

**MIDDLETOWN PLANNING COMMISSION**  
**31 West Main Street**  
**Middletown, Maryland**

**Regular Meeting**

**May 19, 2014**

The regular meeting of the Middletown Planning Commission took place on Monday, May 19, 2014 at 7:00 p.m. at the Middletown Municipal Center, 31 West Main Street, Middletown, MD 21769. Those present (quorum) were Commissioners Mark Carney (Chairman), Chris Goodman (Ex-Officio), Bob Miller, David Lake, and Bob Smart. Others present in official capacity: Commissioner Dixie Eichelberger (Temp. Alternate), Bruce Carbaugh (Director of Public Works), Cindy Unangst (Staff Planner), Ron Forrester (Zoning Administrator) and Annette Alberghini (Recording Secretary). Others present: Nancy Newton (resident), Victor White (Hogan Companies), Bruce Dean (Linowes & Blocher), Randy Bilder (Subway Property Owner) Janelle Horst (MSB Architects) and Ken Gamacher (AMVETS Post 9).

**I. PUBLIC COMMENT** – None

**II. Regular Meeting Minutes of March 17, 2014** – Approved as submitted

**III. PLAN Review**

**Garden Center Site Plan** – This is a change of use of the existing lots for a year round garden center behind the Subway building and a landscape office and retail sales shop in the vacant space next to the Subway restaurant, formerly occupied by Jo Michel Salon. This is a revised plan which now shows setbacks and information regarding a shed and a shade structure. Everything else remains the same, including the interior of the retail shop.

- **Shade Structure** – The applicant proposes installing a shade structure not to exceed 40 foot by 80 foot in size on site to protect the plants and reduce the need for watering. It will have a setback distance of 20 feet from the side property lines. The structure consists of metal poles driven into the ground. Cables will be run between the tops of the poles and cloth is strung on the wire. The cloth is pulled across the wire to provide shade to the plants as needed. Applicant stated the cloth comes in many colors, and if there is a color preference he is willing to abide by it.
- **Storage Shed** – The applicant proposes installing a shed not to exceed 14 foot by 40 foot in size on site. It will have a setback distance of 20 feet from the side property lines. It will be located behind the Subway. A permit from the County is required.
- **Business Hours of Operation** – Business hours will be 7am-7pm, with hours extended to 9pm during the months of November and December for sale of Christmas trees and ornaments. Temporary additional lighting will be used during that time as well.
- **Parking** – Based on the square footage of the indoor area, the number of parking spaces needed for use in front of the business is 2 spaces. The applicant is requesting a waiver to lower the required 2 parking spaces to 1 parking space. There are currently 17 parking spaces in the front lot, 16 of which are required by the Subway restaurant. The applicant has also requested a waiver to install 6 parking spaces in the rear lot where loading of customer vehicles would occur.
- **Water Tank** – The applicant proposes installing a 1500 gallon barrel to collect runoff from the adjacent building next door to use to water plants once business is open. During the winter when the tank is not in use it will be emptied and all rain and snow will be diverted into the same drainage system currently used by Subway. The Director of Public Works asked the applicant his intent with the slope with the fence on it. Applicant stated they are going to remove that “hump” that exists and cut the trees out and go back to the main slope.

- **Signage** – The applicant is proposing to install 2 signs; one sign to be installed near the proposed entrance/exit on the north side of the property which will measure 4 feet by 8 feet. A second sign will be installed at the front of the property near the Subway sign. The applicant will have to remove the Jo Michel sign and then erect a sign that conforms to Town ordinances. Each proposed sign must be presented to the Town Zoning Administrator for approval prior to being installed.
- **Parking Lot** - The Director of Public Works was asked about the suitability of the millings used for the parking lot. He stated that the depth of the millings once compacted on installation should be adequate. The loose aggregate should be moved prior to compacting. The loose aggregate can be used under the shaded structure.
- **Garden Center Steps** - The steps from the garden center to the back area are not ADA compliant and do not have to be compliant as there is another entrance to that area.
- **1 Site on 2 Lots** – The Town Attorney responded to the Planning Commission Chairman’s inquiry regarding 1 business operating on multiple lots. It is the Town Attorney’s opinion that the two parcels are merged for zoning and subdivision purposes and there is no problem in considering the one site plan even though there are two or more parcels.

**Action:** Commissioner Smart motioned to approve the garden center site plan as proposed conditional upon the final specifications of the shed and shade structure being submitted, grant the waiver of one parking space from the required 2 spaces, and all signage to be approved by the Town Zoning Administrator. Seconded by Commissioner Miller. Motion carried (5-0).

**Cross Stone Commons Improvements Plan** – The Planning Commission conditionally approved the site plan for Cross Stone Commons contingent upon the formal approval of the Stormwater Management Plan by Frederick County, and the official acceptance by the State Highway of the right-in-only turn lane off Alt. US40. Water and sewer capacity certification has been approved for Cross Stone Commons by the Town. This is a continuation of the discussion from last month’s meeting.

- **State Highway Administration Update** – The applicant met with SHA and stated they believe they can satisfy SHA’s comments with a revised version of the right-in-only turn lane off Alt. US40. The applicant must provide SHA an exhibit showing the new solution which incorporates the comments of those in attendance at the SHA meeting. Applicant expects an official response within 30 days after SHA receives the applicant’s exhibit. Once SHA approves the revised version the applicant will provide proof of that approval to the Town. The applicant has all comments from all agencies and intends to have all comments addressed and resubmitted prior to the next workshop.
- **Acceleration/Deceleration Lane** – The Town has received a letter from the applicant’s attorney stating their opinion on the issue. The applicant met with the Director of Public Works and the Town Administrator regarding the need for an acceleration/deceleration lane on Middletown Parkway. The applicant stated that a compromise can be made regarding any Middletown Parkway improvements related to the northern entrance in to the development. The applicant will work with their own engineer to develop a plan to create acceleration/deceleration lanes at that entrance. The applicant has identified the southern entrance (Glenbrook entrance) to the development as the main pedestrian entrance into the development. The applicant will be proposing a crosswalk into the southern entrance from Glenbrook Drive as part of this issue. Exact details have not been determined. The applicant is confident a compromise can be made. It will not be a site plan modification because the access point remains the same. When the improvement plans are ready, the Planning Commission expects notification from the Director of Public Works that a compromise has been made on this issue. For the record the applicant stated improvements at the northern entrance are not necessary.
- **Water and Sewer Systems** – The Director of Public Works stated that any systems located on this development property are to generally be constructed in accordance with the Town Design Manual and Standards but the Town will not be assuming ownership or maintenance of these systems at any time.

- **Signage** – A discussion occurred at the Planning Commission workshop regarding 2 proposed sign renderings, one of which would be used as the primary sign advertising the shopping center. The first was a proposed sign with 2 brick columns. The second was a proposed sign without columns. The Town Zoning Administrator was asked to review both signs and provide comments at tonight’s meeting. The Zoning Administrator stated that the Town Code for signs is more specific regarding monument signs than other signs that can be erected in the town. This issue pertains to the base area of a sign and once the allowable base area (1.5 feet) is subtracted from the total area to be measured, what is done with the rest of the column. It is the Town Zoning Administrator’s opinion that the remaining column area must be included in the determination of the size of the sign. That would make the area of the proposed sign 200 square feet which is outside the Town Code allowance of 120 square feet. The sign without the columns does meet the Town Code requirements. The applicant stated that the sign without the pillars was designed for that interpretation. The different options available to the applicant regarding the proposed sign are: 1.) Going to the Board of Appeals for a variance on the sign size, 2.) Using the proposed sign without the columns, 3.) The applicant can reduce the face size of the sign to bring the total sign area in to compliance with the Town Ordinance, 4.) Pursue a text amendment change of the Town Code which would allow the proposed sign with the columns, and 5.) Erecting a “U shaped” monument on the site to which a sign can be attached. They are then two separate items. The Staff Planner stated that the Town Attorney agreed with the Town Zoning Administrator’s opinion that the columns must be considered as part of the sign surface area. The Town Attorney also stated that if something like this went to court, the opinion of the Zoning Administrator would be weighted very heavily in the determination.
- **Sign Location** – The proposed sign does not meet the setback requirements of the district. The applicant is reviewing for correction.

The Commission Chairman stated that with the outstanding issues, this discussion will be continued at the June meeting.

**Action:** None taken.

**Cross Stone Commons Final Forest Conservation Plan** – The plan indicates that the Forest Conservation requirement will be met via offsite mitigation with planting to be done at Wiles Branch Park. The planting will be completed before the Cross Stone Commons site is fully finished.

- **Incorrect Information** – A revised plan was submitted 5/16/14. All references to Frederick County have been amended to the Town of Middletown. This is to reference the Town’s ordinance.
- **Proposed Tree Planting** – The revised plan submitted 5/16/14 uses larger sized stock. It is the same species of trees with 1.5 inch calipers. 150 trees will be planted with this stock instead of the 200 trees of a smaller stock (1 inch caliper) originally submitted. The larger size complies with the Town Code.

**Action:** Commissioner Lake motioned to accept the Cross Stone Commons Final Forest Conservation Plan as resubmitted. Commissioner Smart seconded. Motion carried (5-0).

**AMVETS Revised Expansion Site Plan** – In October 2012, the Planning Commission approved an expansion plan for the AMVETS building. The AMVETS never came forward to complete the project. The applicant is currently proposing to expand the building by adding handicapped accessible restrooms and storage areas. This expansion is not as large as the expansion plan approved in 2012. The resulting expansion would bring the bathrooms current with ADA requirements and increase needed storage for the establishment. The applicant reviewed the elevation plan of the proposed expansion.

- **Plumbing** – The Director of Public Works asked if the applicant knew where the sewer lines exited the current structure. There is no sewer connection at Green Street and the AMVETS building currently connects with the Town Sewer line at Jesserong Drive. The applicant stated

that there would be no additional lines exiting the building. Their intent is to connect to the plumbing currently inside the building.

**Action:** Commissioner Smart motioned to accept the revised AMVETS Expansion Site Plan as proposed. Commissioner Lake seconded. Motion carried (5-0).

#### **IV. ZONING**

##### **Violations**

- **Thompson Funeral Home Parking Lot** – Planning Commission members have received a written update on this violation from the Town Administrator.

#### **V. MISCELLANEOUS**

**Draft 2013 Annual Report** – The Planning Commission has reviewed the final draft of the Annual Report. Members were impressed with the amount of business accomplished during the past year. The Staff Planner was questioned about the information provided on the Maryland Department of Planning Annual Indicators Form. The information was included even though it was not required as part of the Town's submission.

**Action:** Commissioner Lake motioned to submit the Draft 2013 Annual Report for approval to the Town Board. Commissioner Miller seconded. Motion carried (4-0-1 Commissioner Goodman abstained).

#### **VI. ADDITIONAL PUBLIC COMMENTS – None**

**Meeting adjourned at 8:15pm.**

Respectfully submitted,

Annette Alberghini  
Recording Secretary