

MIDDLETOWN PLANNING COMMISSION

Middletown Municipal Center
31 West Main Street
Middletown, MD 21769

AGENDA
Monday, February 17, 2014
7:00 p.m.

- I. Public Comment
- II. Minutes of January 2014 Planning Commission meeting Approval
- III. Plan Review - none
- IV. Zoning
 - Cluster development regulations Discussion/recommendation
 - Violations
- V. Miscellaneous
- VI. Additional Public Comment

**** All requests to be on the Planning Commission agenda must be received at the Middletown Municipal Center, 31 W. Main Street, Middletown by 4:00pm 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, and an electronic plan is required as well.**

MIDDLETOWN PLANNING COMMISSION
31 West Main Street
Middletown, Maryland

Regular Meeting

January 20, 2014

The regular meeting of the Middletown Planning Commission took place on Monday, January 20, 2014 at 7:00 p.m. at the Middletown Municipal Center, 31 West Main Street, Middletown, MD 21769. Those present (quorum) were Commissioners Mark Carney (Chairman), Chris Goodman (Ex-Officio), Bob Miller, David Lake, and Bob Smart. Others present in official capacity: Commissioners Rich Gallagher (Alternate), Ron Forrester (Temp. Alternate), Cindy Unangst (Staff Planner), and Annette Alberghini (Recording Secretary). Others present: John Miller (Town Burgess) and Farhad Memarsadeghi (Admar Custom Homes, Inc.).

I. PUBLIC COMMENT – None.

II. Regular Meeting Minutes of December 16, 2013 – Commissioner Lake stated that the minutes need to reflect the change that Cindy Unangst resigned as Zoning Administrator and that the Town Board appointed Drew Bowen, the Town Administrator, as the acting Zoning Administrator until a replacement is found. Chairman Carney stated that the Miscellaneous section of the minutes should be revised to reflect the changes suggested by Commissioner Forrester in an email dated January 17, 2014. These changes will enhance that section's readability and accuracy. – **Minutes approved with those corrections**

III. PLAN Review - None

IV. ZONING

Active Adult Text Amendment - Cindy reviewed the text amendment changes submitted by the applicant. The proposed text amendment change request now states that on parcels less than 100 acres but more than 30 acres, entire parcel can be used for active adult community using the cluster development concept as long as total density remains below 2 units per acre and complies with any other requirement of the cluster development regulations.

- Discussion ensued regarding whether the wording should remain “total density remains below two units per acre” or be changed to “total density should remain at or below 2 units per acre”. Commissioner Lake stated that the regulation should state at or below 2 units per acre. Mr Memarsadeghi (Admar Custom Homes, Inc.) stated that this point should actually be reflected in the cluster development regulations and not in this section. Cindy stated that the Planning Commission needs to make a recommendation to the Town Board before its' next meeting on January 27, 2014, and that the Planning Commission in that recommendation can state that the cluster development regulations will be forthcoming.
- **Cluster Development Regulation:** The Planning Commission has tasked Cindy with developing starting points on cluster development regulations. The Planning Commission will then take those and complete the cluster development regulations within the month.

Action: Commissioner Lake motioned to approve text amendment section 17.48.015 Active Adult Community with changes as noted for submittal to the Town Board for modification. Commissioner Smart seconded. Motion carried (4-0-1). Commissioner Goodman abstained.

Zoning Code Review – 17.36 Temporary Sign permit procedures – Cindy reviewed the definitions of sandwich board signs and the modified permit procedures for displaying these signs on business property and off business property. This information is based on Myersville's regulations.

- **Zoning Code Verbiage:** Commissioner Lake suggested removing the statement that temporary sandwich board signs not be displayed for more than 12 hours in a day from both sections regarding temporary signs located on that business property and temporary signs located off business property as point b. in each section states when the signs have to be removed daily. Chairman Carney stated that the words “upside down T” be added in parentheses after the words “T-frame signs” in section 7 of signs placed in front of a business property and also in section C subsection 4 for clarification.
- **Sign Size:** Measurements were taken of several sandwich signs businesses currently used around the Town of Middletown. They were all generally the same size. The Planning Commission discussed setting a maximum size for the entire town to use. The maximum size will be 30 inches wide by 48 inches high.

Action: Commissioner Smart motioned to forward the modified temporary sign permit procedures to the Town Board for recommendation as further clarified. Commissioner Miller seconded. Motion carried (4-0-1). Commissioner Goodman abstained.

Violations – None

V. MISCELLANEOUS

Elect Chairman and Vice Chairman for 2014 – Commissioner Lake motioned to elect Mark Carney as the Chairman of the Planning Commission for 2014. Commissioner Smart seconded. Motion passed. Commissioner Smart motioned to elect Commissioner Lake as the Vice Chairman of the Planning Commission for 2014. Commission Chair Carney seconded. Motion passed.

Commissioner Ron Forrester - The Planning Commission members thanked Commissioner Ron Forrester for his service to the Planning Commission. They also congratulated him on his appointment to the Zoning Administrator Position within the Town. The question was raised whether or not his replacement to the Planning Commission had been selected yet. Burgess Miller stated that advertising is on-going, but the appointment will be made at the Town Board Meeting January 27, 2014.

Construction Constraints Within Town Limits – Commissioner Lake questioned if there were current regulations in place regarding construction activity within the Town of Middletown and time it could begin and must end daily. Several Commissioners believed that there are regulations in place regarding this issue. Cindy will research and send her findings to all Planning Commission members.

Valley School – Chairman Carney asked what the regulations are regarding businesses lighting their properties within residential areas within the Town. Cindy replied that there should be no lights on after 6:30pm or on weekends for The Valley School. He noted that the Valley School has been in spotty compliance with this. Commissioner Smart stated that the site plan should have it clarified. Cindy will contact the business owner for compliance.

VI. ADDITIONAL PUBLIC COMMENTS – None

Meeting adjourned at 7:30pm.

Respectfully submitted,

Annette Alberghini
Receptionist

Cluster Development Regulations

17.16.010 R-20 district.

A. Purpose. The R-20 district is intended to encourage and promote the development of single-family residential neighborhoods on large lots free from land usage which might adversely affect such development: except in the case of cluster developments in which dwellings are grouped together on a site, thus saving the remaining land area for common open space, conservation, recreation, and public and semipublic uses.

B. Uses Permitted in the R-20 District. No building or structure may be erected or used and no land may be used or occupied except for one or more of the following principal uses:

1. Single-family dwellings;
2. Churches, public schools, libraries and parks, playgrounds, family day care homes;
3. Accessory buildings and uses;
4. Home occupations;
5. Residential cluster development.

C. **Special Exceptions in the R-20 District.** The board of appeals may authorize the following principal uses as special exceptions in accordance with the provisions of Section 17.44.060:

1. Community centers;
2. Medical centers;
3. Nursery schools, child care center;
4. Public utility building;
5. Active adult community;
6. Public safety services, subject to site development plan approval.

Chapter 17.42 RESIDENTIAL CLUSTER DEVELOPMENTS

Sections:

17.42.010 Purpose.

17.42.020 Definitions.

17.42.030 Applicability; General Provisions.

17.42.040 Contents of Site Plan.

17.42.050 Review Criteria.

17.42.060 Home owner's association.

17.42.010 Purpose.

The purpose of this chapter is to permit such flexibility and provide performance criteria, which can result in residential cluster developments in order to:

- A. encourage creative and flexible site design that is sensitive to the land's natural features and adapts to the natural topography;
- B. protect environmentally sensitive areas of a development site and preserve on a permanent basis open space, natural features, and prime agricultural lands;
- C. decrease or minimize nonpoint source pollution impacts by reducing the amount of impervious surfaces in site development;
- D. promote cost savings in infrastructure installation and maintenance by such techniques as reducing the distance over which utilities, such as water and sewer lines, need to be extended or by reducing the width or length of streets;
- E. provide opportunities for social interaction and walking and hiking in open space areas; and
- F. provide a more desirable environment than would be possible through the strict application of other sections of this title. A residential cluster development shall be a separate entity with a distinct character in harmony with surrounding development. Common land must be an essential and major element of the plan, which is related to and affects the long-term value of the homes and other developments.

17.42.020 Definitions.

As used in this ordinance, the following words and terms shall have the meanings specified herein:

"Buffer" means land maintained in either a natural or landscaped state and used to screen and/or mitigate the impacts of development on surrounding areas, properties, or rights-of-way.

"Cluster" or "Clustering" means a site-planning technique that concentrates buildings and structures in specific areas on a lot, site, or parcel to allow the remaining land to be used for recreation, open space, and/or preservation of features and/or structures with environmental, historical, cultural, or other significance. The techniques used to concentrate buildings may include, but shall not be limited to, reduction in lot areas, setback requirements, and/or bulk requirements, with the resultant open space being devoted by deed restrictions for one or more uses.

"Cluster development, residential" means a land development project in which the site planning technique of clustering dwelling units is employed.

"Common open space" means the portion of the site set aside in perpetuity as open space. This area may include wetlands, floodplains or flood-hazard areas, stream corridors, prime agricultural lands, habitats of endangered wildlife, as identified on applicable federal or state lists, scenic views, historical or cultural features, archaeological sites, or other elements to be protected from development, as well as easements for public utilities.

"Gross area" means the total area of the site, including the net buildable area and public rights-of-way.

"Infrastructure" means the facilities and services needed to sustain residential, commercial, industrial, institutional, and other activities.

"Land development project" means a project in which one or more lots, tracts, or parcels of land are to be developed or redeveloped as a coordinated site for a complex of uses, units, or structures, including, but not limited to, planned unit development and/or cluster development for residential, commercial, institutional, recreational, open space, and/or mixed uses as are provided for in the zoning ordinance.

"Net buildable area" means the portion of the cluster development that may be developed or used for common open space, whether publicly dedicated or private, but excluding private streets, public streets, and other publicly dedicated improvements.

"Street, private" means a local roadway serving only abutting lots, not publicly dedicated or maintained by the Town but meeting specific municipal improvement standards, and providing access for service and emergency vehicles.

17.42.030 Applicability; General Provisions.

A. A residential cluster development shall be permitted in the R-20 residential zoning district. All principal and accessory uses authorized in the R-20 district shall be allowed in the cluster development.

B. The following provisions shall apply to any residential cluster development, regardless of the general requirements of the R-20 zoning district:

1. The minimum area of the cluster development shall be 30 acres.
2. No minimum width or depth of a lot shall apply.

3. A minimum side yard setback of 5 feet shall be provided between all principal buildings and structures.
4. A minimum yard or common open space of at least 25 feet in depth shall be provided, as measured from all streets and from the side and rear lot lines at the boundaries of the entire cluster development.
5. Each lot shall have a minimum access of 12 feet to a public or private street.
6. There shall be a maximum height limitation based on the zoning district.

17.42.040 Contents of Site Development Plan.

A. The preliminary and final site development plans for a residential cluster development shall include, but shall not be limited to, the following information:

1. The maximum number and type of dwelling units proposed.
2. The areas of the site on which the dwelling units are to be constructed and their building envelope size showing the general area in which the dwelling unit is to be located.
3. The calculations for the permitted number of dwelling units.
4. The areas of the site on which other proposed principal and accessory uses may be located and their size.
5. The areas of the site designated for common open space and their size.
6. The areas of the site designated for parking and loading and the size of the spaces.
7. The location of sidewalks, trails, and bike paths.
8. The proposed landscaping for the development.
9. A phasing plan for the construction of the development.

17.42.050 Calculation of Permitted Number of Dwelling Units and Review Criteria.

A. In calculating the numbers of dwelling units proposed for a residential cluster development, if the floodplain area of the cluster development exceeds ten (10%) percent of the site, then the useable area shall first be determined by deducting from the gross area of the tract all floodplain areas (fifty (50) year floodplain and floodplain alluvium soils) and then applying the approved density figure for the cluster development to the useable area contained in the tract.

B. In reviewing a residential cluster development, the planning commission shall determine whether:

1. The site plan satisfies all requirements of Section 17.42 above;
2. Buildings and structures are adequately grouped so at least 25% of the total area of the site is set aside as common open space. To the greatest degree practicable, common open space shall be designed as a single block and not divided into unconnected small parcels located in various parts of the development;
3. Pedestrians can easily access common open space;
4. The site plan establishes, where applicable, an upland buffer of vegetation of at least 50 feet in depth adjacent to wetlands and surface waters, including creeks, streams, springs, lakes, and ponds;
5. Individual lots, buildings, structures, streets, and parking areas are situated to minimize the alteration of natural features, natural vegetation, and topography;
6. Existing scenic views or vistas are permitted to remain unobstructed, especially from public streets;
7. The site plan accommodates and preserves any features of historic, cultural, or archaeological value;
8. Floodplains, wetlands, and areas with slopes in excess of 25% are protected from development; and
9. The cluster development advances the purposes of this ordinance as stated in Section 17.42.010 above.

C. The planning commission may, in its opinion, apply such special conditions or stipulations to its approval of a residential cluster development as may be required to maintain harmony with neighboring uses and to promote the objectives and purposes of the comprehensive plan and the zoning and subdivision ordinances.

D. In approving a residential cluster development, the planning commission may reduce the pavement width of any public or private streets that would otherwise be required by the subdivision regulations if the town engineer is in concurrence.

E. An applicant who wants the reduction of pavement width of public or private streets as provided for in paragraph (D) above, shall submit a statement of justification for the reduction along with the site plan.

F. Open Space. At least twenty-five (25%) percent of the entire tract of land to be developed in a residential cluster development must be devoted to open space purposes. Areas that are reserved as open space shall be shown on the plat and approved by the Planning Commission.

G. Public Utilities and Facilities. Public water and public sewer must be provided to the development. The planning commission may require the reservation of sites for other public facilities (schools, fire or police stations, library, etc.) if the need of the development justifies the facilities.

17.42.060 Home owner's association.

A. A home owners' association will be required if other satisfactory arrangements have not been made for improving, operating and maintaining common facilities including streets, drives, service and parking areas, open spaces, common areas, stormwater management facilities, and recreation areas. When required, the owner must establish a home's association in accordance with requirements and procedures approved by the planning commission.

B. Should any established homes association decide to dissolve such association, or if such association becomes defunct by any reason, the town disclaims any obligation to assume responsibility for lands held in common by such association. The burgess and commissioners reserve the option, however, to correct and bill homeowners involved for expenses incurred improving, operating and maintaining common facilities. Such charges shall become a lien against the property if not paid.

C. Prior to any assumption of responsibility for lands and facilities held by the homes association, the burgess and commissioners may require that such land and facilities meet the minimum standards required of similar facilities normally under town responsibility.

MEMORANDUM

Date: 1/23/2014

To: Burgess and Commissioners, Middletown
From: Cynthia K. Unangst, Middletown Staff Planner
RE: Active adult text amendment

The Middletown Planning Commission on January 20, 2014 again reviewed the proposed Active Adult text amendment submitted by the Memar Corporation which would establish that parcels of land less than 100 acres could be used in their entirety for active adult communities as long as the total density remained below two units per acre. By consensus the Planning Commission recommends approval of the proposed text amendment with a modification. Below is the Planning Commission's recommendation, which has Farhad's support as well.

Section 17.48.015 Active adult community.

In the R-20 residential district and subject to the requirements of that district except as modified and provided in this chapter:

A. An active adult community in the R-20 district must be developed as an integral component of a larger R-20 zoned subdivision and may constitute no more than fifteen (15) percent of the total acreage in the subdivision.

B. Minimum size of overall R-20 subdivision: one hundred (100) acres. *On parcels less than 100 acres but more than 30 acres, entire parcel can be used for active adult community using the cluster development concept as long as total density remains at or below two units per acre and complies with any other requirements of the cluster development regulations. (example: maximum number of units in a 40 acre parcel is 80 active adult units)*

A public hearing should be scheduled ahead of a vote by the Town Board on the proposed ordinance. The public hearing should be scheduled after February 13, 2014 to allow for the mandatory 2-week successive public hearing notice in The Citizen newspaper.

Town of Middletown Planning Department

To: Burgess & Commissioners and Middletown Planning Commission

From: Cindy Unangst, Staff Planner

Date: 2/4/2014

RE: Monthly Planning Update

Major Subdivisions:

Coblentz on Green – 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
Master Plan Amendment approved - March 11, 2013
Planning Commission conditionally approved preliminary plan – March 18, 2013
Improvement plans conditionally approved – October 16, 2013

Foxfield Section 4- FRO plantings have all been installed. 12 homes still to be built.
1st year FRO review – 67% compliance – 232 additional trees planted (May 2013)

Site Plans and Minor 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 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 – 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)
U&O's released for two of the lots – October 29, 2013

Fire Co Activities Center- SWM Plan approved by Frederick County – November 3, 2011
Revised Site Plan conditionally approved – April 22, 2013
Improvement Plans conditionally approved – April 22, 2013
Building permit issued – May 24, 2013

Fire Station – Concept plan submitted to PC for comments – April 22, 2013
Fire Station plat conditionally approved – October 16, 2013
Fire Station Site Plan conditionally approved – November 18, 2013

Garden Center – Concept plan submitted to PC for comments – February 3, 2014

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
- 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)
- Miller (Ingalls)** – Concept and Phase I & II Plan approved & signed – September 27, 2010
 Revised Concept Plan reviewed by PC – September 16, 2013
 Concept Plan sent to SHA for review – September 23, 2013
 SHA comment letter received November 22, 2013
- More Ice Cream site plan** – conditionally approved – June 17, 2013
 Change of Use permit approved – July 2, 2013
- Newton Property (Cross Stone Commons)** – Concept Plan submitted – October 1, 2012
 Traffic Impact Study submitted – October 18, 2012
 BOA Special Exception Use Hearing – May 8, 2013 (Conditionally approved)
 FRO Preliminary Plan approved – November 18, 2013
 Addition Plat conditionally approved by PC – November 18, 2013
 Revised Site Plan conditionally approved by PC – November 18, 2013
Architectural renderings discussion – January 15, 2014
Revised Architectural renderings submitted – February 3, 2014
- Potomac Gun Depot** – plans conditionally approved – February 18, 2013
 Revised site plan conditionally approved – June 17, 2013
- Putman** – Site Plan conditionally approved- November 17, 2008
 Forest Conservation Plan approved – June 16, 2009
 Improvement Plans approved and signed by all agencies – July 2010
 Revised Site Plan approved – April 16, 2012; (Plans expire April 16, 2015)
- Subway property** – site plan reviewed for ice cream parlor during workshop discussion– May 15, 2013
- The Valley School** – BOA special exception use hearing – May 8, 2013 (Approved)
 Forest Conservation Plan approved – June 17, 2013 (fee-in-lieu paid 7/8/2013)
 Site Plan and Improvement Plans approved by Planning Commission – August 19, 2013
 Building permit issued – October 7, 2013
- Thompson Funeral Home Revised Parking Lot Site Plan** – conditionally approved April 22, 2013
 SWM Plans conditionally approved by Frederick County – October 29, 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 agreement approved by BOCC – May 30, 2013
Annexation agreement approved by Town Board – June 10, 2013
Annexation recommended for approval by PC – September 16, 2013
Public Hearing held on December 5, 2013
County Park annexation approved by Town Board – December 9, 2013

Text Amendments:

Zoning Code review – ongoing

New State FRO Ordinance – Forest Preservation Act of 2013
Planning Commission review and recommendation – December 16, 2013
Public Hearing – January 2, 2014
Town Board approval – January 13, 2014

Active Adult text amendment – received language from Farhad – October 28, 2013
Planning Commission review – November 18, 2013 (no recommendation)
Planning Commission recommended approval with modifications – January 20, 2014

Reports:

Meetings:

Town of Middletown Zoning Department

To: Burgess & Commissioners and Middletown Planning Commission

From: Drew Bowen, Zoning Administrator

Date: 2/4/2014

RE: Monthly Zoning Update

BOA Hearings: none

Zoning Violations: Thompson Parking Lot

January 2014 Zoning Permits	Address	Permit #	M-town Received	Approved	County Approval
Smith – deck	6 Gladhill Drive	115313	12/20/2013	1/9/2014	Yes
Price – int. renovations	11 Crone Lane	115340	1/6/2014	1/10/2014	Yes
Sprint – ant. Addition	201 High Street	115305	1/3/2014	1/14/2014	Yes
BP Station – sub shop	211 E. Main Street	115551	12/5/2014	1/28/2014	Yes
Hough – refinish attic	23 E. Main Street	115691	1/30/2014	1/30/2014	Yes
Peltier - fence	501 West Green St.	Town	1/6/2014	1/7/2014	n/a
Smith - signage	116B N. Church St.	Town	12/20/2013	1/7/2014	n/a