MIDDLETOWN PLANNING COMMISSION

Middletown Municipal Center
31 West Main Street
Middletown, MD 21769

AGENDA
Monday, January 19, 2014
7:00 p.m.

I. Public Comment

II. Minutes of December 2013 Planning Commission meeting — **Approval**

III. Plan Review - none

IV. Zoning

Active Adult text amendment — **Discussion/recommendation**

Zoning Code – 17.36 Temporary Sign permit procedures — **Discussion**

Zoning Code review – 17.44 Board of Appeals -WORKSHOP ONLY — **Discussion**

Violations

V. Miscellaneous

Elect chairman and vice chairman for 2014

V. 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.**

DRAFT

Middletown Planning Commission
31 West Main Street
Middletown, Maryland 21769

Regular Meeting

December 16, 2013

The regular meeting of the Middletown Planning Commission took place on Monday, December 16, 2013 at 7:00 p.m. at the Middletown Municipal Center, 31 West Main Street, Middletown, MD 21769. Those present (quorum) were: Commissioner Chairman Mark Carney, Commissioners David Lake, Chris Goodman (Ex-Officio), Bob Miller, and Bob Smart. Others present in official capacity: Commissioners Rich Gallagher (Alternate), and Ron Forrester (Temp. Alternate), Cindy Unangst (Staff Planner), and Julie Baer (Recording Secretary).

I. **Public Comment** – None

II. **Regular Meeting Minutes of November 18, 2013** -- Approved with correction

III. **Plan Review** -- None

IV. **Zoning**

Forest Conservation Ordinance text amendment: Cindy received an email from the Department of Natural Resources and they are mailing a letter with approval. The Town FRO text amendment was sent to the State on 11/11/13 for their review. Chairman Carney stated that the changes to the FRO will conform to the state requirements.

Action: Commissioner Smart motioned to recommend approval of the FRO text amendment. Commissioner Miller seconded the motion. Commissioner Goodman abstained. Motion carried. (4-0-1)

Violations

- **Thompson Funeral Home parking lot:** A letter from the Town was sent to Mr. Thompson and he has been advised that fines will be assessed. Chairman Carney asked Cindy for a copy of the letter, so the Planning Commission is aware of status of what the Town is doing about the situation. Commissioner Gallagher inquired about what the next step is with the fine.

V. Miscellaneous

Fee Schedule review: Chairman Carney read over the fee schedule chart and commented that Middletown fees are the lowest. Chairman Carney advised that he would like to review the fee chart at the joint meeting with the Town Board. Chairman Carney asked Cindy to get figures for Coblentz Property if built in Myersville and Middletown. Chairman Carney stated that Walkersville fees are higher than Middletown and Myersville. Ron Forrester asked when the last time Middletown reviewed our fees. Cindy stated that they were revised in 2006. Commissioner Gallagher and Commissioner Goodman stated they would like to see the fees reviewed every 4 years. Chairman Carney stated the next step is to discuss with the Town Board at joint meeting in January and then make final recommendation. Commissioner Goodman asked about electronic copies fees. Chairman Carney mentioned e-file changes would bring us up to the 21st century. He stated that this will be on the agenda for the joint meeting on 1/6/2014.

VI. Additional Public Comment-- None

Meeting adjourned at 7:30 p.m.

MEMORANDUM

Date: 1/9/2014

To: Middletown Planning Commission

From: Cynthia K. Unangst, Middletown Staff Planner

RE: MEMAR CORP. TEXT AMENDMENT CHANGE REQUEST

Below again is the request submitted by Farhad Memarsadeghi of Memar Corp. requesting that the Burgess and Commissioners of Middletown consider a text amendment to Section 17.48.015Active Adult Community within the Specific Standards for Special Exceptions of the Middletown Municipal Code. This language is being considered for addition to the Code per the request of the applicant due to the desire of the applicant to develop more active adult units within the Town of Middletown. New proposed language is in italics and bolded below.

As has been discussed, members of the Planning Commission are interested in adding language which would include cluster regulations and specifically open space requirements, environmental standards, public dedication of open space, siting of dwellings and open space, density of dwelling units, and future use of open space areas.

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, entire parcel can be used for active adult community as long as total density remains below two units per acre. (example: maximum number of units in a 40 acre parcel is 80 active adult units)***

C. Minimum lot area per dwelling: three thousand two hundred (3,200) square feet; minimum average lot area per dwelling, five thousand five hundred (5,500) square feet; provided that no more than twenty-five (25) percent of the total number of lots may be less than four thousand (4,000) square feet.

D. The planning commission, at its discretion, may approve reduced yards, subject to the following limitations:

1. The front, rear or side yard setback from any lot fronting on a major town street (arterial or collector) shall be thirty-five (35) feet.
2. Minimum setbacks for lots fronting on interior public or private subdivision streets shall be as follows:
    a. Front: ten (10) feet:
    b. Rear: fifteen (15) feet;
    c. Side: five (5) feet.

E. Any individual dead-end private drive or street may be used to serve no more than ten (10) dwelling units.

F. Pavers or other alternative materials which meet the standards approved by the town engineer may be used in the construction of private drives or streets.

G. A homeowner's association shall be established to maintain all open spaces, common areas, stormwater management facilities, and private streets and to arrange for private waste removal services,

if required, and snow removal services for private streets and drives. The homeowner's association shall have the responsibility to enforce all covenants and special conditions required of residents and property owners in the active adult community.

H. The planning commission shall approve a site development plan for the active adult community and shall have architectural review authority for the dwelling units to be constructed within the community.

I. The planning commission shall review and approved the homeowner's association declaration of covenants, articles of incorporation and by-laws prior to final approval of the site development plan for an active adult community.

Staff comments on Section 17.48.015B:

Staff would note that the proposed provisions would denote that on the parcel of land Farhad owns north of the County Park which is 94 acres, the maximum number of active adult units would be 188. Of course, if the ordinance was changed, it would apply to any R-20 zoned land and not just the land owned by the applicant. Currently there are no R-20 zoned lands within the town limits that are undeveloped. However, other lands within our growth boundary that are designated as low density residential are the northern portion of the AC Jets property, the property north of the Coblentz property that is outside of the town limits, and the property that is north of the North Pointe subdivision. Also note that active adult communities are a special exception use in the R-20 Residential district and need to receive a recommendation by the Planning Commission and an ultimate approval by the Board of Appeals.

In looking again at a parcel of land that is 94 acres and at the minimum lot area requirements of active adult communities, 188 units with a minimum average lot area per dwelling of 5,500 square feet would cover about 24 acres of land at a minimum. That could leave 70 acres of open space land and land used for infrastructure, FRO, and stormwater management. That being said, there is no current requirement for a minimum amount of open space. The 188 units could cover the entire 94 acres minus the amount of land needed for infrastructure, etc.

The Walkersville code requires that in the case of cluster developments, 25% of the entire tract must be reserved for recreational use. A homeowner's association shall be created to own and maintain such areas unless the Burgess and Commissioners agree to accept ownership of such areas in Walkersville. The minimum parking ratio for independent senior living communities is 1.25 parking spaces provided per living unit.

Other information that is attached for review is the following:

APA's Model Residential Cluster Development Ordinance
Salisbury's Cluster Developments regulations
Frostburg's Planned Residential Development regulations
Wicomico County's Cluster Development Options
New Milford, CT's Active Adult Community Zone regulations
Foxfield at Middletown's Covenants, Conditions and Restrictions

4.7 MODEL RESIDENTIAL CLUSTER DEVELOPMENT ORDINANCE

Residential cluster development is a form of land development in which principal buildings and structures are grouped together on a site, thus saving the remaining land area for common open space, conservation, agriculture, recreation, and public and semipublic uses (Whyte 1964; Unterman and Small 1977; Arendt 1996; Sanders 1980). In many respects, cluster development dates back to one of the earliest town forms. In primitive early settlements, dwelling units were often organized to form a common area or enclosure that residents could use together and readily defend if necessary.

In the United States, the development of Radburn, New Jersey, in 1928 represented the first formal introduction of the cluster development concept. It drew on English town planning principles, notably those of the Garden Cities movement. In Radburn, single-family homes and garden apartments are sited in "superblocks" of 35 to 50 acres (Stein 1957, 34-37). The superblocks have no through traffic and are interspersed with parks and related green spaces on which the residences face. Clustering also became the basic site design concept in such contemporary new towns as Reston, Virginia, and Columbia, Maryland.

Cluster development has a number of distinct advantages over conventional subdivision development. A well-planned cluster development concentrates dwelling units on the most buildable portion of the site and preserves natural drainage systems, vegetation, open space, and other significant natural features that help control stormwater runoff and soil erosion. The common areas function as a trap for nutrients dissolved or suspended in stormwater runoff (Arendt 1994, 278, 281). Cost savings during construction are achieved by the reduction in street lengths and utility installations. Later savings can be realized in street and utility maintenance (less surface area that needs repaving and fewer feet of water and sewer line to maintain). Because dwelling units are placed closer together, refuse and other service vehicles do not have to negotiate over as much street mileage, thus reducing travel time. Where clustering is accompanied by higher-density residential land uses and the provision of pedestrian pathways and bikeways, especially those that link to off-site activity centers, residents of the cluster development may walk and exercise more. Clustering also enhances the sense of community, allowing parents better supervision of children playing in common areas and promoting social interaction among neighbors.

This model ordinance is intended to encourage developers to use cluster development as an alternative to conventional lot-by-lot development and authorizes cluster development as-of-right either in all residential districts or in selected residential districts. Section 110 of the ordinance also offers density bonuses of up to 25 percent when a developer: (a) provides affordable housing as part of the cluster development (thereby helping the local government achieve housing goals that may have been established by the state) and/or (b) conveys land for open space, recreation, or other purposes that is accessible to the public.

Under Section 107 of the model, the local planning commission has the primary responsibility for reviewing and approving a cluster development, although such a function could also be assigned to a hearing examiner. The model ordinance sets forth criteria for the commission to apply in deciding whether to approve the cluster development.(Remember that the responsibilities of the local planning commission vary from state to state.)
The model does not include a severability clause because it assumed this ordinance will be incorporated into a zoning code that will have one already.

This model is based on a sample ordinance appearing in *Nonpoint Source Pollution: A Handbook for Local Governments* by Sanjay Jeer, Megan Lewis, Stuart Meck, Jon Witten, and Michelle Zimet, Planning Advisory Service Report No. 476 (Chicago: American Planning Association, 1997), 81-90.

Primary Smart Growth Principle Addressed: Preserve open space and farmland
Secondary Smart Growth Principle Addressed: Distinctive and attractive places

101. Purpose

(1) It is the purpose of this ordinance to permit residential cluster development 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; and

(e) provide opportunities for social interaction and walking and hiking in open space areas.

102. Definitions

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

Comment. *Please remember to consult your state statutes to employ definitions that are consistent with those statutes. These definitions were drawn from different sources and, while useful, may differ from those already established by your state legislation.*

"Affordable" means either a sales price that is within the means of a moderate-income household or a rental amount for housing that is within the means of a low-income household, as those terms are defined in this Section. In the case of dwelling units for sale, housing that is affordable is housing for which the mortgage, taxes, insurance, and fees are no more than [30] percent of the adjusted income for a household whose gross annual income is at or below [80] percent of the median for the area based on household size. In the case of rental housing, housing that is affordable is housing for which the monthly rental amount plus utility costs do not exceed [30] percent of the adjusted income for a household whose gross income is [50] percent of the area median household income adjusted for household size.

Comment. *Definitions of "affordable," "low-income household," and "moderate-income household" may need to be changed here and below. The definitions should comply with current requirements of the applicable federal or state construction or rehabilitation program. In particular, the bracketed percentages may be modified to affect the scope of the definition.*

"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.

"Building" means any structure used or intended for supporting or sheltering any use or occupancy.

"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 coastal and freshwater 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.

"Development" means the construction, reconstruction, conversion, structural alternation, relocation, or enlargement of any structure; any mine, excavation, landfill or land disturbance; and/or any change in use, or alteration or extension of the use, of land.

"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 development and/or cluster development for residential, commercial, institutional, recreational, open space, and or/mixed uses as are provided for in the zoning ordinance.

"Lot" means either: (a) the basic development unit for determination of area, depth, and other dimensional variations; or (b) a parcel of land whose boundaries have been established by some legal instrument, such as a recorded deed or recorded map, and recognized as a separate legal entity for purposes of transfer of title.

"Low-income household" means a household whose gross annual income does not exceed [50] percent of the area median as adjusted for household size.

"Moderate-income household" means a household whose gross annual income is less than [80] percent of the area median as adjusted for household size.

"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.

"Site plan" means the development plan for one or more lots on which is shown the existing and/or the proposed conditions of the lot.

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

"Street, public" means all public property reserved or dedicated for street traffic.

"Structure" means anything constructed or erected that requires location on the ground or attached to something having location on the ground.

103. Applicability; General Provisions

(1) A residential cluster development shall be permitted [as of right in any residential zoning district pursuant to this ordinance *or* as of right in the following zoning districts: *list district names*]:

(a) All principal and accessory uses authorized in the applicable residential zoning district(s) shall be allowed in the cluster development. In addition, multifamily dwellings, duplexes, and townhouses may be permitted for a cluster development located in a residential zoning district that does not otherwise allow attached dwelling units.

(b) Maximum lot coverage, floor area ratios, building height, and parking requirements for the applicable zoning district shall apply to the cluster development. Maximum lot coverage, floor area ratios, and parking requirements, however, shall be applied to the entire site rather than to any individual lot.

(2) The following provisions shall apply to any residential cluster development, regardless of the general requirements of the applicable residential zoning district:

(a) The minimum area of the cluster development shall be [two *to* five] acres.

Comment. *There is a fair degree of debate about whether the area of a cluster development should be limited. Because cluster development is fundamentally a design review process, in theory, the approach should be applicable to a site of any size. However, it may be that, for smaller sites, a cluster development may not yield any appreciable benefits over conventional subdivisions. Consequently, the decision to authorize cluster development will depend on the policy preferences of the individual local government.*

(b) No minimum width or depth of a lot shall apply.

(c) A minimum separation of [10] feet shall be provided between all principal buildings and structures.

(d) A minimum yard or common open space of a least [25] feet in depth shall be provided, as measured from all public streets and from the side and rear lot lines of the entire cluster development.

(e) Each lot shall have a minimum access of [12] feet to a public or private street. Such access may be shared with other lots.

(f) More than one principal building or structure may be placed on a lot.

(g) Not less than [25] percent of the site shall be conveyed as common open space in the manner provided for in Section [110] below. [Where the site contains floodplains and/or coastal or freshwater wetlands, not less than [50] percent of such floodplains and/or wetlands shall be included in calculating the common open space.]

Comment. *In some states, the identification of floodplains and coastal or freshwater wetlands occurs routinely as part of the land development and subdivision review process. Optional language in Section 103(2)(g) above requires that at least 50 percent of the floodplains and/or wetlands must be included as part of the common open space. By including the land designated as common open space, the calculation of net buildable area gives credit for the land area in which floodplains and wetlands that meet state criteria are located. This is intended to serve as an incentive to employ clustering by allowing the area represented by lands in floodplains and wetlands to be used in determining the maximum number of dwelling units.*

104. Contents of Site Plan

(1) The preliminary and final site plan for a residential cluster development shall include, but shall not be limited to, the following information:

(a) The maximum number and type of dwelling units proposed

(b) The areas of the site on which the dwelling units are to be constructed or are currently located and their size (this may take the form of the footprint of the dwelling unit or a building envelope showing the general area in which the dwelling unit is to be located)

(c) The calculations for the permitted number of dwelling units, derived pursuant to Section [105] below

(d) The areas of the site on which other proposed principal and accessory uses may be located and their size

Comment. *Uses other than residences may be located on the site. For example, the cluster development may include storage facilities, garages, and recreational buildings. Conceivably, a very large cluster development could also include sites for schools.*

(e) The areas of the site designated for common open space and their size

(f) The areas of the site designated for parking and loading and the size of individual spaces

(g) The number and percentage of dwelling units, if any, that are proposed to be affordable

(h) The location of sidewalks, trails, and bike paths.

Comment: *This model assumes the local government will require sidewalks as part of the public improvements required for subdivision.*

(i) The number of acres that are proposed to be conveyed as common open space

(j) [*Cite any other plans or information otherwise required by the local government for a major land development or subdivision in its land development or subdivision regulations, such as a plan for landscaping and screening.*]

105. Calculation of Permitted Number of Dwelling Units; Density Bonuses

(1) Except as provided in paragraph (3) below, the maximum numbers of dwelling units proposed for a residential cluster development shall not exceed the number of dwelling units otherwise permitted for the residential zoning district in which the parcel is located.

(2) Except as provided in paragraph (3) below, the number of permitted dwelling units on a site shall be calculated in the following manner.

Comment. *The calculations in paragraph (2) are intended to mirror those that a local government would normally employ for determining the maximum number of dwelling units permitted for nonclustered development. Some communities may subtract from the gross area of the cluster development land area in wetlands and/or floodplains, which will reduce the maximum number of dwelling units in the development.*

(a) Measure the gross area of the proposed cluster development site in acres and tenths of an acre.

(b) Subtract from the gross area determined in subparagraph (a) the area of public and private streets and other publicly dedicated improvements, measured in acres and tenths of an acre, excluding common open space (whether or not it is conveyed pursuant to Section [110] below). The remainder shall be the net buildable area;

(c) Convert the net buildable area from acres to square feet (SF), using the equivalency of 43,560 SF = 1 acre; and

(d) Divide the net buildable area by the smallest minimum lot size (in square feet) per unit for a dwelling unit permitted in the zoning district. This figure shall be rounded to the nearest lower number to establish the maximum number of dwelling units to be permitted in the cluster development.

(3) The [local planning commission] may approve an increase of up to [25] percent of the maximum number of dwelling units in the cluster development, as calculated in paragraph (2) above, if:

Comment. *The bonus provisions in paragraph (3) are a means by which a local government can ensure that new housing will benefit low- and moderate-income households and implement state goals for affordable housing. Indeed, should a local government decide it wants to more aggressively provide for affordable housing through cluster development (as well as open space conveyance), it might increase the density bonus from the suggested figure of 25 percent.*

(a) the percent of density bonus is no greater than the percent of dwelling units in the cluster development that are affordable units; and/or

(b) the percent of density bonus is no greater than the percent of the gross area of the cluster development that is both:

1. set aside as and conveyed as common open space pursuant to Section [110] below; and

2. accessible to the public.

Comment. *Note that only when the common open space is both conveyed and is accessible to the public is a density bonus justified. If the common open space was simply conveyed to a private entity (as opposed to the local government), but there was no public access, a density bonus could not be approved.*

106. Procedures for Review

(1) The [local planning commission] shall review and approve a residential cluster development and any amendments thereto as a land development project in the manner provided for in [*cite applicable state statute*], together with any ordinances and regulations adopted pursuant thereto and appearing in [*cite applicable local land development regulations*].

107. Review Criteria

(1) In reviewing a residential cluster development, the [local planning commission shall determine whether:

(a) the site plan satisfies the requirements of Sections [103], [104], and [105] above;

(b) buildings and structures are adequately grouped so at least [25] percent of the total area of the site is set aside as common open space. To the greatest degree practicable, common open space shall be designated as a single block and not divided into unconnected small parcels located in various parts of the development;

(c) pedestrians can easily access common open space;

(d) 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;

(e) individual lots, buildings, structures, streets, and parking areas are situated to minimize the alteration of natural features, natural vegetation, and topography;

(f) existing scenic views or vistas are permitted to remain unobstructed, especially from public streets;

(g) the site plan accommodates and preserves any features of historic, cultural, or archaeological value;

(h) floodplains, wetlands, and areas with slopes in excess of [25] percent are protected from development;

(i) the cluster development advances the purposes of this ordinance as stated in Section [101] above; and

(j) [*other, such as contiguity requirement for common open space*].

(2) The [local 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.

(3) If the [local planning commission] finds that the requirements of paragraph (1) above are satisfied, it shall approve the residential cluster development, subject to any special conditions or stipulations pursuant to paragraph (2) above, any density bonus pursuant to Section [105] above, and any reductions [and/or waivers] pursuant to Section [108] below.

Comment. *While these review criteria are intended to guide the planning commission in the evaluation of the proposed cluster development, they cannot replace a sensitive and creative site planner who has the responsibility of designing cluster development or an experienced professional planner whose responsibility it is to review the proposal and advise the planning commission on necessary design changes.*

108. Reduction [and/or Waiver] of Certain Physical Design Requirements

(1) In approving a residential cluster development, the [local planning commission] may reduce the pavement width of any public or private streets that would otherwise be required by the [subdivision regulations *or other design specifications for roads*] to [22] feet.

(2) An applicant who wants the reduction of pavement width of public or private streets as provided for in paragraph (1) above, shall submit a statement of justification for the reduction [and/or waiver] along with the final site plan.

Comment. *Most local governments have adopted standard design specifications for streets. This Section allows the planning commission to reduce street pavement widths in order to minimize impervious surfaces on the site as well as limit the portions of the site that must be regraded to accommodate wider streets. If a street proposed in a cluster development is to be used as a connector from an adjoining development or as a through street, it is probably not a candidate for a reduction in width. There is no firm rule, however, on when a reduction or waiver should be allowed and determinations should be made on a case-by-case basis.*

The 22-foot pavement width shown in brackets assumes a 15-foot travel lane and a seven-foot parking area. If parking were desired on both sides of the street, a 28-foot pavement would accommodate two seven-foot parking lanes and a 14-foot wide travel lane (Southworth and Ben-Joseph 1997; Livable Oregon n.d.; Ewing 1996, 69-72).

109. Controls on Resale and Re-rental of Affordable Housing Units Used as Basis for Density Bonus

(1) Affordable dwelling units used as the basis for approving a density bonus in Section [105] above shall be subject to a deed restriction and a mortgage lien to ensure that newly constructed low- and moderate-income sales and rental units remain affordable to low- and moderate-income households for a period of not less than [30] years, which period may be renewed.

(2) The deed restriction and mortgage lien shall be approved by the [local government] law director and shall be enforceable by the [local government] through legal and equitable remedies.

Comment. *If the density bonus is to be given on the basis of a guarantee of the provision of affordable housing, there must be a mechanism that ensures the housing, whether it is for sale or for rent, will remain affordable for a reasonable period of time. This is done through a deed restriction and mortgage lien approved by the local government's law director (New Jersey n.d.).*

110. Conveyance of Open Space

(1) Common open space provided by a residential cluster development shall be conveyed as follows:

(a) To the [local government] and accepted by it for park, open space, agricultural, or other specified use or uses, provided that the conveyance is approved by the [local planning commission] and is in a form approved by the [local government] law director; or

(b) To a nonprofit organization whose principal purpose is the conservation of open space, to a corporation or trust owned or to be owned by the owners of lots or dwelling units within the residential cluster development, or to owners of shares within a cooperative development. If such a corporation or trust is used, ownership shall pass with the conveyances of the lots or dwelling units. The conveyance shall be approved by the [local planning commission] and shall be in a form approved by the [local government's] law director (see Diehl et al. 1988 for model language for easements).

(2) In any case, where the common open space in a residential cluster development is conveyed pursuant to subparagraph (1)(b) above, a deed restriction enforceable by the [local government] shall be recorded that provides that the common open space shall:

(a) be kept in the authorized conditions(s); and

(b) not be developed for principal uses, accessory uses (e.g., parking), or roadways.

References for Section 4.7, Model Residential Cluster Development Ordinance

Arendt, Randall G. 1996. *Conservation Design for Subdivisions: A Practical Guide to Creating Open Space Networks.* Washington, D.C.: Island Press.

Arendt, Randall G. et al. 1994. *Rural by Design.* Chicago: APA Planners Press.

Diehl, Janet, et al. 1988. *The Conservation Easement Handbook: Managing Land Conservation and Historic Preservation Easement Programs.* Washington, D.C.: Trust for Public Land and Land Trust Alliance.

c. All wall signs shall be mounted flush with the building, except that raised letters may extend no more than eighteen (18) inches from the building wall.

d. Size, location and color of wall signs shall be approved by the planning commission as part of the overall sign plan.

e. The total amount of wall signage including marquee signs shall not exceed two hundred (200) square feet.

3. Marquee Signs. Marquee signs shall be considered a wall sign and shall be limited to not more than thirty-two (32) square feet in surface area and located no closer than ten feet above walkways.

4. Instructional signs not exceeding three feet in height and six square feet in surface area.

J. Residential Uses. A planned business center may include residential units limited to not more than fourteen (14) units per acre. All such uses shall be located within or above the first floor of a building including a business use. Whenever an applicant proposes to construct all buildings in a single phase, residential uses may be placed in an architecturally compatible freestanding building. In no case shall a free-standing residential building be constructed before at least one-half of the total gross square feet of all proposed buildings is constructed.

K. Landscaping shall be provided in accordance with the requirements of Chapter 17.220.

L. Other Provisions. Except where specifically listed in this chapter all other requirements of this title shall apply. (Ord. 1842 (part), 2002; Ord. 1636 Exh. A (part), 1996)

Chapter 17.176

CLUSTER DEVELOPMENTS

Sections:

17.176.010 Purpose.

17.176.020 Comprehensive development or site plan required.

17.176.030 Development standards.

17.176.040 Site plan review approval.

17.176.050 Subdivision plat.

Section 17.176.010 Purpose.

To provide for the clustering of residential units or lots; to permit flexibility in the location, arrangement and size of residential lots; to provide for the permanent reservation of open space in residential developments and to reduce the cost of public and private investment in utility installations and streets without altering the density of population for the net tract area, the following standards for cluster developments are established. (Prior code § 150-220)

Section 17.176.020 Comprehensive development or site plan required.

A. A cluster development on a tract of land of three (3) acres or more shall require a comprehensive development plan as defined in Section 17.04.120, which shall be submitted and reviewed in accordance with Chapter 17.180.

B. A cluster development on a tract of land of less than three acres shall require a comprehensive site plan, drawn to scale, and reviewed and approved by the planning commission, which shall indicate the proposed development of the site in its entirety, including development areas, landscaping, lighting, parking and open space and other such information the Commission may require.

C. In addition to the elements of either a comprehensive development plan or a comprehensive site plan required by this chapter, the site plan and elements of a cluster development, as a minimum, shall contain the following information:

1. The site plan shall show the proposed locations of buildings and dimensions of proposed lots, building envelopes or areas; accessory buildings proposed to be located within a front yard; open spaces

and natural features on the entire site; the area of each lot and building envelope; and the overall density of development proposed on the site.

2. A copy of all proposed deed restrictions, covenants, bylaws, or other legal instruments designed to provide for continuing maintenance and control of common open space areas, parking, stormwater management and utility easement areas, including any proposed homeowners' association agreement or bylaws.

3. The architectural design of buildings shall be shown by front elevations or architectural renderings. Where a variety of designs are proposed, each design shall be shown.

D. All plans for a cluster development shall be submitted on sheets of twenty-four (24) by thirty-six (36) inches to the planning director for distribution to appropriate departments. (Prior code § 150-221)

Section 17.176.030 Development standards.

A. Minimum Tract Area. The minimum area for a cluster development shall be one-half acre, with a minimum frontage of sixty (60) feet on a public street.

B. Density. The total number of lots or units allowed on a tract of land for the cluster development shall be the same as for the type of lots or units permitted for the district in which the cluster development is located, provided that:

1. The development adheres to the total land area for the sum of individual lots or units required in each district;

2. Land area resulting from the reduction of lot size shall be provided and maintained as common and developed open space area for the benefit of residents of the development.

C. Perimeter Setbacks. The minimum setbacks for the entire tract of the cluster development shall be:

1. Fifteen (15) feet from each side and rear property line, provided that side and rear perimeter setbacks shall not be included as a part of a lot;

2. The front setback as required for the zoning district.

D. Minimum lot area and width, yards and setbacks for cluster developments shall be:

1. Lot Area. The minimum lot area shall be three thousand (3,000) square feet.

2. Lot Width. The minimum lot width shall be twenty (20) feet at the front yard setback line.

3. Front Yard. The minimum depth of the front yard of any lot shall be twenty (20) feet from the right-of-way line of the street; twenty (20) feet from both streets for corner lots.

4. Side Yard.

a. Single-family dwellings and townhouses shall be as set forth in this chapter for the district in which the cluster development is located.

b. Patio and semidetached dwellings shall be as set forth in Chapters 17.200 and 17.208.

5. Rear Yard. The minimum depth of the rear yard shall be thirty (30) feet.

6. Rear and Side Yard Alternatives. The minimum depth of side and rear yards may be five feet for side yards and fifteen (15) feet for rear yards, provided that the aggregate depth of the side yard and adjoining open space is ten feet and the aggregate depth of the rear yard and adjoining open space is thirty (30) feet, as measured across the entire side or rear of the lot.

7. Setback for Accessory Buildings.

a. Accessory buildings may be situated within a front yard after consideration by the planning commission of the architectural character and style of the buildings, design of the project and visibility to motorists and pedestrians, with particular attention to adverse effects, if any, on adjoining properties at the perimeter of the cluster development.

b. Setbacks from property lines for accessory buildings shall comply with requirements of the district in which the cluster development is located.

E. Open Space.

1. A minimum of thirty-five (35) percent of the net tract area shall be retained as common open space area for use by all occupants of the cluster development. For purposes of computing common open space area, net tract area shall be used.

2. The common and developed open space area shall be planned as an integral part of the

development providing access to and benefits for all residents of the development.

3. The planning commission may recommend that all or part of stream branches, marshlands, bodies of water and slopes exceeding fifteen (15) percent may be included as common open space. In making this determination, the Commission shall be guided by the following factors:

a. The extent of these areas in relation to the area of the cluster development;

b. The degree to which these areas contribute to the quality, livability and amenity of the cluster development.

4. A maximum of twenty-five (25) percent of the common open space may be within floodplains or covered by water; provided that the applicant holds legal title to said water bodies.

5. When an approved site plan provides for common use buildings, accessways, parking areas, landscaped areas, recreation facilities, structures or other improvements in the open space areas, the provision, ownership and maintenance of all such areas or facilities shall be in accordance with Section 17.04.240.

F. Parking. Two off-street parking spaces shall be provided for each dwelling unit.

G. Street Frontage. Each lot or building shall abut or front on a public street, except as the planning commission may determine otherwise, after considering the overall plan and special circumstances related to the project.

H. Landscaping.

1. A landscaping plan is required which shall show the location of natural features on the site such as existing trees, groves, waterways, stormwater management areas, scenic views, historic sites or buildings and other community assets and proposed areas and species of supplemental plantings.

2. In addition to landscaping or screening required by the standards for the type of development proposed, the planning commission may require additional landscaping where necessary.

3. Where there are no standards or where standards do not address specific landscaping required, the planning commission may require landscaping where necessary.

I. Building Distance From Accessways.

1. No ground level entranceway to any townhouse, apartment unit or apartment building shall be farther than eighty (80) feet from a parking lot.

2. No part of any townhouse or apartment unit shall be any farther than five hundred (500) feet from a fire hydrant.

J. Applicability of Other Regulations. In regulating cluster developments, the provisions of this chapter shall first apply; but when a matter is not specifically regulated by this title, then the provisions of this chapter for the district in which the cluster development is located shall apply.

K. Alternative Development Standards. In those cluster developments where fee-simple lots are not proposed, the development standards of this chapter may be modified only to the following extent:

1. Perimeter Setbacks. Principal buildings shall be located no closer than thirty (30) feet to an adjoining property line.

2. Minimum Distance Between Buildings.

a. One- and two-family: twenty (20) feet;

b. Apartment and townhouse: thirty (30) feet.

3. Parking.

a. Parking shall be in accordance with the provisions of Chapter 17.196.

b. Parking areas shall be designed and arranged to prevent through traffic.

4. Other provisions. All other provisions of this title shall apply. (Prior code § 150-222)

Section 17.176.040 Site plan review approval.

The planning commission, in reviewing and approving all site plans, shall consider the following:

A. The desirability of the proposed cluster development to provide an alternative to traditional zoning, permitting smaller lots with the remainder of the land used for common open space in order to provide recreation for the residents or to preserve natural features on the site;

B. The location of open space and buildings and the configuration of lots with respect to residents of

the development and the surrounding area;

C. The usability of open space for scenic, preservation and recreational purposes shall be judged in terms of size, shape, location and topography of the open space.

1. Space designed for recreation should be easily accessible to residents.

2. Space designed for a scenic purpose should be visible from a significant number of buildings or a significant length of street rights-of-way.

3. Space designed for preserving natural areas should be designed to include irreplaceable natural features located in the tract such as but not limited to stream beds, significant stands of trees, marshlands or river banks.

D. Buildings and lots should be arranged and situated to minimize alteration of the natural terrain; to avoid adverse effects of shadows, noise and traffic on the occupants of the buildings and surrounding properties; to improve the view from the buildings; to lessen the land area devoted to vehicular access; and to provide diversity in design. (Prior code § 150-223)

Section 17.176.050 Subdivision plat.

Following approval of the cluster development by the planning commission:

A. A subdivision plat corresponding to the approved site plan shall be filed and processed in accordance with procedures set forth in the subdivision regulations, Title 16.

B. A copy of all covenants, deed restrictions and bylaws as required by Section 17.04.240, shall accompany the preliminary plat.

C. A landscaping plan showing areas to be landscaped or maintained as natural areas with all sizes and species in accordance with the provisions of Chapter 17.220, shall accompany the plat for approval by the planning commission.

D. The final subdivision plat, in addition to the information required by the subdivision regulations, Title 16, shall show building envelopes, dimensions of yards and the size and location of accessory buildings to be situated within any front yard. (Prior code § 150-224)

Chapter 17.180

COMPREHENSIVE DEVELOPMENT PLAN

Sections:

17.180.010 Purpose--Application.

17.180.020 Review by appropriate agencies.

17.180.030 Scheduling of review by planning commission.

17.180.040 Review procedure.

17.180.050 Special exceptions.

17.180.060 Waiver.

Section 17.180.010 Purpose--Application.

Where the provisions of this title require submission and approval of a comprehensive development plan as defined in Section 17.04.120, the following regulations shall apply. The comprehensive development plan is required of certain developments identified in this chapter for approval by the planning commission in order to ensure that the proposed development is planned in proper relationship to the configuration of the site in such a manner as to comply with all requirements of this chapter; the proposed development is planned and located on the site in a manner which will minimize any adverse impact on adjoining areas and future development; and the proposed development is properly coordinated with existing city plans and policies. Required plans shall be submitted to the planning director for distribution to all those agencies or department heads involved in or affected by the proposed development, such as the department of building, housing and zoning, fire chief/fire marshal,

Frostburg

3.03 **Planned Residential Development**- Planned Residential areas provide flexibility in developing larger unused tracts. The areas would be residential in nature, permitting limited types and amounts of supporting commercial uses. There are two techniques for Planned Residential Developments, Cluster and Open Space Developments.

1. Cluster Developments permit developers to group homes together on smaller lots in exchange for setting aside areas of permanent open space.

2. Open Space Development is a complete approach to designing residential subdivision which considers the significant physical features of the site in determining the development which the site can support.

a.) Four Steps for Planned Residential Development (See figures 3-2, 3-3. 3-4, 3-5)

1. Identifying the land that should be permanently protected and land for potential development.
2. Locating potential House Sites
3. Aligning Streets and Trails
4. Dra\',ing in the Lot Lines

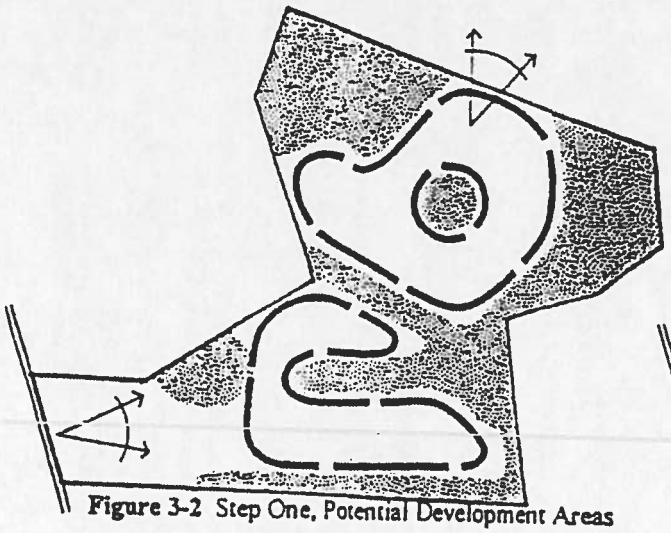

Figure 3-2 Step One, Potential Development Areas

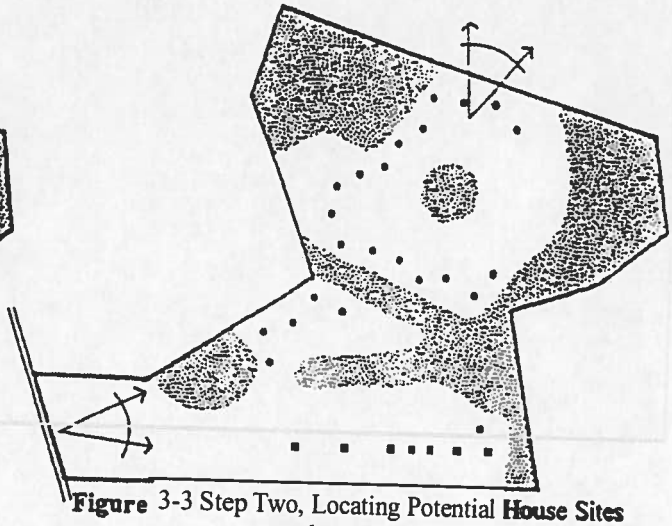

Figure 3-3 Step Two, Locating Potential **House Sites**

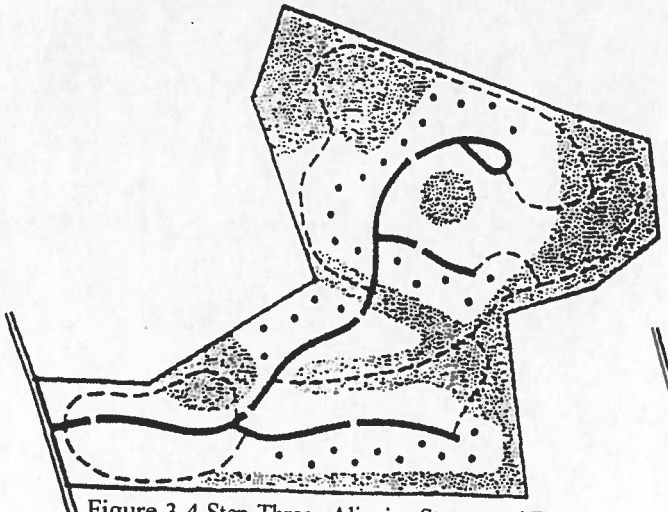

Figure 3-4 Step Three, Aligning Streets and Trails

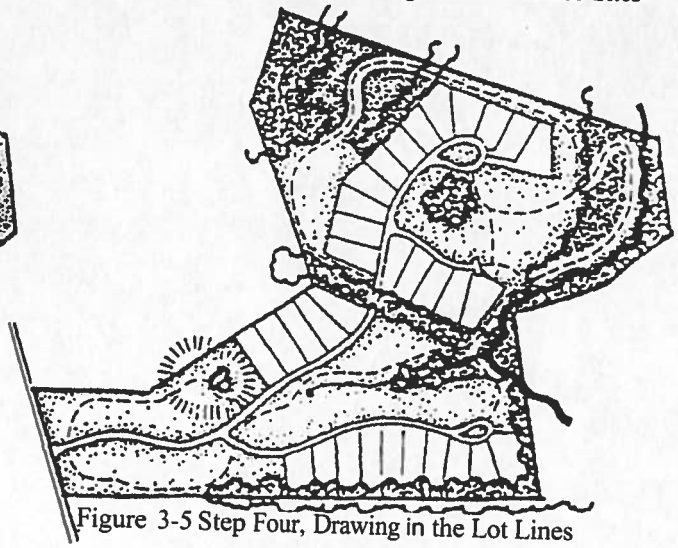

Figure 3-5 Step Four, Drawing in the Lot Lines

3. **Permitted** Uses:

a.) Single-family detached, single-family attached, two-family, and low-rise apartment buildings shall be permitted in cluster developments in any zone other than R-1 and RP, provided that an overall density of six dwelling units per acre of land within the tract is maintained.

b.) Single-family detached and single-family attached dwellings shall be permitted in cluster developments in a Rl and RP zone, provided that an overall density of four dwelling units per acre of land within the tract is maintained.

3. **Development Regulations:**

Area, yard, and building requirements shall be as set forth in the Zoning Requirements section in Part II of the Frostburg Zoning Ordinance. Regardless of these requirements, the Planning Commission in approving subdivision plats may permit modifications in lot area, lot width, lot coverage, yards (building restriction areas) including zero lot lines, or other requirements in all zones.

4. **Public Water and Sewer:**

Cluster Developments/Open Space Developments are not permitted unless public water and public sewer are provided.

3.04 Interstate Highway Buffer- A non-development buffer shall be maintained 100 feet :from the State of Maryland right-of-way for I-68. This includes the structure and it's surrounding lot. The buffer should include the planting of evergreen trees parallel to the right of way. The Planning Commission & the MD Department of Natural Resources Forest Service Division must approve a site plan detailing the buffer. This buffer is used to maintain a rural setting for the motorists, the lot owner, and reduce noise.

3.05 Easements –

1. Existing Developmental Easement- A non-developmental easement shall be maintained when a new subdivision is proposed for development adjacent to an existing subdivision. The easement shall be no less than 100 feet in width and shall not be subject to develoJmlent, but may be utilized as Open Space meeting the requirement of Article III, Section 3.07.

2. Easements across lots or centered on lot lines shall be provided for utilities where necessary and shall be at least twenty-five (25) feet wide.

3. Where a subdivision/development site is traversed by a water course, drainage way, channel, or stream, there shal.l be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such watercourse, and of· such further width or construction, or both, as will be adequate for the purpose, as approved by the Planning Commission. To aid in tts review, the Planning Commission will require the submission by the Subdivider/Developer of a storm water runoff analysis for the proposed development certified by a professional civil engineer. The analysis may include the establishment of the 100-year and 500-year

development, and all rights to enforce these covenants against any change are expressly reserved unless approved by the County Council.

Wicomico County

ARTICLE V
DEVELOPMENT OPTIONS

Part I Cluster Development Options

Section 225-51. Cluster Developments - General Requirements.

A. Purpose. The purpose of this section is:

(1) To encourage innovative and creative cluster design of residential developments.
(2) To encourage more efficient use of land and services in order to reduce construction and maintenance costs, reflect changes in technology in land development and minimize the operating costs of service delivery and utility systems.
(3) To preserve agriculture lands and enhance the rural atmosphere and visual character in the County.

B. Types of Cluster Developments. The types of cluster developments that may be approved are as follows:

(1) A-1 Cluster Development
(2) Residential Cluster Development

C. Review of proposed cluster development. The subdivider shall submit a plan consistent with the provisions of Chapter 200, entitled "Subdivision of Land," for a cluster development to the Planning Director for review and comment and to the Planning Commission for its review and final action as follows:

(1) The application for a cluster development shall include a plan, which shows the uses proposed for the entire development.
(2) The application for a cluster development must be accompanied by a proposed method for addressing sewage treatment. All such systems must first be:
  (a) Reviewed by the Wicomico County Health Department, and
  (b) The type of system actually used on the site shall be as approved by the Health Department.
(3) In the event that any relief from the terms of this Chapter is required to accommodate the special needs of the cluster development, the Planning Commission may by special exception grant such relief.

Section 225-52. A-1 Cluster Development.

A. Where Applicable. Cluster Development may be permitted in the A-1 Agriculture-Rural District, for residential cluster purposes, subject to the standards contained in subsection (F) hereof, entitled "Development Standards."

B. Applicability and Minimum Land Area Requirements. A proposed A-1 Cluster Development shall be eligible for consideration under the provisions of this section only if the following requirements are met:

(1) The applicant shall have legal or equitable title to the property or shall otherwise have a legally documented financial interest in the real property which is the subject of the application.

(2) The proposed development shall contain the necessary contiguous acres that may be divided by a road or stream wholly located with the A-1 Agriculture-Rural District.

C. Permitted Density. The following rules apply in A-1 Cluster Development:

(1) The maximum density permitted shall be as established in the Schedule of Maximum Permitted Residential Densities.

D. The minimum open space area required in an A-1 Cluster development shall be fifty percent (50%) of the gross site area.

E. Cluster Requirements

(1) To the greatest extent possible cluster open space shall include:
- (a) Streams and stream buffers;
- (b) Known habitats of threatened and endangered species;
- (c) The most productive agriculture land;
- (d) Steep slopes;
- (e) Nontidal wetlands and their buffers; and
- (f) Riparian forest buffers (measured fifty (50) feet from streams and watercourses).

(2) Required open space may be retained by the landowner or sold. Agriculture and/or forestry uses may continue on the open space.

(3) Cluster open space shall be protected by legal arrangements satisfactory to the County Attorney or its designee to assure maintenance and preservation of open space for its intended purposes.

F. Development Standards.

(1) The setback requirements shall be as stated in Article VII.

(2) Vegetated buffer - 50 feet between development areas and any adjacent agriculture use or activity.

(3) All lots shall front and have access on an interior street system.

Section 225-53. Residential Cluster Development.

A. Where Applicable. The Residential Cluster Development may be permitted in the R-8, R-15, R-20 and R-30 Residential Districts and TT Town Transition District subject to the standards contained in subsection (B).

B. Development Standards. The following development standards shall apply to Residential Cluster Developments:

(1) The maximum number of lots or units allowed on the site shall be as established in Section 225-75, Schedule of Maximum Permitted Residential Densities.

(2) The proposed site of the cluster development shall contain a contiguous land

area that may be divided by a road or stream.

(3) Peripheral open space setback areas shall be established for the entire site. Peripheral open space shall be required surrounding a residential cluster development where conditions exist adjacent to the tracts as specified below:

(a) A peripheral open space area of a minimum width of:

[1] 100 feet - where the tract abuts any roadway classified by the State Highway Administration as an arterial highway;

[2] 50 feet - where the tract abuts any other public road and where the tract is adjacent to existing developed land; or

[3] 35 feet - where the tract is adjacent to an existing tract of agricultural land, open space, public parkland or an undeveloped tract.

(b) Peripheral open space areas may be used for agricultural purposes, including woodlands, with the approval of the Planning Commission. Peripheral open space areas used for agricultural purposes shall:

[1] Be located 400 feet in width from the boundary of the developed area to the property line of the tract; and

[2] Provide for appropriate buffering adjacent to the developed area of the property.

(c) Unless peripheral open space areas abut an arterial highway and the highway contains existing mature trees and vegetation, such areas shall be densely planted with a mixture of indigenous tree species to achieve a year round visually solid screen provided no trees are planted so near an intersection as to cause a sight distance problem within five (5) years.

(4) Once all perimeter setbacks/peripheral open spaces have been provided, individual lot area, width requirements and other bulk regulations shall be approved by the Planning Commission.

(5) Cluster Open Space. The open space area required in a residential cluster development shall be a percentage of the gross site area as follows:

(a)	R-8:	15%
(b)	R-15:	25%
(c)	R-20 and R-30:	30%
(d)	TT:	20%

(6) Clustering requirements.

(a) Cluster open space shall be used for social, recreational, and/or natural environment preservation purposes.

[1] The uses authorized must be appropriate to the character of the cluster open space, including topography, size, and vegetation; as well as to the character of development, including its size and density, the characteristics of the expected population, and the number and type of dwellings to be provided.

[2] The cluster open space shall be provided in the form of internal open space and peripheral open space as provided in subsection (B)(3) above.

(b) To the greatest extent possible, cluster open space shall include all environmentally sensitive areas, including areas with slopes greater than twenty five percent (25%), 100-year floodplains, wetlands, areas of seasonally high water, and other such environmentally sensitive areas as may be determined by the Planning Commission. To this end, up to seventy percent (70%) of the required cluster open space may include these areas, if the cluster open space includes a hiker/equestrian trail

system or other passive recreation area approved by the Planning Commission.

(c) Internal open spaces shall be landscaped and designed as village commons, town squares, or neighborhood parks.

(d) Cluster open space, particularly peripheral open space areas, containing existing attractive or unique natural features, such as streams, creeks, ponds, woodlands, specimen trees, and other areas of mature vegetation worthy of preservation may be left unimproved and in a natural state. Existing man-made features, such as farmsteads and historic sites, may be preserved by incorporating them within cluster open space.

(e) Cluster open space may include permitted agriculture uses.

[1] Use of agricultural lands to meet open space requirements shall be encouraged when the site contains few significant natural features.

[2] Where the minimum residential lot size in the development is forty thousand (40,000) square feet or greater, the required open space may be retained in agricultural use.

[3] The open space agricultural use may be divided into parcels of fifteen (15) acres or more with one (1) dwelling unit located on each parcel.

[4] Dwellings so located within the required open space will count in calculating the overall density of the cluster subdivision.

(f) The buildings, structures, and improvements permitted in the cluster open space shall be appropriate to the authorized uses and shall conserve and enhance the amenities of the cluster open space with regard to its topography and unimproved condition.

(g) Cluster open space shall be protected by legal arrangements satisfactory to the County Attorney or its designee to assure maintenance and preservation of open space for its intended purposes.

Part II Planned Developments

Section 225-54. General Requirements for Planned Developments.

A. Provisions of this Part, when found to be in conflict with other provisions of this Chapter or Chapter 200, shall control.

B. Zoning authorization, building permits

(1) Compliance with Development Plan or standards.

(a) Each individual use that locates in an approved planned development shall be reviewed by the Zoning Administrator to assure conformance with an approved comprehensive development and any standards established for the planned development.

(b) If the use conforms in all respects to the approved Development Plan for the site and the planned development, a zoning authorization and building permit may be issued.

(2) Noncompliance with Development Plan. No zoning authorization nor building permit shall be issued for a use which does not comply with an approved Development Plan or standards unless specifically approved by the Planning Commission.

CHAPTER 116
ACTIVE ADULT COMMUNITY ZONE
(AACZ)

Section 116-010 Purpose

The purpose of this Chapter of the Zoning Regulations is to provide a zone for the establishment of Active Adult Communities for persons 55 years of age and older. This Chapter is intended to promote alternatives and opportunities for residents of the Town of New Milford 55 years of age and older who remain active and desire an independent living environment.

Section 116-020 Establishment

1. Request for establishment of an Active Adult Community Zone constitutes a petition for legislative action to amend these regulations in accordance with Chapter 200. The petition shall be submitted to the Zoning Commission and shall be signed by the owner or owners of all lots within the proposed zone, provided however, that the zone may also include existing street, highway and utility rights-of-way not owned by the petitioner. Upon receipt, the Zoning Commission shall refer the petition to the Planning Commission and shall hold a hearing and act thereon in the same manner as required for the amendment of these regulations.

2. The use, buildings, structures and site development authorized in an Active Adult Community Zone are permitted subject to administrative approval of a detailed site plan prepared in accordance with the provisions of Chapter 175 of the Zoning regulations and compliance with the following standards which are in addition to the other standards and requirements applicable to the zone:

    a. Neighborhood – the use of land, buildings and other structures, the location and bulk of the buildings and other structures and the development of the lot shall be of a character as to harmonize with the neighborhood, to accomplish a transition in character between areas of unlike character, to protect property values and to preserve and enhance the appearance and beauty of the community.
    b. Provision shall be made for vehicular access to the lot and circulation upon the lot in such a manner as to safeguard against hazards to traffic and pedestrians in the street and upon the lot, to avoid traffic congestion on any street and to provide safe and convenient circulation upon the lot.

Section 116-030 Permitted Use

1. Each dwelling unit in an Active Adult Community Development shall be occupied by:

a. Persons who are 55 years of age or older.
b. A spouse of an occupant who is 55 years of age or older.
c. An occupant pursuant to b. above who is survived his or her spouse.
d. An occupant pursuant to b. above whose spouse has entered into a long-term continuing care facility.

In c. and d. above, remaining spouses who remarry or cohabitate must meet all occupancy requirements.

2. One child 21 years of age or older may reside with his or her parent(s).

3. In no event may a dwelling unit be occupied by more than three residents.

4. Nothing in this Section shall excuse compliance with the "housing for older person" requirements of 42 U.S.C. State Statute 3607 (including any amendments thereto after the effective date of this Chapter) and the regulations adopted thereunder. The burden of complying with said law and regulations shall be on the owner or user of the property affected by this Chapter.

Section 116-040 Standards

1. Lot Area: The minimum lot area is 5 acres.

2. Dwelling Units: The maximum number of dwelling units shall be determined by subtracting the area of wetlands and area of slopes in excess of 25% from the gross parcel area. This net acreage figure shall then be multiplied by 2, which shall be the maximum number of dwelling units permitted. *

3. Building Coverage: The aggregate ground cover for all dwellings and accessory buildings shall not exceed twenty-five percent (25%) of the lot area.

4. Units Allowed: Single family detached or two attached single units.

5. Living Area: The minimum living area of each dwelling unit shall be no less than the living area requirements for the R-8 zone.

6. Height of Buildings: The maximum height of a building shall be thirty-five (35) feet, and no space having its floor level below the finished grade shall be used for dwelling purposes.

7. Distance between buildings: The minimum distance between buildings shall be fifty (50) feet (excluding open patios and decks not exceeding 125 square feet, and steps and walkways).

8. Ceiling Height: All interior spaces used for dwelling purposes shall have a clear ceiling height of not less than seven (7) feet, six (6) inches throughout the entire floor area thereof.

9. Bedrooms: There shall be a maximum of two (2) bedrooms per living unit.

10. Parking: There shall be at least two (2) parking spaces provided for each dwelling unit. All driveways shall be a minimum of twenty (20) feet in length (measured from the interior edge of the sidewalk, if any). An attached garage serving a unit shall count as one (1) parking space. A driveway serving a unit shall count as one (1) parking space.

11. Site Lighting: All site lighting fixtures shall be full cutoff, downward aimed and fixed in a downward facing position where the fixture is nonadjustable. Light fixtures shall not be located at a height of more than 16 feet from the ground. All developers of parcels for an Active Adult Community shall retain a lighting consultant, to be approved by the Commission, to review the site lighting plan and shall follow the recommendations of this lighting consultant with regard to the site lighting.

12. Buffer Area: The Commission may require along the perimeter of the development a front buffer yard of sixty (60) feet in width and a side or rear buffer yard of sixty (60) feet in width, provided that no buffer shall be required for a front, side and/or rear yard if the existing topography and/or landscaping provide natural screening or the yard is adjacent to another Active Adult Community Development permitted pursuant to this Chapter. The buffer area shall conform to the standards for buffer areas as set forth in Section 130-040 (2) of these Regulations. No structures, including but not limited to septic systems, stormwater detention basins, stormwater retention basins, water quality basins or infiltration systems may be located in any required buffer area.

13. Investment Purchases Prohibited: The purchase of a dwelling unit for investment purposes, i.e., by a person or entity not intending to occupy the unit, is prohibited except that a nonresident family member may purchase up to one unit for persons who will reside in the unit and who otherwise comply with the provisions of these Regulations.

14. Conditions: The Commission may impose conditions to require the applicant to take such actions as are necessary to ensure that the housing meets and continues to meet the age restriction requirements of this Chapter. Such conditions may include, without limitation, deed restrictions, periodic reporting, affidavits of purchasers, renters, authorized representatives of any homeowners' or unit owners' association, stipulated ownership and management policies and procedures, and appropriate association governance. The Commission may require the applicant to submit any or all of this documentation prior to or during the hearing.

15. Community Areas for Recreation: The developer shall provide an area or areas for passive and/or active recreation for the residents of the Active Adult

Community Development. Such areas shall include, as a minimum, sitting areas (covered or uncovered) and paths for walking.

16. Utilities: The water supply shall be approved by the Town Director of Health and the State Department of Health.

17. Sewage Disposal: The development shall be served by a sewage disposal system(s) meeting Town Health Department and State Department of Health Services regulations and, as applicable, regulations of the State Department of Environmental Protection.

18. Circulation and Access: Development of more than one hundred (100) bedrooms shall have a second access to a town or state maintained highway. Interior roads and access ways serving more than two (2) dwelling units shall have a paved surface of a least twenty (20) feet wide, a minimum slope of one percent (1%) and a maximum slope of ten percent (10%), and shall have a sidewalk on one side if deemed reasonably necessary by the Commission.

19. Location: The Active Adult Community Development shall have 50 feet of road frontage along a state or town highway. (*Effective: December 23, 2000*)

20. Reimbursement of Town Expenses: The applicant shall reimburse the Town of New Milford for any expenses incurred for unusual costs by Town staff for the administration of the Active Adult Community and reasonable expenses of consultants and attorneys retained by the Town to review the site plans application, and to undertake site inspections related to the Active Adult Community.

21. A phasing plan shall be provided, as deemed necessary by the Zoning Enforcement Officer, prior to the issuance of zoning permits.

22. An operations plan shall be provided to the Zoning Enforcement Officer prior to the issuance of zoning permits.

Section 116-050 Open Space Requirements

All land not used for construction of dwellings, roads, parking or private yards shall be considered open space. Except when required for town use, open space shall be dedicated to use by residents of the Active Adult Community Development with adequate control to assure its maintenance and with restrictions or covenants prohibiting or restricting building on it. (*Effective: February 19, 2000*)

Section 116-060 Zoning Map

After a public hearing, the Commission may approve or deny the request for establishing an Active Adult Community Zone. If an Active Adult Community Zone is established, the official zoning map shall be amended accordingly following the effective date of such change.

Section 116-070 Completion of Work

All work in connection with the approved site plan shall be completed within five (5) years after the date of approval of the plan. The certification of approval of such site plan shall state the date on which such five (5) -year period expires. Failure to complete all work within such five (5) -year period shall result in automatic expiration of the approval of the site plan unless extended by the Commission for an additional period not to exceed five (5) years. The Commission is deemed to be authorized by the owner of the parcel which has been designated as an Active Adult Community Zone to amend these regulations and the zoning map deleting the Active Adult Community Zone and establishing in its place the previous or another zoning district. (*Amended Effective: June 16, 2001; Amended Effective: August 15, 2005*)

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR FOXFIELD AT MIDDLETOWN

THIS DECLARATION made on the date hereinafter set forth by COBLENTZ FARM LIMITED PARTNERSHIP, a Maryland Limited Partnership (hereinafter sometimes collectively referred to as "Declarant").

W I T N E S S E T H:

WHEREAS, Declarant is the owner of certain real estate located in the Middletown Election District, Frederick County, Maryland, said real estate being part of all and the same real estate conveyed by Lois Ann Holder and Charles H. Coblentz, Sr., Co-Personal Representatives of the Estate of Catherine P. Coblentz, unto Coblentz Farm Limited Partnership, a Maryland Limited Partnership, by deed dated September 15, 1988 and recorded in Liber 1513 at folio 37, among the aforesaid Land Records,which said property Declarant desires to develop as a residential subdivision to be known as Foxfield at Middletown; and

WHEREAS, Declarant wishes to establish Covenants, Conditions and Restrictions for the development of the abovementioned property as hereinafter described; and

WHEREAS, said Covenants, Conditions and Restrictions shall apply to all of the lots indicated and shown on a plat of subdivision entitled "Final Plat, Section 1, Lots 1 to 6, FOXFIELD AT MIDDLETOWN" recorded in Plat 43 at page 157, among the Plat Records of Frederick County, Maryland; and supplements to this Declaration.

NOW, THEREFORE, Declarant hereby declares that all of the lots described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions which are established for the purpose of protecting the value and desirability of, and which shall run with the real property and be binding on all parties having any right, title or interest in the described real property or any part thereof and any future amendment or resubdivision thereof.

1. The area of the property subject to this Declaration (sometimes called the "property", the "subject property" and/or the "lots" as the context shall require) may be increased by filing among the Land Records of the jurisdiction referred to above, supplements to this Declaration, which need only be signed by the Declarant, the owner of additional land described in the supplement and the holder of any mortgage or similar lien thereon, stating that the additional land shall be subject to this Declaration.

2. The lots of said property, as now laid out or as hereinafter altered or modified, shall be used for residential purposes only and no buildings shall be erected, altered, placed or permitted to remain on any lot other than one detached single-family dwelling not to exceed two and one-half stories in height and normal residential incidental structures (such as, but not limited to, storage sheds, pool/bath houses, fences, and private garages for not more than four automobiles). No dwelling shall be permitted on any lot the ground floor area of the main structure, exclusive of one-story open porches and garages, of which shall be less than 2,200 square feet for a one-story dwelling. A two-story dwelling, exclusive of open porches and garages, shall contain in the aggregate a minimum of 3,000 square feet for the combined first and second floors and a one and a half story dwelling, exclusive of open porches and garages, shall contain a minimum of 2,500 square feet with not less than 2,000 square feet on the first floor. Additionally, private recreational facilities such as tennis courts and swimming pools are allowed as approved by the Architectural Control Committee as provided in paragraph 3. below. Lastly, real estate sales, construction offices and signs may be erected, maintained and operated on any part of said land

and in any building or structure now or hereafter erected thereon during the original construction and sales as approved by the Architectural Control Committee.

3. No building, fence, wall or structure of any kind (including satellite disk or dish and antenna) shall be erected, placed or altered on any lot until the construction plans, specifications and a plan showing the location of the building, fence, wall or structure have been approved by the Architectural Control Committee as to the quality of workmanship, materials, colors, overall size and proportions and harmony of external design with existing structures and as to location with respect to topography and finish grade elevation.

Subject to removal by Declarant upon completion of development and construction as set forth below, the Architectural Control Committee is composed of one person, namely, Gholamali Memarsadeghi, 5705 Industry Lane, Frederick, Maryland 21701. Gholamali Memarsadeghi may designate a representative to act for him. In the event of death or resignation of Gholamali Memarsadeghi, Declarant shall have full authority to designate a successor. Neither Gholamali Memarsadeghi nor his designated representative shall be entitled to any compensation for services performed, pursuant to this covenant. Upon the completion of the development and construction of Foxfield at Middletown Subdivision, all rights, responsibilities and obligations of the Architectural Control Committee may be assigned by the Declarant to a Board elected by lot owners with each lot representing one vote., or any other persons or entity as may be expressly designated in writing by Declarant in its sole discretion, which shall thereafter cause to be created an Architectural Control Committee composed of Foxfield at Middletown residents (3 minimum) to act thereas and assume all rights, responsibilities and obligations of the Architectural Control Committee as set forth herein.

The Committee's approval or disapproval as required in these covenants shall be in writing. In the event the Committee, or its designated representative, fails to approve or disapprove plans and specifications within thirty (30) days after plans and specifications have been submitted to it, approval shall not be required and the related covenants shall be deemed to have been fully complied with. Any alteration, construction or fence begun before or during the submission to the Architectural Control Committee shall be deemed to be disapproved without further action by the Committee and shall be removed immediately upon demand by the Committee or its authorized representative whether said demand is made before or after the completion of said alteration, construction or fence.

4. No dwelling shall be permitted on any lot until the construction plans and specifications and a plan showing the location have been approved by the Architectural Control Committee as provided in Paragraph 3 above.

The Architectural Control Committee shall particularly review and approve the material which is proposed for installation on all exposed exterior surfaces on dwellings, storage sheds, pool/bath houses, garages, fences and other structures to be constructed on a lot. Said materials shall be of brick, stone, natural wood, stucco, weatherboard, aluminum or vinyl siding or combination thereof.

5. (a) No building (except removable storage sheds) shall be erected or located on any lot nearer to the front, side or rear lot lines than the minimum building setback lines as in effect and required by the Frederick County Zoning Ordinance at the time of construction.

(b) For the purposes of this covenant, eaves, steps, open porches and garden courts shall not be considered as a part of the building. This exception does not apply to paragraph 7. below.

(c) An encroachment into the aforesaid setback areas of not more than 12 inches, or as approved by the Frederick County Board of Appeals, shall not constitute a violation of these restrictions.

6. (a) Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat and over the front, side and rear six feet of each lot. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible.

(b) In addition to the aforesaid easements; the Declarant, their successors and assigns, reserve, until such time as all roads shall be paved and accepted into the county road system, a revertible slope easement along those portions of the lot bordered by a public street or road extending back not further than the building setback line. Declarant may grade or slope this area in order to meet the requirements of the Frederick County Government and other appropriate agencies with respect to slope and grade easements in connection with county roads. No trees, plants, shrubs or improvements other than those installed by the Declarant and other than grading shall be placed in the area until such time as the adjoining roads or streets are accepted into the county system. This revertible slope easement shall expire and become null and void and revert back to the individual lot owners at such time as the roads are constructed and accepted by Frederick County for maintenance.

7. No fence or wall shall be erected, placed or altered on any lot nearer to any street than the minimum building setback lines as shown on the recorded plat or any amendment to or resubdivision thereof, excepting that when the rear yard of a home has frontage on a street which has denied access as noted on the recorded plat, this requirement will not apply. Notwithstanding the aforegoing, no fences or walls shall be permitted to extend towards the street beyond the front corner of any dwelling. No fence or wall shall exceed 48 inches in height and shall not interfere with underground or surface drainage, structures, pipes or ditches. This height restriction shall not apply to enclosures of patios or open garden courts or retaining walls required by topography, but which enclosures, patios and retaining wall shall require a written approval of the Architectural Control Committee as provided in Paragraph 3.

8. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood or detrimental to health and/or safety.

9. No structure of a temporary nature, trailer, quonset hut, cabin, tent, shack, or other similar building shall be used on any lot at any time as a residence, either temporarily or permanently. No partially completed dwelling, including basement, garage or other stage of construction shall likewise be used as a residence.

10. No sign of any kind shall be displayed to the public view on any lot except one professional sign of not more than one (1) square foot, one sign of not more than eight (8) square feet advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sales period.

11. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that no more than two dogs and no more than two cats or other similar domestic household pets, (i.e., two dogs and two cats and two birds per dwelling) may be kept provided that they are not kept, bred, or maintained for any commercial purposes and are not permitted to roam at large or are kept in such a manner as to become a nuisance to neighbors or adjoining property owners.

12. That portion of any lot covered by these covenants, which is not occupied by a building, shall be kept free and clear of all weeds and debris so that the same may be identified as a residential lot. Any lot which has been sold, but on which no building has been constructed, shall likewise be kept free and clear of debris, pending the construction of a residence thereon. Each property owner shall promptly remove or otherwise dispose of any accumulation of trash, garbage or rubbish, and at all times maintain said property in a neat and sanitary condition.

13. No automobiles, trucks under two tons, vans, recreational trailers, boats or any other vehicles or equipment of a similar nature shall be allowed on any property unless they display a valid current license or registration, or are stored in a garage and out of public view excepting that recreation vehicles and boats may be parked on a lot only with the approval of the Architectural Control Committee as to location and screening. In addition, no such vehicle shall be parked on the streets of the subdivision for a continuous or intermittent period to exceed 24 hours. No trucks over two tons, buses, tractors, trailers or similar items are permitted to be parked on any lot or any streets of the subdivision with or without a current registration or license, except for such vehicles that builder may require to be located during the construction and sales period.

14. All purchasers of lots within the property subject to this Declaration expressly acknowledge that the Declarant has precluded any argument that all sections or any portion of any section of the Foxfield at Middletown Subdivision are subject to a common scheme of development. Accordingly, it is agreed and understood that Declarant shall have the right, in its sole discretion, to extend the terms and provisions of this Declaration to any and/or all future sections of residential lots developed by Declarant within the Foxfield at Middletown Subdivision.

Further, it is understood that Declarant shall have the right, in its sole discretion, to impose different covenants, conditions and restrictions than those contained in this Declaration upon any one, or more, or all of the future sections of residential lots developed by Declarant within the Foxfield at Middletown Subdivision. The purpose of the provisions of this Paragraph 14 is to afford to the Declarant the widest latitude in the development of the Foxfield at Middletown Subdivision, and no lot owner subject to this Declaration and no other person shall, after the recordation hereof, rely upon any presumption involving a common scheme of development with respect to Foxfield at Middletown Subdivision.

15. Subject to the provisions of Paragraph 2, these covenants are to run with the property and shall be binding on all parties and all persons claiming under them for a period of thirty (30) years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by a majority of the owners of the lots subject to this Declaration that have been recorded, agreeing to change said covenants in whole or in part.

16. Enforcement shall be by proceedings at law and may be in nature as against any person or persons violating or attempting to violate any covenant either to restrain violation or to recover damages.

17. Invalidation of any one of these covenants by judgment or court order shall in no way effect any of the other provisions which shall remain in full force and effect.

It is further agreed by and between the Declarant and subsequent lot owners and by and between the lot owners who own lots in the future, in all cases for themselves and their respective personal representatives, heirs, successors and assigns, as follows:

(a) Any and all of the rights and powers (including discretionary powers and rights) herein reserved by or conferred upon Declarant may be assigned or transferred by Declarant, its successors and assigns, to any one or more corporations, individuals, or associations, agreeing to accept the same. Any such assignment or transfer shall be evidenced by an appropriate instrument recorded among the Land Records of Frederick County, Maryland, and upon recordation thereof, the Grantee or Grantees of such rights and powers shall thereupon and thereafter have the right to exercise and perform all of the rights and powers reserved by or conferred upon Declarant by this Declaration.

(b) These Covenants are to run with the land as designated on the aforesaid plat, and shall be binding on the owners of all lots on said plat, their personal representatives, heirs, successors and assigns and all parties claiming by, through or under them.

18. It shall not be necessary to incorporate the covenants herein set forth in every deed of conveyance for lots set forth on the aforedescribed plat recorded or to be recorded for sections of residential lots among the Plat Records of Frederick County, Maryland, but the reference to this Declaration and restrictive covenants herein shall be in sufficient notice of said covenants.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and affixed its Seal this 16th day of July, 1990.

WITNESS:

COBLENTZ FARM LIMITED PARTNERSHIP
a Maryland Limited Partnership
By: ADMAR CONSTRUCTION, INC.

Russell T. Horman
RUSSELL T. HORMAN

By: Gholamali Memarsadeghi (SEAL)
Gholamali Memarsadeghi
President of Admar Construction, Inc.
General Partner of Coblentz Farm Limited Partnership

Middletown Planning Office

MEMORANDUM

Date: 1/9/2014

To: Middletown Planning Commission

From: Cynthia K. Unangst, Middletown Staff Planner

RE: SANDWICH BOARD REGULATIONS

Per discussions, we decided to look at regulations in relation to sandwich boards. Attached are sections of the Sign Ordinance that we might want to look at in determining regulations like: materials permitted, size of sandwich boards, location of sandwich boards, security of sandwich boards, and the length of time sandwich boards are permitted to be displayed. As you can see in Section 17.36.140, sandwich board signs are currently exempt from needing sign permits. Also talked about at the joint town board/planning commission workshop was to include some language for flexibility in approving sandwich boards such as the ones displayed by Maggie's Bake Shop.

Also attached are the sandwich board regulations for the City of Denton, Texas which we have looked at before, and Myersville's new sign ordinance which includes regulations for sandwich board signs.

Chapter 17.36 - SIGNS [3]

17.36.020 - Definitions.

"A-frame/sandwich board/T-frame sign." A sign that is constructed in the shape of an "A" also referred to as a "sandwich board" sign, composed of two back to back sign faces oriented in opposing directions aligned in the shape of the letter "A" or "T". This sign is used to identify goods and services available on the property on which the sign is located.

"Sandwich board sign." See A-frame sign.

"Temporary sign." Any sign or banner which has for its purpose the advertising, announcement or display of information pertaining to an event, condition or situation that is intended to be limited in scope, duration of time not to exceed forty-five (45) days, including, but not limited to, commercial sales events, concerts, plays and other commercial or cultural events. A political sign is a temporary sign announcing or supporting political candidates or issues such as bonds or referendums in connection with any national, state or local election. (Forty-five (45) days limitation not applicable to political signs).

17.36.030 - General sign standards.

All signs which are painted, constructed, erected, remodeled, relocated or expanded shall comply with the following standards:

D. Measurement of Sign Area. Each face of a sign shall be counted when computing the total sign area for a site except that, when two sign faces are placed back to back so that both faces cannot be viewed from any point at the same time and each contains identical text and graphics, the area of only one side shall be counted when computing the area of that sign.

E. Number of Sign Faces. No sign shall have more than two (2) sign faces.

G. Condition of Signs. All signs and its component parts which are authorized by this chapter shall be maintained in good repair and in a safe, clean and attractive condition. Signs shall not be maintained or permitted to exist in such a condition as to constitute a public nuisance or other hazard to the public health, safety or welfare. In addition to any other lessee, owner or other person responsible for a sign, the owner of the property on which a sign is located shall also be responsible for the maintenance of the sign as required herein.

H. Unless otherwise permitted by law, all signs shall be erected, installed or otherwise located on the property which is used for the purposes which are associated with or which relate to the content of the sign. Sign applicants must have approval of property owner.

17.36.050 - Signs for individual businesses.

A single business located on one lot may erect signs subject to the following:

A. Each business may have a maximum number of three (3) signs for each street or public right-of-way on which the property fronts.

B. Types of signs permitted. Wall, monument, projecting, window, or canopy/awning.

C. Maximum size of signs. See design standards for sign type.

17.36.060 - Signs for multiple businesses other than shopping centers.

Where there are multiple (more than one) businesses located on a single lot, other than a shopping center, signs may be erected and installed on the lot subject to the following:

A. No lot shall be permitted to have erected both a projecting sign and a monument sign or more than one monument sign.

B. Each business on the lot shall be entitled to a maximum of two (2) signs per business.

C. Wall, projecting, window, or canopy/awning signs shall be permitted.

D. The maximum size of each sign shall be in accordance with the design standards set forth in this chapter.

17.36.100 - Design standards for permitted sign types.

All new signs and all existing signs which are replaced, reconstructed, extended or changed structurally shall comply with the following development standards.

A. Freestanding Sign—Design Standards.

1. Road Frontage Requirements. Monument signs shall be permitted only on lots with one hundred (100) feet or more of road frontage, with one sign per road frontage for corner lots.

2. Minimum Separation Distance. No monument sign shall be permitted to be erected within seventy-five (75) feet of an existing monument sign.

3. Maximum Height. Eight (8) feet.

4. Maximum Size. One (1) square foot per five (5) linear feet of street frontage, up to a maximum size of fifty (50) square feet.

5. Freestanding signs in the town commercial (TC), general commercial (GC), mixed business (MB), and service commercial/light manufacturing (SC/LM) districts shall have a minimum setback of ten (10) feet from any public right-of-way, service drive or entrance and shall be so located as to allow clear and ample visual sight lines for driveways leading into a street and at intersecting streets and alleys.

17.36.130 - Sign permit procedures.

A. Except as otherwise provided in this chapter, all signs being erected, constructed, installed, attached, altered, relocated or reconstructed must be approved prior thereto by the planning commission or its delegate for compliance with the provisions of this chapter including the location, placement and size of the sign.

B. Except as otherwise provided in this chapter, a sign permit shall be required for all signs erected or installed after the effective date of this ordinance.

C. An application for a sign permit shall be submitted on a form provided by the zoning administrator, shall contain the information required as set forth herein, and shall be accompanied by the required application fee.

D. An application for a sign permit shall contain, or have attached thereto, the following information in either written or graphic form:

1. Name, address and telephone number of the sign erector and the sign owner.

2. A site location plan showing the street name and street number of the location or building where the sign is to be placed and the position of the sign in relation to adjacent lot lines, buildings, sidewalks, streets and intersections.
3. The type of sign and a general description of the structural design and construction materials to be used.
4. One set of drawings and/or photos of the proposed sign which shall contain specifications indicating the height, perimeter and area dimensions, means of support, method of illumination, colors, and any other significant aspect of the proposed sign.
5. Any other information requested by the planning commission or its delegate in order to carry out the purpose and intent of this chapter.

E. A signage plan identifying the location, height, and size of all signs shall be included on all site plans reviewed by the planning commission.

F. Any sign which is erected, constructed, installed, attached, altered, relocated or reconstructed without a permit and for which a permit is required shall be deemed a violation of this chapter and the owner or other person responsible for the sign shall be subject to a fine and enforcement measures as provided for in Chapter 17.08 of this title. In addition, the town may order the owner or other person responsible for the sign to remove the sign at the sole cost of such person.

G. Upon a showing that an owner, lessee or other person seeking to display a sign is unable to effectively display one or more signs in compliance with the requirements of this chapter due to unusual conditions on the property such as size, location, topography or other situation, then with the authorization of the planning commission, the zoning administrator may issue a sign permit authorizing the displaying of a sign not in strict compliance with the requirements of this chapter if, in doing so, the intent of this chapter may still be met.

17.36.140 - Exempt signs.

A sign permit shall not be required for the following signs; provided, however, that all such signs shall comply with the other applicable requirements of this chapter:

1. Any public notice or warning required by a valid and applicable federal, state, or local law, regulation or ordinance;
2. Signs erected by the town, county, state, or federal government in furtherance of their governmental responsibility;
3. Signs prepared by or for the local, state or federal government marking sites or buildings of historical significance;
4. Political signs that do not exceed six (6) square feet in size;
5. Garage/yard sale signs that do not exceed six (6) square feet in size. Such signs may be displayed only one-day prior to the sale and must be removed within one day after the sale;
6. Incidental signs as defined herein;
7. Ballfield/sports complex signs and scoreboards that face the inside of a playing field;
8. A-frame, sandwich board, or T-frame signs as defined herein;

17.36.150 - Temporary signs.

A. Temporary commercial advertising signs of any size are not permitted in any district unless they comply with the requirements of this chapter, and such signs are deemed to be and shall constitute a

public nuisance. The town may immediately remove any such sign(s), without prior notice to the owner or other responsible person(s). The erection or installation of such signs shall be deemed a violation of this chapter and the owner or other person responsible for the sign shall be subject to a fine and enforcement measures as provided for in this chapter.

B. A permit is not required for the following types of temporary signs:

1. A temporary real estate sign advertising the sale or lease of the property on which the sign is displayed. For residential property, the sign shall not exceed six (6) square feet in size. For commercial and industrial property, the sign shall not exceed thirty-two (32) square feet in size.

2. Signs advertising subdivision openings, open houses or other real estate events being held within the town limits. Such signs may not exceed four (4) square feet in size per sign, and such sign(s) may only be displayed between the Friday before the event after 12:00 noon and 8:00 a.m. on the following Monday morning after the event. In the event that the Monday is a legal holiday, the sign must be removed by 8:00 a.m. on the following Tuesday morning. In the event that Friday is a legal holiday, the sign may be placed on the Thursday before the event after 12:00 noon.

3. Temporary and seasonal produce stand signs. Such signs shall not exceed twenty-four (24) square feet in size and no such sign shall exceed six (6) feet in height.

4. Construction signs. Such signs may only be installed after the issuance of a zoning permit, may not exceed one sign per street frontage, may not exceed six (6) feet in height and may not exceed twenty-four (24) square feet in size. A construction sign shall be removed prior to the issuance of a certificate of occupancy.

5. Contractor/artisan job site sign. Such signs shall not exceed six (6) square feet in size, shall be installed only on the property at which the work is being performed and shall be removed upon completion of the job or construction.

6. Temporary non-profit signs advertising events, activities, recruiting or fundraising efforts by community service groups, religious groups, children's or youth organizations, or student organizations. Such signs shall not exceed twenty-four (24) square feet in size and six (6) feet in height, and shall be removed upon completion of the effort being advertised.

C. A permit is required for the following types of temporary signs:

1. Temporary Residential Subdivision Signs. A temporary real estate sign advertising a subdivision within which the sign is located not exceeding seventy (70) square feet in size and located no closer than twenty-five (25) feet to the property line. Temporary shall be until construction is complete.

2. Special Event Sign. A temporary sign noting an event of general interest, such as a locally sponsored carnival or grand openings. Such signs shall be removed within five (5) days after the conclusion of the event. A permit shall be valid for a period of no longer than ninety (90) days from the date of issuance. Such signs shall not exceed thirty-two (32) square feet in size.

3. Temporary Business Identification. A temporary sign which identifies the opening or existence of a new business. Such signs shall not exceed twenty-four (24) square feet in size and shall be valid for a period of no longer than two (2) months from the date of issuance.

D. Signs shall not be mounted on any type of utility pole or pole used to display or support traffic control signs or devices.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON, TEXAS, AMENDING CHAPTER 33 OF THE CODE OF ORDINANCES, CITY OF DENTON, TEXAS; AMENDING SEC. 33-2, PROVIDING FOR DEFINITION OF SANDWICH BOARD SIGN; AMENDING SECTION 33-4, PROVIDING FOR THE ALLOWANCE OF SANDWICH BOARD SIGNS IN THE CENTRAL BUSINESS DISTRICT; AMENDING SEC. 33-184, PROVIDING FOR THE STANDARDS FOR SANDWICH BOARD SIGNS; PROVIDING FOR A PENALTY IN AN AMOUNT NOT TO EXCEED FIVE HUNDRED DOLLARS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Central Business District include the historic downtown square which is listed in the National Register of Historic Places; and

WHEREAS, most of the sidewalks in the Central Business District are wider than sidewalks in other areas of the City of Denton; and

WHEREAS, historically sandwich board or "A" frame signs were allowed on the sidewalks of the city during the period reflected by the historic architecture of the downtown square; and

WHEREAS, allowing sandwich board or "A" frame signs will promote the continued historic accuracy of the central business district by reducing the need for more modern advertising mechanisms:

NOW THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. That Section 33-2 of Chapter 33, Code of Ordinances, City of Denton, Texas is amended by adding the definition as follows:

Sandwich board or "A" frame sign is a portable sign, consisting of two panels of equal size, made of painted, decay-resistant wood, which are hinged at the top and placed on the ground or pavement so as to be self-supporting.

SECTION 2. That Section 33-4(4) of Chapter 33, Code of Ordinances, City of Denton, Texas is amended to read as follows:

(4) *Signs on public property.* Any sign located on or attached to a public street light, utility pole, hydrant, bridge, traffic control device, street sign or other public structure or building, or any sign, other than a stake sign, located in, on, over, or within a public street, sidewalk, alley easement or right-of-way. This prohibition shall not apply to projecting signs or sandwich board or "A" frame signs in central business districts as permitted by this article, markings made on public sidewalks as permitted by the Code of Ordinances, or wind device signs placed over a public street by the city of advertise annual community events.

SECTION 3. That Section 33-184 of Chapter 33, Code of Ordinances, City of Denton, Texas is amended to read as follows:

Sec. 33-184. Central business districts.

The following regulations shall apply to signs in central business zoning districts:

(a) Type. Ground, wall, roof, temporary, wind device, projecting, and sandwich board or "A" frame signs are permitted in central business districts.

(b) Effective area and height. No ground or roof sign shall have an effective area greater than sixty (60) feet, and no ground sign shall have a height greater than six (6) feet.

(c) Right-of-way limitation on projecting signs. No projecting signs shall project or extend into the public right-of-way for a distance of more than ten (10) feet or within two (2) feet of the nearest curbline, whichever is more restrictive. No projecting sign, supporting structure or part thereof which extends into the public right-of-way shall occupy any of the space between the ground level and eight (8) feet above the ground level in the right-of-way.

(d) Sandwich board signs or "A" frame signs must conform to the following regulations:

(1) Maximum sign height shall be three (3) feet.
(2) Maximum sign width shall be two (2) feet and signs shall not be placed in front of adjoining property and no portion of the sign shall extend more than three (3) feet from the building face.
(3) Signs must be properly anchored (temporarily) or weighted against the wind.
(4) A minimum clear sidewalk width of forth-eight (48) inches shall be maintained.
(5) Chalkboards may be used for daily changing messages and no changeable letter on tracks may be used.
(6) Signs shall be designed and constructed so as to promote and not visually obscure the significant architectural features of the National Register District and its buildings.
(7) Signs must be removed after business hours.
(8) No other portable signs are permitted.
(9) Sidewalks must be at least ten (10) feet wide in order to erect or maintain a sandwich board or "A" frame sign.
(10) Permits meeting the above regulations shall not require a sign permit fee. Applications for sandwich board or "A" frame signs must be approved by the City of Denton Historic Preservation Officer before the issuance of a permit and all applications must be submitted for Officer approval at least fourteen (14) days prior to installation.
(11) Any variance to the requirements for sandwich board or "A" frame signs will be handled the same as any other sign variance. The Board of Adjustment in considering any variance request regarding sandwich board or "A" frame signs may consider any recommendation made by the Historic Landmark Commission regarding the application.

SECTION 4 That any person violating any provisions of this ordinance shall, upon conviction, be fined a sum not exceeding $500.00. Each day that a provision of this ordinance is violated shall constitute a separate and distinct offense.

SECTION 5. If any section, subsection, paragraph, sentence, clause, phrase or word in this agreement, or application thereof to any person or circumstance is held invalid by any court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this agreement, and the parties hereby declare they would have enacted such remaining portions despite any such invalidity.

SECTION 6. That this ordinance shall become effective fourteen (14) days from the date of its passage, and the City Secretary is hereby directed to cause the caption of this ordinance to be published

(7) A maximum of one highway promotion sign is permitted for each property/business within the General Commercial Zoning District so long as property is not adjacent a residential dwelling or lot.

(a) The height of such a sign shall not exceed 45 feet at its highest measurable point from the average grade plane. The area of the signage or content area shall be considered as a part of the aggregate limit of 100 square feet of any signage, whether applied, freestanding, overhanging, suspended, painted or lit for that property.

(b) Legally non-conforming signage meeting the above referenced definition of "highway promotion sign" in Section F.(7).(a) that exists on the effective date of this ordinance shall be permitted to continue as a legally non-conforming accessory use so long as future repair or replacement of the qualifying highway promotion sign does not increase the height, face, or copy area without removal of equivalent square footage from signage elsewhere on the property.

(8) All other freestanding or projecting signs erected within the General Commercial zoning district shall not exceed 20 feet in height as measured from the average site grade plane to the highest measurable point of the sign except when the placement of a sign would be within 25 feet of a residential property line whereby the sign would be limited to 15 feet in height or less. Adjacency, for the purpose of this zoning ordinance, also includes residential properties across streets and alleyways.

(9) Temporary sandwich board signs which are placed in front of a business for the announcement of daily specials or featured promotions shall be allowed to be placed without a sign permit, so long as the board adheres to the following conditions:

Myersville sign regulations

(a) Is only situated on the same property as the business in which it is advertising,

(b) That the board only be placed during business hours and removed and stored within the principal or covered accessory building not later than the close of business hours,

(c) That the sign placement does not impede vehicular or pedestrian traffic, access to parking or obstruct the sightlines of either,

(d) That the board is not fastened or erected on a sign pole,

(e) That the board is only placed at grade and not elevated, suspending, protruding, projecting,

(f) That the board complies with the setback requirements in its respective zoning district,

(g) That the sandwich board shall not be displayed for more than 12 hours in any day.

G. All signs must comply with the following except where previously modified:

(1) All freestanding signs shall be subject to half the setback requirements for the district in which located and shall be so placed as to allow clear and ample visual sight lines for driveways leading into a street and at intersecting streets and alleys. Wooden supports are prohibited.

(2) In no case shall any sign attached to a building project more than three feet above a roof line.

(3) All freestanding signs in the Village Center, R1, R1-SG, R2 and Open Space zoning districts and shall be limited to a maximum height of 15 feet as measured at the highest point of the sign or its supporting apparatus.

(4) No temporary sign may be electronic, digital, flashing or otherwise mechanized in nature.

(5) Any sign type not expressly permitted in this chapter shall be deemed to be prohibited by its omission, unless reasonably interpreted to be a derivation of a permitted sign.

H. Sponsorship and announcement signs.

(1) The following criteria are applicable to both sponsorship signs and announcement signs:

(a) Permitted only in the open space zoning district and are prohibited in any other district.

(b) May not be electronically lighted or have any electronic components as part of the display.

(c) May not be permanently attached to any other structure or permanently erected at its location.

(d) May not be placed or installed in such a manner as to interfere with or obstruct the free movement of other persons using the facility where the sign is located or as to significantly interfere with or obstruct other persons' view of the event or events taking place at that location.

Chapter 17.44 BOARD OF APPEALS

Sections:

17.44.010 Authorization and appointment.

17.44.020 Meetings of the board.

17.44.030 Powers of the board of appeals.

17.44.040 Appeals.

17.44.050 Variances.

17.44.060 Special exceptions.

17.44.070 Public hearings.

17.44.080 Appeals to court.

17.44.090 Permits issued by the board.

17.44.100 Board of appeals fees.

17.44.010 Authorization and appointment.

A. The board of appeals is authorized. Such board shall consist of three members, all of whom shall be residents of the Town of Middletown. The members of the board of appeals shall be appointed by the burgess with the consent of the commissioners. The terms of office of the members of the board of appeals are three years; provided, however, that the respective term of each member of the board of appeals in office on the effective date of the ordinance codified on this chapter shall remain unchanged and shall expire on the date previously established for that term. The burgess shall appoint a new member to fill the unexpired term of any member who leaves the board of appeals.

B. Members of the board shall serve with such compensation as may be established from time to time by resolution of the burgess and commissioners. The commissioners shall designate one alternate member for the board of appeals who may sit on the board in the absence of any member of the board and when the alternate member is absent, the commissioners may designate a temporary alternate.

C. A member of the board of appeals shall recuse himself or herself from participating in a matter in which the member may have a conflict of interest or an appearance of a conflict of interest.

D. A member of the board of appeals may be removed:

1. for cause;
2. on written charges; and
3. after a public hearing.

E. The board of appeals shall have the powers and shall comply with and follow the requirements and procedures for boards of appeal as set forth in Article 66B, Section 4.07, Maryland code, as same may be amended from time to time.

(Ord. 04-12-01 § 1, 2005: Ord. 182 § 10.0, 1976)

17.44.020 Meetings of the board.

The members of the board of appeals shall meet at least six times each year at such time and place as they may fix by resolution. They shall select one of their members as chairperson and one vice-chairperson, who shall serve one year and until their successors have been selected. Special meetings may be called at any time by the chairperson or in his or her absence, by the vice-chairperson. A majority of the board shall constitute a quorum for the transaction of business. The board of appeals shall make a transcript of all its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, which shall be immediately filed in the town office ~~of the board~~ and shall be a public record. Copies of the transcript shall be forwarded to the burgess and planning commission. All meetings of the board of appeals shall be open to the public. The chairperson, or in his or her absence the vice-chairperson, may administer oaths and compel the attendance of witnesses.

(Ord. 04-12-01 § 2. 2005: Ord. 182 § 10.1. 1976)

Comment [MSOffice1]: The last few years, the BOA only had 3-5 public hearings. Should this be changed to 'as needed' instead of at least six times?

17.44.030 Powers of the board of appeals.

Powers of the board of appeals include:

A. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this title or any ordinance adopted pursuant to Article 66B;

B. To hear and decide special exceptions in the terms of this title as required under this title;

C. To authorize upon appeal in specific cases a variance from the terms of this title.

(Ord. 182 § 10.2. 1976)

17.44.040 Appeals.

An appeal to the board of appeals may be taken by any person aggrieved by any officer, department, bureau of the Town of Middletown affected, or by any order, requirement, decision or determination by any governmental officer, department, board or bureau based in whole or in part upon the provisions of this title.

Such appeal shall be filed with the zoning administrator and the board of appeals within thirty (30) days from the decision being appealed from. Upon appeal, the zoning administrator shall transmit to the board of appeals all papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from unless the zoning administrator certifies to the board that a stay would, in his or her opinion, cause imminent peril to life or property.

(Ord. 182 § 10.3. 1976)

17.44.050 Variances.

A. Filing of Variance. An application may be made to the board of appeals for a variance where it is alleged that the provisions of the zoning ordinance inflict unnecessary hardship upon the applicant. The application must be on a form provided for that purpose by the town. The applicant must provide all the information requested on the form, together with any other information and data that may be required to advise the board on the variance, whether such information is called for by the official form or not.

Unless otherwise specified or extended by the board, a variance authorized by it expires if the applicant fails to obtain a building permit or use certificate within twelve (12) months from the date of authorization of the variance.

B. Standards for Variances. Where there is unnecessary hardship, the board may grant a variance in the application of the provisions of this title provided that the following findings are made where relevant in a given case:

1. That there are unique physical circumstances or conditions including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of the zoning ordinance in the neighborhood or district in which the property is located;
2. That because of such physical circumstances or conditions, there is not possibility that the property can be developed in strict conformity with the provisions of the zoning ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property;
3. That such unnecessary hardship has not been created by the applicant;
4. That the variance, if authorized will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare;
5. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

C. No grant of a variance shall be authorized unless the board specifically finds that the condition or situation of the specific piece of property or intended use of such property, for which the variance is sought, is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such conditions or situation.

D. Conditions. In granting any variance, the board may attach such reasonable conditions and safeguards as it considers necessary to implement purposes of this zoning ordinance.

(Ord. 182 § 10.4, 1976)

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. A temporary special exception must be obtained from the board for any nonconformity which is or will be seasonal or is or will be in the public interest. The board may grant a temporary special exception for a nonconforming use or structure, existing or new, which:

1. Is beneficial to the public health or general welfare;
2. Is necessary to promote the proper development of the community;

3. Is seasonal in nature.

The temporary special exception may be issued for a period not exceeding one year, and may be renewed for an aggregate period not exceeding three years. The nonconforming structure or use must be completely removed upon the expiration of the special exception without cost to the town.

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.

(Ord. 182 § 10.5.1—10.5.6, 1976)

17.44.070 Public hearings.

All appeals, applications for variance and special exceptions shall be decided in a public meeting and after a public hearing has been conducted. The board shall fix a reasonable time, give not less than ten (10) days' public notice thereof by the posting of not less than one sign of at least three square feet in area, continuing notice of the hearing in a conspicuous place on or near the property. The zoning administrator or agents may require additional posting in a place of common use or entrance to the community if in the judgement of the zoning administrator such posting is needed to adequately notify interested parties. All public hearings to be held by the board of appeals shall be advertised in a weekly or daily paper of general circulation in the town as well as due notice to the parties in interest including all adjoining and confronting property owners and decide the same within thirty (30) days of the public hearing. It shall be the responsibility of the applicant to provide the names and addresses of all confronting and adjoining property owners.

Upon the hearing, any party may appear in person, by agent or by attorney. The concurring vote of two members of the board shall be necessary to reverse any order, requirement, decision or determination of the zoning administrator, or to decide in favor of the applicant upon any matter upon which it is required to pass under any such ordinance, or to effect any variation in such ordinance.

(Ord. 182 § 10.6, 1976)

17.44.080 Appeals to court.

Any person or persons, jointly or severely aggrieved by any decision of the board of appeals, or by any reclassification by the burgess and commissioners, or any taxpayer, or any officer, department, board, bureau of Middletown, may appeal the same to the circuit court of the county. Such appeal shall be taken according to the Maryland Rules as set forth in Chapter 1100, Subtitle B.

An appeal from any decision of the circuit court reviewing a decision of the board of appeals may be taken to the Court of Appeals of Maryland during the period and in the manner prescribed by rules of the Court of Appeals.

(Ord. 182 § 10.7, 1976)

17.44.090 Permits issued by the board.

A. Construction Permitted by Board to be Undertaken Within Twelve Months. No order of the board permitting the erection or alteration of a building shall be valid for a period longer than twelve (12) months, unless a zoning certificate for such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.

B. Use of Building Permitted by Board to be Established Within Twelve Months. No order of the board permitting a use of a building or premises shall be valid for a period longer than twelve (12) months, unless such use is established within such period; provided, however, that where such use permitted is dependent upon the erection or alteration of a building, such order shall continue in force and effect if a zoning certificate for the erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.

(Ord. 182 § 10.8, 1976)

17.44.100 Board of appeals fees.

A fee shall be paid to the town at the time that the notice of appeal is filed. The amount of the fee shall be as established from time to time by resolution of the burgess and commissioners. See Chapter 17.52 for fees. (Amended during 2000 supplement; Ord. 00-04-04 § 4, 2000)

Town of Middletown Planning Department

To: Burgess & Commissioners and Middletown Planning Commission

From: Cindy Unangst, Staff Planner

Date: 12/30/2013

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

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

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

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

House Bill 706 requires the following amendments to the Town's Forest Resource Ordinance:

- Add definition of "Stream Restoration Project"
- Add the following project types to the current list of projects that are exempt from the provisions of the Forest Resource Ordinance:
  - Stream restoration projects that meet certain criteria
  - Maintenance or retrofitting of stormwater management structures with certain stipulations
  - Redevelopment of previously developed areas covered by impervious surface where located within a Priority Funding Area

Active Adult text amendment – received language from Farhad – October 28, 2013
Planning Commission review – November 18, 2013 (no recommendation)
Planning Commission discussion with Farhad – January 15, 2014

Reports:

Meetings:

Town of Middletown Zoning Department

To: Burgess & Commissioners and Middletown Planning Commission

From:

Date: 12/30/2013

RE: Monthly Zoning Update

BOA Hearings: **none**

Zoning Violations: **Thompson Parking Lot**

December 2013 Zoning Permits	Address	Permit #	M-town Received	Approved	County Approval
Cipolla – large shed	15 Hoffman Drive	114625	12/3/2013	12/3/2013	Yes
Wilson – res. Conversion	209 Washington St.	114505	11/22/2013	12/5/2013	Yes
Dempsey's Grille-ext.reno.	116 West Main St.	114825	12/12/2013	12/13/2013	Yes
Levine – int. renovations	208 Mina Drive	114897	12/16/2013	12/16/2013	Yes
Warren – propane tanks	29 East Main Street	Town	12/9/2013	12/17/2013	n/a

Town of Middletown Planning Department

To: Burgess & Commissioners and Planning Commission members

From: Cindy Unangst, Staff Planner

Date: 1/2/2014

RE: Tracking of Past Plan Approvals (prior to 2013)

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

Jiffas – Site Improvement Plan conditionally approved – October 20, 2008
(Mr. Jiffas stated on 10/21/2010 in an e-mail that he is in a holding pattern regarding the property until the economy "substantially" improves and lenders free up more credit.)

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

Sunset Provisions text amendment approved by the Town Board – Effective November 14, 2010

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

Putman – Site Plan conditionally approved- November 17, 2008
Improvement Plans approved and signed by all agencies – July 2010
Revised Site Plan approved – April 16, 2012; (Plans expire April 16, 2015)

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

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

MEMORANDUM

DATE: January 6, 2014

TO: Burgess and Commissioners, Planning Commission

CC: Andrew J. Bowen, Town Administrator

FROM: Cindy Unangst, Staff Planner

SUBJECT: 2014 Joint Meeting Workshop Dates

Attached are the revised dates for the Joint Meetings between the Town Board and Planning Commission for 2014:

Monday, January 6, 2014	**6:30PM**
Monday, May 5, 2014	**6:30PM**
Monday, July 7, 2014	**6:30PM**
Monday, October 6, 2014	**6:30PM**

If you should have any questions, please do not hesitate to contact Drew at 301.371.6171 Ext. 12 or by e-mail at abowen@ci.middletown.md.us