I. Thompson Parking Lot East Green Street	1	R-2	Approval of parking lot for funeral home (Disapproved 10/15)
2J. AMVETS Expansion West Green Street	1	OS	Approval of addition to AMVETS building (Approved 10/15)
2K. EarthSong Music Studio East Main Street	1	TC	Approval of music studio and real estate office (Approved 10/15)

MASTER PLANS-2012

<u>Name</u>	<u>Units</u>	<u>Zoning</u>	<u>Request for:</u>
3. Coblenz Property East Green Street	81	R-3	Approval of amended Master Plan (12/17)

LANDSCAPE PLANS-2012

<u>Name</u>	<u>Units</u>	<u>Zoning</u>	<u>Request for:</u>
None			

PRELIMINARY PLANS-2012

<u>Name</u>	<u>Units</u>	<u>Zoning</u>	<u>Request for:</u>
None			

MASS GRADING/SWM PLANS-2012

Name Units Zoning Request for:

None

IMPROVEMENT PLANS-2012

Name Units Zoning Request for:

None

FINAL FORESTRY PLANS-2012

Name Units Zoning Request for:

None

CORRECTION PLATS-2012

Name Units Zoning Request for:

None

ADDITION PLATS-2012

Name Units Zoning Request for:

None

FINAL PLATS-2012

Name Units Zoning Request for:

None

RE-ZONING REQUESTS:

None

ANNEXATIONS:

None

TEXT AMENDMENTS:

Text Amendments recommended to Burgess and Commissioners for adoption. (Municipal Code Number)

Vehicle sales regulations – Planning Commission recommended adoption of regulations permitting the sale of motor vehicles in any residential district subject to certain conditions. (Section 17.32.125) [PC recommended 9/17; B&C adopted 11/12]

Parking Lot special exceptions – Planning Commission recommended adoption of parking lots as a use in the R-2 zoning district permitted by special exception and to establish specific standards which must be met in order to permit parking lots in the R-2 district by special exception. (Section 17.06.030, Section 17.48.400) [PC recommended 12/17]

BOARD OF APPEALS: (letters in front of applicant names correspond to letters on attached map)

<u>Applicant</u>	<u>Request</u>	<u>Location</u>	<u>Motion</u>	<u>Date</u>
A. Christ Reformed Church	Special exception for farmer's market	12 South Church	Approved	5/29/12
B. Stanley	variances for swimming pool	2 Wagon Shed Court	Approved	6/19/12
C. Williston	1' variance for enclosed porch	9 Crone Lane	Approved	9/19/12

INFRASTRUCTURE PROJECTIONS:

TRANSPORTATION:

Action taken by the Town in the year 2012 has been consistent with the Town Comprehensive Plan and best management planning practices.

A Middletown Parkway remains a priority of the Town and is included in the Town Comprehensive Plan with alignments both north and south of town. Future development should incorporate roadway dedication and construction to provide minimum collector type road links from east to west, and a collector from US 40-A north to I-70.

The County and Town should develop plans to transfer Coblenz Road from county road status to the municipal street system in conjunction with the Admar annexation, should that ever occur.

The State Highway Administration is resurrecting the plans and cost estimates for improvements to the Main Street area of Middletown. The scope of the work includes replacement of water mains and storm water lines in the Main Street SHA right-of-ways and the feasibility studies for relocating utility lines, new signage, traffic patterns, and replacement or installation of curb, gutter and sidewalks.

WATER SUPPLY AND DISTRIBUTION:

The Town depends on 22 wells, 4 groups of springs, two reservoirs, and a water tower to supply water to the Town. The current total withdrawal permitted by the Town is 407,000 gallons per day (gpd). The average daily use for 2012 was 300,000 gpd (down from 321,000 in 2011). The water system is routinely monitored for possible contaminants in accordance with Federal and State laws, and none were at violation levels in 2012.

WASTE WATER TREATMENT FACILITIES:

The East End Wastewater Treatment Plant (WWTP) on the south side of Holter Road at Hollow Creek is designed to process 350,000 gpd of sewerage. The current discharge permit for the plant is 250,000 gpd. Average daily flows for 2012 were 198,000 gpd (down from 204,000 in 2011).

The discharge for the West End WWTP at Catocin Creek in the southwest section of Town is 250,000 gpd. Average daily flows for 2012 were 183,000 gpd (down from 222,000 gpd in 2011).

There were two violations in 2012. The East WWTP had one violation for BOD (Biological Oxygen Demand) loading based on high flow from Hurricane Sandy. The West WWTP also had one violation for TSS (Total Suspended Solids) based on algae.

WATER/SEWER MASTER PLAN

Although the Town developed a Water/Sewer Master Plan as a Subsidiary Plan to the County Water/Sewer Master Plan, it was denied by the State in 2004, and consequently the Town complies with the County's Water and Sewer Master Plan.

PARKS AND GREENWAYS:

In 2012, the Town completed construction of Phase I of Remsberg Park, a community recreational park located on the south-side of Holter Road. Phase I construction included parking lots, two baseball/softball fields, three multi-purpose fields, a walking path, storm drainage, storm water management facilities, county road widening and an entrance road to the park. The total acreage of the park is approximately 87.9 acres.

The Town is currently funding design of the walking/biking trail along the Cone Branch Creek. The design is complete and MDE permits have been applied for with construction planned for 2013. This walking/biking trail will connect the existing sidewalk system to Remsberg Park and Middletown Primary School which is also a Recreation Center.

PROTECTION OF HISTORIC STRUCTURES:

At the present time, the only regulations regarding the demolition of buildings are a zoning control (Section 17.32.160, Zoning, Middletown Municipal Code), which requires a Demolition Permit. This permit allows a building to be inventoried prior to the demolition but does not prohibit demolition.

The Town has approval of two historic districts approved by the National Register, allowing for property owners to voluntarily participate in government programs to recognize and improve properties. This process required establishment of a Historic Commission, which acts as a conduit between property owners and available programs. The Town also worked with private citizens to implement an identification plaque program for placement of plaques on historically significant structures in the historic districts. No plaques were placed on historically significant structures in 2012.

STRATEGIC PLANNING INITIATIVES

ZONING ORDINANCE UPDATE

The Planning Commission and planning staff began a comprehensive review of the Town Zoning Ordinances to review changes for consistency with the updated Middletown Comprehensive Plan in 2010.

PLANNING COMMISSION RECOMMENDATIONS:

ONGOING RECOMMENDATIONS:

1. Review walkway and road construction strategies to be incorporated into current & future growth and development.
2. Review and refine a management system for the plan review process to help ensure that files are complete and easily accessible, and which includes a checklist to verify that all agency approvals are in place.
3. Continue review of zoning ordinances as needed to ensure compatibility with the comprehensive plan.

4. Work on promotion and development of a trails system as shown in the Comprehensive Plan by working with the Town Board, citizens and community groups.

NEW RECOMMENDATIONS:

1. Work closely with Main Street Maryland Program to help revitalize downtown Middletown.
2. Work on promoting sustainable development practices thru the development review process.
3. Work on applying for the Maryland Sustainable Communities designation and discuss potential projects to consider for any applicable funding associated with the designation.

Permits Issued

TYPE	1996	1997	1998	1999	2000	5 yr.	2001	2002	2003	2004	2005	5 yr.	2006	2007	2008	2009	2010	5 yr.	2011	2012	2013	2014	2015	5 yr.
	Single - Family	45	36	29	18	40	168	75	106	92	45	22	340	30	31	12	17	23	113	10	12			
Multi-Family	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0			
Duplex	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	1	0	0			
Townhouse	0	0	0	0	0	0	0	0	42	15	0	57	16	19	23	24	0	82	0	0				
Apartments	0	0	1	0	0	1	0	1	0	0	0	1	0	0	0	0	0	0	0	0				
Interior Improvements	0	0	0	0	0	0	9	11	20	19	22	81	18	20	19	12	19	88	15	11				
Additions	0	0	0	0	0	0	6	15	15	28	20	84	8	12	2	6	2	30	6	7				
Pools & Hot Tubs	5	5	4	6	3	23	7	9	9	16	4	45	8	12	7	4	3	34	2	6				
Decks & Porches	18	23	34	20	11	106	18	38	36	64	39	195	37	41	31	27	28	164	32	19				
Accessory Structure	6	12	18	5	25	66	14	15	24	23	16	92	18	13	14	9	9	63	6	5				
Fences	6	13	19	17	11	66	18	27	41	36	29	151	23	16	25	24	20	108	16	24				
Demolitions	1	2	2	0	2	7	1	1	0	1	2	5	0	2	0	2	1	5	2	1				
Propane Tanks	0	0	0	0	0	0	1	1	3	6	6	17	3	4	2	2	1	12	6	2				
Sales Trailer	0	0	0	0	0	0	3	2	0	0	3	8	0	0	0	0	0	0	0	0				
Pump Station	0	0	0	0	0	0	1	0	0	0	0	1	0	0	1	0	0	1	0	0				
Signs	1	8	2	2	3	16	8	6	4	4	7	29	5	7	2	5	6	25	7	8				
New Commercial	0	7	2	2	4	15	2	4	0	0	0	6	0	0	0	0	1	1	0	0				
Commercial Conversion	0	0	0	0	0	0	4	5	7	6	8	30	1	2	7	3	3	16	4	6				
Industrial Conversion	0	0	0	0	0	0	2	0	0	0	0	2	0	0	0	0	0	0	0	0				
Office Conversion	0	0	0	0	0	0	4	4	0	1	4	13	14	3	0	5	2	24	0	3				
Other														2	1	2	2	7	5	4				
Total Permits	82	106	111	70	99	468	173	245	293	264	182	1157	182	184	146	142	120	774	111	108				

Annual Report on Growth Related Changes
Per SB 280/HB 295, effective June 1, 2009

Town of Middletown
(name of jurisdiction)

Prepared by the Middletown Planning Commission for the period
January 2012 through December 2012

Submitted on April 10, 2013 (due July 1 for the preceding calendar year)

1. **Development Patterns** - List all changes in development patterns that have occurred over the past year, including:
 - (a) New subdivisions created: *none*
 - (b) New building permits issued; *12*
 - (c) Zoning map amendments; *none*
 - (d) Zoning text amendments that resulted in changes in development patterns; *none*
 - (e) New Comprehensive Plan or plan elements adopted; *none*
 - (f) New roads or substantial changes in roads or other transportation facilities; *none*
 - (g) New schools or additions to schools; *none*
 - (h) Other changes in development patterns. *none*

2. **Map** - Attach a map that shows the above changes in development patterns (the map should identify new subdivisions, zoning map changes, etc).

Coblentz Grove Villas 3-lot subdivision approved last year has now been delineated by our GIS consultant; attached is a map.

3. **Consistency** - Determine and state whether all of the changes in development patterns listed above are or are not consistent with:

- (a) Each other; *yes, they are consistent.*
- (b) The recommendations of the last annual report; *yes, they are consistent.*
- (c) The adopted plans of the local jurisdiction; *yes, they are consistent.*
- (d) The adopted plans of all adjoining local jurisdictions; *yes, they are consistent.*
- (e) The adopted plans of State and local jurisdictions that have responsibility for financing or constructing public improvements necessary to implement the local jurisdiction's plan. *yes, they are consistent.*

4. **Process Improvements** - What are your jurisdictions plans for improving the local planning and development processes? *Walk-thru permits continue to be available thru local/County coordination; the Middletown Planning Commission holds a workshop ahead of the monthly meeting to review agenda items which makes it easier to approve plans at the monthly meeting.*

5. **Ordinances and/or Regulations** - List zoning ordinances or regulations that have been adopted or changed to implement the planning visions in §1.01 of Article 66B.
None within the past year.

**Annual Report on Smart Growth Goals, Measures, and Indicators and
Implementation of Planning Visions**

Per SB 276/HB 295

Second Report due July 1, 2013 for Calendar Year 2012

Town of Middletown

(name of jurisdiction)

Prepared by the Middletown Planning Commission
for the period January 2012 through December 2012

Submitted on _____

Measures and Indicators

With the exception of jurisdictions that issue less than 50 building permits per year, the measures and indicators that must be reported on are:

Amount and share of growth that is being located inside and outside the Priority Funding Area (PFA):

Net density of growth that is being located inside and outside the PFA:

Creation of new lots and the issuance of residential and commercial building permits inside and outside the PFA: **12 residential single-family dwelling permits were issued inside the PFA; nine commercial building permits were issued inside the PFA which were change of use permits;**

Development capacity analysis, updated once every 3 years or when there is a significant zoning or land use change:

Number of acres preserved using local agricultural land preservation funding: **none**

Town of Middletown Planning Department

To: Middletown Planning Commission

From: Cindy Unangst, Staff Planner

Date: 4/16/2013

RE: Monthly Planning Update

Major Subdivisions:

Coblentz on Green – Master Plan approval – approved November 10, 2008
SWM Concept Plan – approved by County October 15, 2010
Water Tap agreement approved by Burgess & Commissioners – March 2012
Planning Commission approved Forest Stand Delineation/Forest Conservation Plan – Jan 2013
Planning Commission conditionally approved preliminary plan – March 18, 2013
Master Plan Amendment approved March 11, 2013

Foxfield Section 4- FRO plantings have all been installed. 16 homes still to be built.
1st year FRO review – 67% compliance – 232 additional trees needed

Minor Site Plans and Subdivisions:

AMVETS Expansion Plans – Site Plan approved – October 15, 2012; (Plans expire 10/15/2015)

Chesterbrook Apts/Middletown Valley Apts - Site Plan approved – July 17, 2006
Improvement Plans signed by County – July 17, 2008
Improvement Plans approved and signed – September 16, 2008
SWM waiver received from County – May 12, 2011
SWM admin waiver shall expire on May 4, 2017; final plans approved prior to May 4, 2013.

Coblentz Grove minor subdivision – Preliminary/Final Plat conditionally approved – Nov. 15, 2010
FSD & Forest Conservation Plan approved – November 15, 2010
Improvement Plans conditionally approved – February 21, 2011
Final Plat approved – July 18, 2011 (recorded – October 24, 2012)
Building permits applied for – October 30, 2012

Cone Branch Walking Trail – Concept plans approved – March 19, 2012
Improvement plans conditionally approved – January 21, 2013

Fire Co Activities Center- Site Plan conditionally approved – July 21, 2008
Site Plan resubmitted and SWM Concept/Dev. Plan submitted – Sept. 6, 2011
Revised Site Plan conditionally approved – October 17, 2011; (Plans expire October 17, 2014)
SWM Plan approved by Frederick County – November 3, 2011
Improvement Plans submitted – December 6, 2012
Revised Site Plan submitted – March 26, 2013

Hollow Creek – Revised Site Plan approved and signed – October 14, 2010
Revised Site Plan (leaderboard) approved – February 21, 2011; (Plans expire February 21, 2014)

Hollow Creek Golf Course SWM Pond #1 Revision plans submitted to County 12/1/2010
Plans approved by County – December 22, 2010
Revised Plans submitted for PC review – December 30, 2010
Revised Plans submitted to SCD for review – January 5, 2011

Horman Apartments- Site Plan approved – April 21, 2008
Improvement Plans conditionally approved – May 17, 2010

Jiffas – Site Improvement Plan conditionally approved – October 20, 2008
Forest Conservation Plan approved – October 20, 2008

Middletown H.S. Stadium Concession Stand Expansion Plan – approved June 18, 2012
(Plans expire June 18, 2015)

Middletown H.S. C-container site plan – conditionally approved February 18, 2013

Miller (Ingalls) – Concept and Phase I & II Plan submitted – September 20, 2010
Approved and signed – September 27, 2010

Newton Property (Cross Stone Commons) – Concept Plan discussion – June 18, 2012
Concept Plan submitted – October 1, 2012
Traffic Impact Study submitted – October 18, 2012
Revised Concept Plan reviewed by PC – November 19, 2012
BOA Special Exception Use application submitted – April 8, 2013

Potomac Gun Depot – plans conditionally approved – February 18, 2013

Putman – Site Plan conditionally approved- November 17, 2008
Forest Conservation Plan approved – June 16, 2009
Improvement Plans conditionally approved – July 20, 2009
Cost estimates for public improvements approved – May 13, 2010
Improvement Plans approved and signed by all agencies – July 2010
Revised Site Plan approved – April 16, 2012; (Plans expire April 16, 2015)

Thompson Funeral Home Revised Parking Lot Site Plan – submitted March 18, 2013

Washington Gas Line – plans approved – January 21, 2013

Annexations:

A.C. Jets Property- PC approval of annexation petition of 35.96 acres – December 21, 2009
Public hearing date - Monday, October 11, 2010
Annexation petition denied – October 11, 2010

County Park – Annexation request approved by BOCC – February 7, 2013

Reports: **Draft Annual Report – Planning Commission review in March and April**

Meetings:

Town of Middletown Zoning Department

To: Middletown Planning Commission
From: Cindy Unangst, Zoning Administrator
Date: 4/16/2013
RE: Monthly Zoning Update

P & Z Issues:

Zoning Code review - ongoing

BOA Hearings: Hearing for special exception use of a parking lot in the R-2 Residential District – held on March 27, 2013. Special exception use was conditionally approved.

Received variance request for a 4-foot variance for a swimming pool at 29 Wagon Shed Lane – 3/27/2013. Hearing scheduled – May 8, 2013

Received special exception use request for a child daycare center in the R-2 Residential District – 30 East Green Street – 4/8/2013. Hearing scheduled – May 8, 2103

Received special exception use request for a shopping center in the GC General Commercial District – Middletown Parkway and Old National Pike – 4/8/2013. Hearing scheduled - May

Zoning Violations:

none

Meetings:

March 2013 Zoning Permits	Address	Permit #	M-town	C. Unangst	County
			Received	Approved	Approval
Ferrone – inground pool	5 Smithfield Drive	107480	2/26/2013	3/12/2013	yes
Smith – finish basement	6 Gladhill Drive	107754	2/20/2013	3/15/2013	yes
Wells – porch and deck	29 Wagon Shed Lane	108156	3/14/2013	3/26/2013	yes
Donato – temp. signage	2 East Main Street	Town	3/13/2013	3/17/2013	n/a
Karisma Salon – signage	4 West Main Street	Town	3/26/2013	3/28/2013	n/a