

MIDDLETOWN PLANNING COMMISSION

Middletown Municipal Center
31 West Main Street
Middletown, MD 21769

AGENDA
Monday, November 18, 2013
7:00 p.m.

- I. **Public Comment**
- II. Minutes of August 2013 Planning Commission meeting **Approval**
Minutes of September 2013 Planning Commission meeting **Approval**
Minutes of October 2013 Planning Commission meeting **Approval**
- III. **Plan Review**
 - Cross Stone Commons FRO Plan **Discussion/Approval**
 - Cross Stone Commons Addition Plat **Discussion/Approval**
 - Cross Stone Commons Revised Site Plan **Discussion/Approval**
 - Fire Station Site Plan **Discussion/Approval**
- IV. **Zoning**
 - Active Adult Text Amendment **Discussion/Recommendation**
 - Zoning Code review – 17.36 Signs **Discussion**
 - Sign regulations in relation to businesses on Green Street**
 - Violations**
- 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.

**Middletown Planning Commission
31 West Main Street
Middletown, Maryland 21769**

Regular Meeting

August 19, 2013

The regular meeting of the Middletown Planning Commission took place on Monday, August 19, 2013 at 7:00 p.m. at the Middletown Municipal Center, 31 West Main Street, Middletown, MD 21769. Those present (quorum) were: **Commissioners** David Lake (Vice-Chairman, acting as Chairman), Chris Goodman (Ex-Officio), Bob Miller, Bob Smart, and Rich Gallagher (Alternate). Others present in official capacity: **Commissioner** Ron Forrester (Temp. Alternate), Cindy Unangst (Staff Planner), Bruce Carbaugh (Director of Operations & Construction), and Julie Baer (Recording Secretary). Chairman Carney was not present.

I. Public Comment – None

II. Regular Meeting Minutes of July 15, 2013- Approved as submitted.

III. Plans

The Valley School Demolition Plan – Cindy stated that the demolition plan was conditionally approved by the Planning Commission on July 15, 2013. She noted that approved demolition plan calls for site construction to begin within 60 days of the completion of the demolition work (in place of site restoration requirement). Bruce stated that the electric service to the shed and garage need to be disconnected and the Town is waiting to issue the demolition permit until they receive Frederick County approval for site demolition. It was noted that the Ginkgo tree on the site, that was originally to be saved, is now recommended by the applicant to be removed. **No action required.**

The Valley School Site Plan – Cindy read her report and addressed topics previously discussed by the Planning Commission such as signage, grading of play areas, and lighting. Site Plan conditions discussed were:

- **Signage:** agreed to be no larger than 4'X4' in size
- **Lighting:** lighting has been modified from the July plan to address Planning Commission discussions; there will be three poles that are 15' tall and the lumens have been reduced from 13,000 to 12,000.
- **Parking:** Cindy noted that the plan shows 20 parking spaces and a loading space.
- **Landscape:** meets plan requirements

Also noted that a water/sewer tap is already present on the site and that Frederick County has approved the Stormwater Management Concept Plan.

Action: Commissioner Smart motioned to conditionally approve the plan, conditioned on Frederick County approval of the Stormwater Management Permit, seconded by Commissioner Miller. Motion carried (5-0).

The Valley School Improvement Plan – The improvement plan was previously reviewed by the Planning Commission but needed some corrections. Cindy noted that corrections were made to a discrepancy in the landscape plan: the number of Dogwoods has been corrected.

Action: Commissioner Lake motioned to conditionally approve upon Frederick County approval, seconded by Commissioner Miller. Motion carried (5-0).

Cross Stone Commons Addition Plat – General site plan issues were reviewed. Cindy read her report and stated: the property is zoned GC-General Commercial and the shopping center use was approved by the Board of Appeals on 5/8/13. Cindy noted: GC district does not have a lot area minimum or a lot width minimum, the yard depth is required to be 40'. She also noted that the zoning ordinance does not require lots in shopping centers to comply with yard or frontage requirements; the applicant has requested these exemptions. Cindy indicated there will need to be further discussions on the property setbacks in relation to the Middletown Parkway road right-of-way. David Lingg (Lingg Property Consulting) discussed the right-of way/setback site plan issues with the Commission, including paving and building setbacks. Cindy stated that the minimum building restriction lines on the plat were correct. She stated that the Frederick County Health department still needs to review and approve the plat, indicating they are waiting for the Town to review the Capacity Management Plan for the water and sewer taps needed. Bruce Dean, attorney representing the purchaser, requested the Planning Commission hold off on the addition plat approval until the Planning Commission was ready to approve the site plan. **No action (as requested).**

Cross Stone Commons Site Plan – Cindy stated that the site plan requirements as identified in the development requirements have been met. A traffic impact study was completed and meets the standards accepted by Maryland SHA and Frederick County. Sidewalks and curbs/gutters are being proposed. Other issues discussed:

- **Parking:** Guidelines require 5.5 parking spaces per 1000 sq. ft. of total building floor area. Required: 195 spaces. The site plan shows 229 spaces. Mr. Lingg indicated that no pervious pavement is being planned.
- **Off-Street Loading Spaces:** Cindy explained that at the Planning Commission workshop earlier in July, there was a discussion about the requirements for loading spaces in this proposed development. The site plan submitted has: Buildings 1, 2 & 4 have one loading space and building 3 has 3 identified loading spaces; these spaces are regulation size. Cindy indicated that the regulation requires that Building 1 should have two loading spaces. Mr. Lingg discussed a desire for some flexibility in loading spaces per building based on their proposed use. Commissioner Gallagher had a question about the spaces being drive-in or back-in. Mr. Lingg indicated that the intent was to be drive-in, it was agreed that access distances would be reviewed and that the intent was for deliveries to occur during off hours.
- **Storm Water Management Concept Plan:** Cindy indicated the previous concept was approved by Frederick County, but changes proposed in the site plan have resulted in additional reviews by Frederick County.
- **Landscaping Plan:** Cindy indicated that at the Planning Commission workshop in July, the landscaping was reviewed and a request was made for additional shrubs along the parkway, near Building 1.
- **Lighting:** Lighting has been proposed for 20 ft. light poles with directional/anti-glare lighting.
- **Architectural Review:** According to Town Code, the Planning Commission has authority to review the design of buildings in shopping centers. Ron Forrester (Temp. Alt.) was asked to represent the Planning Commission at a meeting of the Main Street Design Committee; indicated that they may be interested in assisting the Planning Commission in their architectural review. Commissioner Lake indicated that this should be coordinated to occur in a future Planning Commission workshop. Commissioner Lake asked the applicant if all building in the proposed shopping center were to be of similar architectural design/style. It was indicated that they would be of a similar style. A couple of building architectural concepts were presented to the Planning Commission. Commissioners Lake and Smart indicated a desire to see gables on the roof line. It was suggested that the initial focus should be on Building 1, to set a tone for design style. It was

suggested that it would be valuable to have some building design concepts available for discussion at the planned October joint Town Board/Planning Commission meeting. It was also suggested that the banks across the street could be used to develop concept ideas.

Middletown Fire Station #7 Concept Site Plan – The Middletown Volunteer Fire Department will be deeding lot to Frederick County for the purpose of building a new fire station. Cindy indicated at the Planning Commission workshop that the existing and proposed property lines for the two lots are difficult to read on the plans submitted. Robert Barrick, ADTEK Engineers was asked to clarify the lines on the drawings. He indicated that the property lines were not complete since details were not final at this time. Commissioner Lake indicated that all details will need to be marked clearly on the plans. Other site plan issues discussed:

- **FRO:** Cindy indicated that would be no FRO requirements for this development since the entire property, including the primary school and fire department property was addressed in the subdivision in 2005.
- **Building Setbacks:** Cindy indicated that the revised site plans need to have all building setbacks identified.
- **Pavilion Building:** Cindy indicated that the existing free standing pavilion needs to be identified on the plans and an indication as to whether it is to be demolished or moved. Brent Harne, Middletown Volunteer Fire Department indicated that the fate of the pavilion is still being discussed.
- **Parking Spaces:** Cindy stated that 59 parking spaces are proposed.
- **Fuel Tank:** Cindy indicated to Robert Barrick and Sue Barthol (Frederick County Facilities) that more information will need to be provided on where and how they intend to store flammable fuels and to ensure that all Middletown required setbacks for fuel tanks are addressed; presently shown as a fuel tank behind the proposed building.
- **Building Height:** Cindy reviewed the height limits, noting the tower and building height on the plans; noting the Open Space zoning regulations contain a height limitation.
- **Landscaping:** Cindy noted that landscaping is minimal but acceptable.
- **Signage and lighting:** Not yet submitted for review.
- **Staff Review:** Bruce Carbaugh stated that there is a waterline on record and natural gas is available to the site. He asked other questions related to vehicle maintenance on site, egress from equipment bays, kitchen size, etc.. This information will be provided.
- **Water Taps:** Fire Department is discussing with Town Board.
- **Stormwater Management Plans:** Being reviewed by Frederick County

Action: No action taken

Middletown High School “C Container” – Cindy stated that she received an email from Vernon Beals, Project Manager for FCPS, regarding an extension of the permit for the “c container” associated with the high school boiler work. Due to delays associated with the offsite gas line installation, they are requesting a two month extension of the permit. The permit for the “c container” was approved by the Planning Commission on 2/18/13 and its removal date was 8/18/13.

Action: Commissioner Miller made a motion to approve the permit extension for two months (to 10/18/13), seconded by Commissioner Smart. Motion carried (5-0).

IV. Zoning

Violations – Commissioner Goodman mentioned the new signs advertising Freddie’s Subs at the BP station at 211 East Green Street, wondering if the signs were permitted. Cindy said she would check into it.

Commissioner Lake asked Cindy about the status of the Thompson Funeral Home parking lot, noting that the existing status was a zoning violation. She stated the plans for stormwater management were submitted to Frederick County on Tuesday, August 13, 2013. Commissioner Lake recommended that a schedule for compliance (parking lot completion) be submitted by the property owner by September.

V. Miscellaneous – Commissioner Lake asked Cindy if any she had any updated information on More Ice Cream at 13 West Main Street. Cindy stated that she has seen them doing work in the building.

IV. Additional Public Comment – None

Meeting adjourned at 8:30 p.m.

Respectfully submitted,

Julie Baer, Receptionist

MIDDLETOWN PLANNING COMMISSION
31 West Main Street
Middletown, Maryland

Regular Meeting

September 16, 2013

The regular meeting of the Middletown Planning Commission took place on Monday, September 16, 2013 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), David Lake (Vice-chairman), Chris Goodman (Ex-Officio), Bob Miller, and Bob Smart, ~~and Rich Gallagher (Alternate)~~. Others present in official capacity: Commissioners Rich Gallagher (Alternate) and Ron Forrester (Temp. Alternate), Bruce Carbaugh (Director of Public Works), Cindy Unangst (Staff Planner), and Annette Alberghini (Recording Secretary). Others present: Chris Miller, Miller Commercial Properties L.L.C., Ann Miller, Miller Commercial Properties L.L.C. and Seth Harry, Miller Properties L.L.C..

I. PUBLIC COMMENT – None.

II. Regular Meeting Minutes of August 19, 2013 – deferred approval to the October planning commission meeting.

III. PLANS

Miller Property Revised Concept Plan – Cindy reviewed the changes to the new revised plans which differed from the original plan approved in September 2010. The changes were in regards to parking and storm water management. Cindy logged on to the website which showed the most current 3D version of the plan. Chris Miller (Miller Properties, Inc.) then reviewed this version of the plan with the Commission. Other issues discussed:

- **Property Entrance:** Commission Chairman Carney questioned the proposed two way entrance on the west side of the property and its access to the parking lot regarding if the width was wide enough. Mr. Miller replied that State Highway requires access to the property to be 26 feet wide. He also stated that the exit on to Green Street was not to be taken away, but they are looking for limited access to prohibit drivers from using the parking lot as a short cut. The Green Street access could be open as needed.
- **Signage and Landscaping on East Side of Property:** Questions were also raised regarding signage and landscaping on the east side of the property, specifically, line of sight with respect to exiting the property.
- **Parking:** Discussion ensued regarding the future success of the property. What would they do if they needed more parking? Currently there is no parking along 40A. It was noted that there is parking further down on Broad Street. Chairman Carney suggested that the property owners investigate with Frederick County Public Schools about using the school parking lot for overflow parking during non-school hours. Commissioner Lake suggested looking at Green Street as well. Cindy will review parking considerations that were identified a few years ago regarding shared parking for the property. Commissioner Smart questioned the differing sizes of the parking spaces in the revised plans that do not meet the town parking regulations. Bruce Carbaugh said that wider aisles beside the shorter parking spaces in the revised plan would qualify for the same square footage.
- **Solar Panels:** Cindy remarked that the solar panels are shown on the roof of the 3D plan. Mr. Miller said it would be a 90 KW array.

- **Facility Operator, Tenants & hours:** Mr. Miller stated that they were still looking for a facility operator, that there would be up to 7 tenants for the market spaces, and that the hours had yet to be defined. They are thinking 10am-7pm or 10am-9pm.

Mr. Miller stated they are expecting permit plans in December 2013 and digging to commence January or February of 2014. Commission Member Lake then remarked to the property owners that this is a concept plan and they now know the comments from the Planning Commission regarding site plan approval.

Action: No action required.

IV. ZONING

Middletown Park Annexation - Chairman Carney opened discussion on the park annexation by stating that Middletown Community Park is within town limits, is an open space park within an area zoned open space. Cindy stated that the park is within the town's growth area so it is appropriate to annex and that if the town decided to annex the park that the Frederick County Commissioners are in agreement.

- **Future Park Master Plan Changes:** Discussion arose concerning any future changes to the Park master plan and how the Town would be affected. Alternate Commissioner Ron Forrester said that the town will have input in the comment process for changes to the master plan, but not for the approval process regarding any changes.

Action: Commissioner Smart motioned to approve the annexation of the Middletown Community Park into the town limits, seconded by Commissioner Miller. Motion carried (4-5-0-1, Commissioner Goodman abstained). Cindy remarked that the public hearing on this annexation is scheduled for December 5, 2013 and that all public notice requirements will be met.

Thompson Parking Lot Schedule – Cindy stated that everything is on course for this project to be completed by the end of October or November. The contractor has been selected and the Engineer has no concerns that this project will not reach construction completion within the allotted time.

- **Completion Date:** Commissioner Lake asked if there was a completion date set. Cindy stated that she had spoken with the Burgess and if the project is not completed by December 1, 2013, she will send a letter that it must be completed or else the Town will start fine enforcement proceedings. Chairman Carney suggested that future projects be approved with specific completion timeframes/dates dependent upon start of construction.

Action: No action required.

Violations – Cindy stated that the presence of Maggie's Bake Shop signs have improved their Friday and Saturday business. It was stated that businesses located on State Highway 17 need a permit for a sign on State Highway 17, but signs for businesses not located on 40A are not allowed because it is designated a scenic byway.

V. MISCELLANEOUS

iPads for Planning Commission Members – Chairman Carney is drafting a memo to the Burgess and Town Board requesting iPads for Commission Members. He asked Commissioner Goodman to sign the letter if he is agreeable to the request. Justification for the iPads includes being able to access the FTP site for all plan information for each project, which would decrease the number of plan copies required by businesses, as well as, recouping fees associated with each plan. Commissioner Goodman researched costs and said that the

approximate total cost for 6 iPads would be \$3900. Commissioner Goodman will meet with the Town Administrator to discuss this further.

Joint Meeting with Town Board – Chairman Carney noted that there is a joint meeting with the Town Board on October 7, 2013.

VI. ADDITIONAL PUBLIC COMMENTS – None

Meeting adjourned at 7:47pm.

Respectfully submitted,

Annette Alberghini
Receptionist

**Middletown Planning Commission
31 West Main Street
Middletown, Maryland 21769**

Regular Meeting

October 21, 2013

The regular meeting of the Middletown Planning Commission took place on Monday, October 21, 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, ~~Rich Gallagher (Alternate)~~. Others present in official capacity: Commissioners Rich Gallagher (Alternate) and Ron Forrester (Temp. Alternate), Cindy Unangst (Staff Planner), Bruce Carbaugh (Director of Public Works), and Julie Baer (Recording Secretary). Others present: Randy Frey (Rodgers Consulting), Rich Thometz (Hailey Development), Mike Fitzgerald (Hailey Development) and Bill Brennan (B&R Design Group).

I. Public Comment – None

II. Regular Meeting Minutes of August 19, 2013 & September 16, 2013 – deferred approval until November 18, 2013 Planning Commission Meeting

III. Plans

Coblentz Property Improvement Plan: Cindy reviewed the Preliminary Plan which was conditionally approved on March 18, 2013. The approval was contingent on:

- * **All waiver requests are to be identified on the plans.**
- * **A waiver for mountable curbs should be added to requests.**
- * **A waiver for the center line radius of roads from 150ft min. to 63 ft. min.**
- * **A traffic volume analysis should be done to determine need for accel/decel lane**
- * **Curb and gutter should be required along Green Street.**
- * **The plans should show all revisions from Frederick County comments.**

Chairman Carney asked if a traffic volume analysis determined if accel and decel lanes are needed. Randy Frey (Rodgers Consulting) stated that they agreed to do the accel and decel lanes without doing a traffic volume analysis. All waiver requests were approved and the revised plans were signed on May 29, 2103, and took into account all contingencies.

- **Building restriction lines:** Cindy stated that lots 71 and 72 have been corrected.
- **Street Names:** Frederick County has approved the following names: Gaver Way, Fink Lane, Ingalls Drive and Dean Lane.
- **Stormwater Management:** the question arose as to who will maintain the stormwater ponds. Cindy stated that correspondence from Rodgers Consulting, dated May 2013, references the stormwater facilities to be maintained by the HOA. Chairman Carney asked if there is proper legal description on record that stated what HOA is responsible for. Chairman Carney stated that records/deed should clarify the maintenance responsibilities. Rich Thometz (Hailey Development) responded that the plats were to reference HOA. Commissioner David Lake had a question about the enforcement of the HOAs and asked about involving the Town Attorney. Bruce inquired how the HOAs are enforced. Randy Frey (Rodgers Consulting) commented that in Frederick County stormwater easements are referenced in HOAs to make sure of enforcement. Chairman Carney asked to have Town Attorney research the enforcement of HOA-stormwater easements.
- **Landscape:** Cindy commented that she would like to see a third type of tree added.

- **FRO:** Chairman Carney asked Cindy if final forest conservation plan need to be approved as a part of the improvement plan. Cindy stated it needs to be approved before final plats.
- **Phases:** Cindy stated that the Master Plan of 4 phases has been changed to 2 phases for infrastructure phasing. Phase 1 will have 40 houses and Phase 2 will have 41. Chairman Carney asked Mike Fitzgerald (Hailey Development) to clarify infrastructure on the drawing. Mike Fitzgerald indicated that Phase 1 is the land closest to the elementary school. Commissioner Smart asked about which phase the future library is in. The library is to be deeded to the Town in Phase 1, per Cindy. Chairman Carney requested clarification for which section the first 20 lots are to built-front, side or middle. Bruce commented that we will need a phasing plan showing infrastructure for Phase 1 and Phase 2. Commissioner Gallagher asked what sewer line the library is going to tie into. Commissioner Smart advised that the library is not on the County's CIP plan and not indicated on current plans. Bruce stated that the sewer line drains towards Church Street and on this project no sewer line is to drain to Green Street.

At this point in the meeting, Bruce Carbaugh (Director of Public Works) briefly explained a few key topics from his Coblenz Property Improvement Plans Review:

- Plans need to be adjusted to show Phase 1 and Phase 2 Infrastructure
- Right of way- Street Widths- No on-street parking-Possibly a few areas where parking on one side of street possible (ex. Glenbrook)
- Sewer depth indicates 27 feet deep; Town doesn't accept over 18ft deep
- Existing 8" terracotta sewer line in poor condition, the developer will need to have line evaluated to see if it supports 81 lots. Town may have to make improvements-work together with developer
- Contractor will need to provide plan for temporary water while existing water main is lowered
- The double house connection that serves Lot 8 & 9 needs to be revised-not preferred
- Lower storm drain on Ingalls Drive so water line will be minimum bury depth
- StormWater Management – Town Requirements- Fence minimum 4 ft high-Chain link, Wood or PVC acceptable materials
- Street Lighting- Potomac Edison designs street lighting. Walking paths at Lots 8&9 and 17&18 need to have lighting
- Need 3 way stop sign at the intersection of Dean and Ingalls. Need additional stop sign at Dean Lane and Gaver Way

Chairman Carney commented that he would like fencing for stormwater pond to be consistent with others in Town. Commissioner Goodman asked Bruce about metered light fixtures. Bruce stated that we pay for a set amount for each pole per month, but possibly we could meter the street lights for the development, like they do in parking lots. Bruce stated that Potomac Edison would have to be contacted to see if this is possible. Commissioner Goodman also asked about the Town maintaining the street lights for this development, to help on costs. Bruce stated that Potomac Edison is responsible for the maintenance of the street lights in the Town.

Cindy stated that no lighting is shown for the pathways and the pathways need to be lit. She commented that this was discussed at preliminary plan stage. Cindy asked Bruce Carbaugh about the type of pathway lighting in Foxfield. Bruce stated that it is RAD pathway lighting. Chairman Carney asked who installed lighting and Bruce responded that the Town installed it. Chairman Carney asked Commissioner Goodman to pursue metered lighting questions with the Town Board.

Chairman Carney asked if these plans show phasing. Bruce stated no phases are shown. Chairman Carney advised that we would like to see a Phase 1 and Phase 2 plan. Chairman Carney asked Cindy if the Planning Commission has Architectural Review on this development. Cindy stated no and that at master plan approval, building materials were discussed.

Cindy asked if the depth of the sewer line is going to affect other aspects of the development. Randy Frey commented that ejector pumps would be installed on affected sites. Bruce Carbaugh stated that ejector pumps are not uncommon.

Cindy stated that signage details will be needed at Improvement Plan stage.

Cindy addressed a few issues that were pointed out by ARRO Engineering. ARRO reviews plans for the Town.

1. Fink Alley- if this is going to be one way- will need appropriate signage

Rich Thometz (Hailey Development) indicated the roadway is 16ft wide to allow for 2 way traffic. Bruce stated it will facilitate 2 way traffic.

2. Crosswalks- Needed at Fink Lane leading to Pedestrian walkway

Rich Thometz asked the Board if they want marked crosswalks. Chairman Carney had a question about who maintains painting of the crosswalks. Cindy stated the HOA would. Chairman Carney asked if we have crosswalks in other neighborhoods. Bruce commented not between intersections, and they must have signage. Bruce stated this is not a necessity and we can go out later and mark the crosswalk; it is a minimal task. Commissioner Smart commented that this is a primary route to the school, and it's a safety issue. He would like to have crosswalk marked for the 2 crosswalks that lead to the pathways to the schools. Commissioner Smart asks about MD SHA. Cindy advised that if any more land is annexed north for any future development, then a traffic impact study will be required.

Action: Commissioner Lake motioned to conditionally approve the plan, based on the following conditions: Town Planner comments, Town Engineer comments, Frederick County comments, and ARRO Engineering comments including marked crosswalks and signage for pathways to the school property. Seconded by Commissioner Smart. Motion carried (56-0).

Middletown Fire Station #7 Final Plat: Cindy read the changes to the revised staff report. She stated that there are two deeds to the property belonging to the Middletown Volunteer Fire Department. There was an additional plat combining the two parcels, recorded in 1996, but no conformatory deed was recorded to complement the addition plat. The two existing deeds are legally binding, which govern over the addition plat. This leads to a proposal for the plat to have the parcel lines reconfigured.

Cindy commented that the final revised plat does cover all information needed for plat requirements which includes the width of Franklin Street and the location and size of water/sewer lines are indicated. Other topics reviewed:

- **FRO:** No FRO needed due to obligations met with plantings on the Primary School property.
- **Water/Sewer:** taps are already available
- **Transportation plan:** sidewalks to be provided
- **Declaration To Establish & Retain Easement:** to be executed by Frederick County
- **Minimum Building Restriction Lines:** Cindy stated that the side yard and rear yard building restriction lines are not shown on the drawing. Chairman Carney advised that building restriction lines must be on the plat.
- **Frederick County Health Department:** has been submitted for review and approval-not completed yet

Action: Commissioner Smart motioned to conditionally approve the final plat, with the following conditions: Compliance with Staff Planner comments and Frederick County Health Dept approval. Seconded by Commissioner Lake. Commissioner Goodman abstained from voting. Motion carried. (45-0-1)

IV. Zoning - None

Violations– Commissioner Lake asked Cindy if any she had any updated information on the Thompson Parking Lot. She advised that the revised plan was sent to Frederick County and is under review. Cindy sent a letter to Mr. Thompson advising him that the work must be completed by December 1, 2013 or fines will be enforced.

V. Additional Public Comment – None

Meeting adjourned at 8:24 p.m.

Respectfully submitted,

Julie Baer, Receptionist

Middletown Planning Office

MEMORANDUM

Date: 11/1/2013

Hansen# n/a

To: Middletown Planning Commission

From: Cynthia K. Unangst, Middletown Staff Planner

RE: **CROSS STONE COMMONS FOREST CONSERVATION PLAN REVIEW**

Tax Map Parcel #03-156044 and 03-174158

Applicant: DMW, Mark Crissman and Lingg Property Consulting, David Lingg

Property Owner: Nancy R. Newton, et. al.

Plan Dated: July 17, 2013

Date Received: July 22, 2013

GENERAL INFORMATION

Proposal: Lots are to be consolidated and developed with 35,357 square feet ± of commercial space in four separate buildings with 229 parking spaces.

Location: West side of Middletown Parkway at the intersection with US Route 40-A (Old National Pike)

Zoning: GC General Commercial. This district permits numerous uses along with numerous special exception uses, including shopping centers, with Board of Appeals approval. The intent of the district is to provide areas for general commercial activities that service the needs of the entire community and the surrounding area. The location should be such that stores and commercial activities can be grouped together in an attractive and convenient manner that will not infringe on residential areas.

Present Use: Agricultural land.

COMMENTS

The following issues should be considered in your review of this Forest Delineation and Preliminary Forest Conservation Plan:

1. **Middletown forest banking program** – The applicant is proposing to meet the mitigation requirement by purchasing off-site banking credits. A Middletown forest banking program can be established which allows the town to create new forest areas or designates certain existing forest areas to be held in reserve (or banked), in order to be used to meet future afforestation or reforestation requirements. Certain areas can be admitted into the forest banking program including new or existing forests that provide buffers for streams, floodplains, wetlands or other hydrological sensitive environments that are zoned agriculture and/or open space or in the judgment of the town planning staff are primarily in bona fide agricultural and/or open space use. As stated on the Forest Conservation Plan, the mitigation plan would be met by a purchase ratio

of 1:1 for a new forest credit, meaning that for every one acre of afforestation required, one acre of new forest must be acquired or planted. In this case, the amount of new forest needed would be 1.04 acres.

Section 16.40.044 Afforestation and reforestation, of the Middletown Municipal Code, lists the preferred sequence for afforestation and reforestation. The purchase of credits from the Middletown forest banking program is listed last on the listing at number 11. Above that and listed as number 6 is off-site afforestation or reforestation using transplanted or nursery stock that is greater than 1.5 inches diameter measured at 4.5 feet above the ground, and number 7 is off-site afforestation or reforestation using whip and seedling stock. Staff would rather the applicant meet the afforestation requirements by off-site plantings rather than the purchase of off-site banking credits. Staff can help the applicant to determine where afforestation off-site would be best met.

2. **FRO approval by MD DNR** – The Forest Delineation and Preliminary Forest Conservation Plan has been submitted to the Maryland Department of Natural Resources for review and approval.
3. **Incorrect information** – The proposed area of dedication as stated in the top right hand corner of the drawing should be 0.072 acres and not 03072 acres.

This review will be included in the Middletown Planning Commission materials for the November 18, 2013 public meeting. The applicant is encouraged to attend this meeting and the workshop on the Wednesday prior to the meeting which will be November 13, 2013.

cc: David Lingg, Lingg Property Consulting
Mark Crissman, DMW
Nancy Newton
Jeffrey and Lera Straits
John Thomas Moser Jr.
William Wiles
Matthew Axline
Marilyn Moser

Middletown Planning Office

MEMORANDUM

Date: 7/31/2013

Hansen# n/a

To: Middletown Planning Commission

From: Cynthia K. Unangst, Middletown Staff Planner

RE: **CROSS STONE COMMONS ADDITION PLAT**

Tax Map Parcels #03-156044 and 03-174158

Applicant: DMW, Mark Crissman

Property Owner: Nancy R. Newton, et. al.

Plan Dated: July 3, 2013

Date Received: July 22, 2013

GENERAL INFORMATION

Proposal: Combine the remainder of Farm Lot 1, Roderick Farm Lot (4.409 acres) with the remainder of Airview Acres, Section 1 (2.622 acres) into one building lot comprised of 6.959 acres and a right-of-way dedication of 0.072 acres. A "Shopping Center" use has been conditionally granted to the property by the Middletown Board of Appeals on May 8, 2013.

Location: West side of Middletown Parkway at the intersection with US Route 40-A (Old National Pike)

Zoning: GC General Commercial. This district permits numerous uses along with numerous special exception uses, including shopping centers, with Board of Appeals approval. The intent of the district is to provide areas for general commercial activities that service the needs of the entire community and the surrounding area. The location should be such that stores and commercial activities can be grouped together in an attractive and convenient manner that will not infringe on residential areas.

Present Use: Agricultural land.

COMMENTS

The following issues should be considered in your review of this Addition Plat:

1. **Addition plat requirements** – The requirements of Section 16.12.040 apply when the owner of a lot or parcel wishes to add additional land to said lot or parcel. According to Chapter 16.12.040A. of the Municipal Code, the addition plat shall show the following:
 - Boundary survey of additional land
 - The lot or parcel to which the addition is being made
 - The original lot or parcel as required below:
 - If five acres or under remains, a boundary survey shall be made;

- If over five acres remain, a deed plotting can be used;
- Signature of a registered surveyor certifying it as an accurate survey
- A signature block for the planning commission's approval
- A note on the plat stating the following: "Application is hereby made for your approval of the indicated transfer of land solely for adding to adjoining holdings and not for development. Any future subdivision of this land or building development will be submitted in the regular manner for approval in accordance with the existing Subdivision Regulations"
- A road dedication, if applicable.

The addition plat shows all the information required, except for the fifth bullet above. Since a Site Plan was submitted at the same time as the Addition Plat, it does not seem to be necessary for that note to appear on the plat. A confirmatory deed shall be recorded and the addition plat shall be referenced in all successive deeds according to Note #2 on the plat.

2. **Minimum building restriction lines** – Although the plat shows the correct minimum building restriction lines of 40-foot front yard, 20-foot side yards, and 40-foot rear yard for the parcel within the General Commercial district, the list at the bottom of the plat which lists the minimum building restriction lines incorrectly shows the rear setback to be 'n/a' instead of 40 feet.
3. **Health Department approval by Frederick County** – The addition plat has been submitted to the County Health Department for their review and approval.
4. **Town Administrator review** – The Town Administrator is reviewing the capacity management plan submitted by the applicant for review of the water and sewer taps needed.

This review will be included in the Middletown Planning Commission materials for the November 18, 2013 public meeting. The applicant is encouraged to attend this meeting and the workshop on the Wednesday prior to the meeting which will be November 13, 2013.

cc: Mark Crissman, DMW
 Nancy Newton
 Jeffrey and Lera Straits
 John Thomas Moser Jr.
 William Wiles
 Matthew Axline
 Marilyn Moser

Middletown Planning Office

MEMORANDUM

Date: 11/14/2013

Hansen# 13756

To: Middletown Planning Commission

From: Cynthia K. Unangst, Middletown Staff Planner

RE: **CROSS STONE COMMONS SITE PLAN**
Tax Map Parcel #03-156044 and 03-174158
Applicant: DMW and Lingg Property Consulting
Property Owner: Nancy R. Newton, et. al.
Plan Dated: June 2013, revised November 2013
Date Received: November 4, 2013

GENERAL INFORMATION

Proposal: Lots are to be consolidated and developed with 35,357 square feet ± of commercial space in four separate buildings with 229 parking spaces.

Location: West side of Middletown Parkway at the intersection with US Route 40-A (Old National Pike)

Zoning: GC General Commercial. This district permits numerous uses along with numerous special exception uses, including shopping centers, with Board of Appeals approval. The intent of the district is to provide areas for general commercial activities that service the needs of the entire community and the surrounding area. The location should be such that stores and commercial activities can be grouped together in an attractive and convenient manner that will not infringe on residential areas.

Present Use: Agricultural land.

COMMENTS

The following issues should be considered in your review of this Site Plan with **revised language shown in bold**:

1. **GC District Uses** – Shopping centers are a special exception use in the GC District. The Town's definition of a shopping center is "one or more retail and/or commercial establishments on a lot greater than one acre, planned, developed, owned and managed as a unit with off-street parking provided on the property and related in size, type and number of shops to the trade area that the unit serves." The Middletown Board of Appeals approved the special exception use of a shopping center on May 8, 2013 conditional on the applicant receiving approval from the Planning Commission of an exemption from the yard and buffer requirements set forth within the specific standards for shopping centers, as well as Planning Commission approval for the landscaping plan and architectural review approval. Special exception regulations for shopping centers include a minimum lot area of five acres, a buffer yard of 100 feet in all instances where

the site adjoins an R district, and all buildings must be setback at least 50 feet from any property line and 100 feet from a street line.

The consolidation of the two parcels into one 7.0± acre lot meets the 5-acre minimum lot area. One of the four buildings is not setback the minimum of 50 feet from property lines, and there are not buffer yards of 100 feet where the site adjoins an R district. The buffer yard is to be naturally landscaped, have no impervious cover and shall not be used for building, parking, loading or storage purposes. The size of the buildings, with the largest proposed as 13,000 square feet meet the maximum building size (60,000 square feet) for any individual unit in the shopping center; the proposed shopping center does not exceed 200,000 square feet of total floor area. The maximum height of a building in the GC district is three stories or 35 feet. General Note #3 states that the buildings will be 35-feet or less. (As a comparison for the size of the proposed CVS at 13,000 square feet, the existing CVS is 11,165 square feet.)

Additional special exception uses for the General Commercial district that would need a recommendation from the Planning Commission and subsequent approval by the Board of Appeals would be gas stations, private and commercial schools, retail of construction and building materials, vehicle repair and services, animal kennels and clinics, child care centers, and self-storage rental spaces for storage of personal goods.

2. **Site plan requirements** – Section 17.20.050 of the Municipal Code states that whenever any use is to be established within the GC district, a site plan of development must be submitted. The site plan shall show proposed building location and use, driveways, parking and loading areas, landscaping, water and sewer facilities, storm drainage facilities and street lighting, all showing relationships to adjacent development. The submitted site plan is in conformance with this regulation. The site plan requirements listed in Section 17.32.240 for all site plan submissions have all been met as well.
3. **Curbs, gutters and sidewalks** – According to Section 16.28.030R. curbs, gutters and sidewalks shall be provided in front of all nonresidential lots. Due to the existing right-of-way along Middletown Parkway, the development will be set-back from the existing edge of paving. A sidewalk is proposed to run parallel to the street with a connection to the existing sidewalk along Route 40-A and also a sidewalk is proposed along the entrance across from Glenbrook Drive. The proposed sidewalk looks to be five-foot in width and is required by the above referenced section to be four feet to six feet in width.
4. **Traffic Impact Study** – A traffic impact study was prepared by Traffic Concepts, Inc. The key intersections (US 40A @ Middletown Parkway, Middletown Parkway @ North Site Access, Middletown Parkway @ Glenbrook Drive/South Site Access, and Middletown Parkway @ Holter Road) were analyzed to determine the peak hour level of service (LOS) using the required MD SHA Critical Lane Volume (CLV) method. A conservative 1% growth rate was applied to the two-year build-out period for the background condition. For the future condition, the proposed land uses used were a pharmacy with drive-thru, a fast food restaurant, a high turnover restaurant, and specialty retail. The analysis study results show the US 40A @ Middletown Parkway intersection operating at a “D” or better level of service; all other intersections showed “A” levels of service. Using the CLV method, the level of service “D” condition is the accepted

MD SHA and Frederick County threshold standard for intersections located outside of agricultural/rural areas.

5. **SHA review of Traffic Impact Study – The State Highway Administration (SHA) recently reviewed the Traffic Impact Study that was completed for the proposed project. A copy of their comments is attached to this staff report. SHA comments include their denial of a permit access along US 40 Alt., a request for a queuing analysis for northbound Middletown Parkway at US 40 Alt. to ensure the North Site Access is spaced far enough from the traffic signal, and all roadway improvements to SHA roadways and intersections should provide for and maintain bicycle facilities as well as full ADA compliant pedestrian facilities.**
6. **Lot requirements** – Within the GC General Commercial district, there is no minimum lot area or minimum lot width. The front yard depth is 40 feet, side yards are to be a minimum of 20 feet and the rear yard depth is to be at least 40 feet. Yard requirements in the GC district are to be measured from the parking area or structure, whichever is closest to the lot line. However, Section 17.20.070 of the Middletown Municipal Code states that upon a review and approval of the planning commission, subdivision lots in shopping centers may not have to comply with yard or frontage requirements of the zoning ordinance or subdivision regulations, providing the planning commission finds the appropriate recorded easements are established to provide perpetual access to public streets and public utilities. A letter to the Planning Commission is included with this staff report that is the applicant’s formal request for Planning Commission approval of the exemptions from the yard requirements which are applicable to shopping centers in the General Commercial zoning district. The modifications requested are listed in a table under General Note #3 on Sheet 1 of the plans. **Exhibits A and B are also included that spatially show the modifications requested.**
7. **Parking requirements for shopping centers** – The specific standards for a shopping center regarding parking are that parking be provided at the minimum ratio of 5.5 parking spaces for each 1,000 square feet of total floor area. Given the proposed square footage of 35,357 square feet, 195 spaces would be required. The plans show a proposed total of 229 spaces, which is seven less than the 236 spaces that was shown on the last concept plan that the planning commission reviewed.

Off-street loading space requirements (Section 17.32.070) state that every building used for commercial use shall provide space on the property to be used exclusively for loading and unloading of vehicles. The numbers of spaces required per the Code are one space for a building floor area up to 8,000 square feet, two spaces for 8,001-25,000 square feet, and three spaces for 25,001-40,000 square feet. If you look at the total square footage for the buildings, which is what the applicant did, the number of loading spaces required would be three as stated in General Note #4. If you were to determine the number of loading spaces required per building square footage, then building numbers 2 and 4 would require one loading space, and building numbers 1 and 3 would require two spaces each for a total of six loading spaces on the site. The applicant is proposing **six spaces that are now more clearly shown with the addition of the dimensions for each space. Exhibit C shows the loading spaces clearly as shown by the highlighted areas.**

8. **Stormwater management approval by Frederick County** – A stormwater management plan based on the current configuration of the buildings and parking layout **has been verbally approved** by Frederick County. A stormwater management concept plan based on the sketch plan reviewed in June 2012 was submitted to and approved by Frederick County as the plan appeared to be acceptable to them.
9. **Landscape plan** – Section 17.48.230G. of the Code states that when adjacent to an R district, a screen planting as approved by the planning commission and at least six feet in height must be provided along the R district boundary. The applicant is proposing a 6-foot high vinyl privacy fence along the boundary with the adjacent residential properties along with landscape screening. The landscape screening consists of Eastern Red Cedar trees, Leyland Cypress trees, and American Holly trees, which are all evergreens. The proposed trees are to be 5-6 foot, or 6-8 foot balled and burlapped plants. The variety of trees, shrubs and other plantings for the site are a good mix of native plants with a good distribution along the boundary and within the parking areas. **Additional shrubs have been added along the Middletown Parkway at building #1 to prevent car lights from shining onto the Parkway.**
10. **Signage** – A proposed freestanding shopping center identification sign is indicated on the plans at the corner of Old National Pike and the Middletown Parkway. Signage should be further addressed at the Improvement Plan stage.
11. **Lighting** – A Lighting Plan is included in the plans. There will be building-mounted lights around the buildings at a mounting height of 16-feet, as well as 20-foot tall pole lights at the entrances to the development from the Middletown Parkway and in the parking lot. Photometrics are also shown on the plan. Bruce Carbaugh stated in his review of the lighting plan for The Valley School that typically the lighting levels the Town is accustomed to seeing in parking lots is 1 to 2 foot candles. As a comparison to the shopping center across the street, the light poles in the Safeway shopping center are 30-foot tall. **Exhibit D is a Lighting IsoLine Contour exhibit that shows the contours for the 2 and 5 foot-candle values.**
12. **Architectural review** – According to the Middletown Municipal Code, the Planning Commission has architectural review authority for shopping centers. **The Main Street Design Committee has studied the proposed plans and two building renderings and has provided feedback to the Planning Commission for your review. A memo from Becky Reich and the Design Review Committee is included with this staff report.**

This review will be included in the Middletown Planning Commission materials for the November 18, 2013 public meeting. The applicant is encouraged to attend this meeting and the workshop on the Wednesday prior to the meeting which will be November 13, 2013.

cc: David Lingg, Lingg Property Consulting
 Mark Crissman, DMW
 Nancy Newton
 Jeffrey and Lera Straits
 John Thomas Moser Jr. and Marilyn Moser
 William Wiles
 Matthew Axline

Middletown Planning Office

MEMORANDUM

Date: 11/14/2013

Hansen# 13792

To: Middletown Planning Commission

From: Cynthia K. Unangst, Middletown Staff Planner

RE: **MIDDLETOWN FIRE STATION SITE PLAN**

Tax Map Parcel #03-146545

Applicants: Tracey Diggs, Frederick County Dept. of Facilities & Project Services and Bob Barrick, Adtek Engineers

Property Owner: Middletown Volunteer Fire Department

Plan Dated: November 4, 2013

Date Received: November 4, 2013

GENERAL INFORMATION

Proposal: Construction of a fire station

Location: Franklin Street adjacent to Middletown Primary School

Zoning: OS Open Space (9.27 acres) and R1 Residential (7.73 acres). The Open Space district permits schools, churches, community centers and other public buildings, and those accessory uses commonly associated with them. It also permits public safety services subject to site development plan approval.

Present Use: Vacant

COMMENTS

The following issues should be considered in your review of this Site Plan with **revised language shown in bold**:

1. **Use** – The proposed use is for a fire station. The hours of operation are listed in Site Plan Note #8 as being continuous. The parcel that the proposed fire station is to be located on is zoned OS Open Space. The Middletown Volunteer Fire Department **has dedicated** the parcel over to Frederick County **per the Middletown Fire Department Final Plat which was conditionally approved on October 23, 2013. Sheet C-1A has been revised to show the new property lines per the Final Plat. The area of the amended parcel is 2.73 acres.**
2. **Prior use on subject parcel** – The prior use of this property is as the carnival grounds for the fire department.

3. **Lot requirements** – The building setbacks for the open space district are indicated in Note #7, **and are now** shown on the plans.
4. **Site Plan requirements and review** – All requirements of Section 17.32.240 Site Plan requirements of the Town Code have been met. Approval of site plans shall expire three years after the date on which the Planning Commission approves the site plan unless construction has begun.
5. **Parking requirements** – Under the off-street parking regulations in Section 17.32.060, there does not seem to be any type of use listed that would apply parking standards to a fire station. The parking tabulation listed at the bottom of the Site Plan (Sheet C-3A) indicates that **59** spaces are proposed. In counting the number of spaces shown on the plans, there are three (3) handicapped accessible spaces provided and 56 standard spaces for the total of 59 spaces. The gross floor area of the proposed fire station is **18,388 square feet which would mean that there is one parking space for every 312 square feet.**
6. **Storage of inflammable fuels** – The site plan shows a fuel tank to be located behind the proposed building. Section 17.32.100 of the Municipal Code states that gasoline, fuel oil and other liquid fuels shall be stored underground or within the structure to be heated. There are also setbacks associated with storage tanks. More information should be provided about the proposed fuel tank in order to determine whether Code requirements are being met. **According to the comment letter received from the applicant, the fuel tank is currently located at the existing Fire Station site; information regarding the tank will be submitted under separate cover.**
7. **Modifications to height limitations** – Section 17.32.180 states that public and semipublic buildings may exceed the height limits to a total height of seventy (70) feet providing all yards required in the particular district are increased one foot for each two feet in excess of the height limitation. The plans list the proposed height of the building **to be 42 feet tall. Since the proposed height is 17 feet taller than the height limit of 25 feet, the increase in setbacks should be 8.5 feet. Thus the front and rear yards would be 58.5 feet and the side yards would be 23.5 feet. The plans show this requirement being met.**
8. **Landscape plan** – The proposed landscape plan includes a good but relatively minimal selection of native plants around the perimeter of the property and in the parking areas. Along the border with the residential lot to the north, five 9 to 10-foot tall arborvitae are proposed as a buffer between the two uses as well as a couple of deciduous trees. The plant schedule list **has been amended to indicate the correct number of shrubs as shown on the plans.**
9. **Signage** – Signage has not been addressed yet, but should be at the Improvement Plan stage especially if a monument or freestanding-style sign is being proposed.
10. **Lighting** – A **Photometric/Lighting Plan has been** included with the plans. **The revised lighting plan does show adjacent property lines. The height of the poles is not indicated though. The height of the light poles at the adjacent Activities Center is approved to be 18-foot tall. The light poles at the adjacent Primary School are 25-foot tall.**

11. **Water and Sewer requirements** – The Fire Department has had a discussion with the Town Board regarding water taps.
12. **Stormwater management approval by Frederick County** – A stormwater management plan **has been** approved by Frederick County. Site Plan Note #10 **has been corrected to state** that stormwater management **will** be in compliance with the 2009 MD regulations.
13. **Address of fire station** – Note #7 on Sheet C-1A of the plans states that the property has a mailing address of 7433-7437 Franklin Street. Frederick County tax assessment records show the address for the Primary School as 7413 Franklin Street, although town records show it as 403 Franklin Street. Staff had assumed, and would anticipate, that the address for the new fire station would be 401 Franklin Street.
14. **FRO** – Site Plan Note #12 on Sheet C-3A was corrected to indicate that the FRO requirement has already been met in conjunction with the Primary School development.

This review will be included in the Middletown Planning Commission materials for the November 18, 2013 public meeting. The applicant is encouraged to attend this meeting and the workshop on the Wednesday prior to the meeting which will be November 13, 2013.

cc: Middletown Volunteer Fire Department

MEMORANDUM

Date: 11/4/2013

To: Middletown Planning Commission

From: Cynthia K. Unangst, Middletown Staff Planner

RE: MEMAR CORP. TEXT AMENDMENT CHANGE REQUEST

Attached is a request submitted by Farhad Memarsadeghi of Memar Corp. requesting that the Burgess and Commissioners of Middletown consider a text amendment to Section 17.48.015 Active Adult Community within the Specific Standards for Special Exceptions of the Middletown Municipal Code.

Recommendation from the Planning Commission is required due to the location of this specific ordinance in the Zoning Section of the Middletown Municipal Code Book. 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.

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 Coblenz 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.

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.

"Billboard" (see "sign") means a structure on which is portrayed information which directs attention to a business commodity, service or entertainment not necessarily related to the other uses permitted on the premises upon which the structure is located.

"Incidental sign." A sign, generally informational, that has an incidental purpose to the use of the lot on which it is located, such as "No Parking," "Entrance," "Exit," "Loading Only," and other similar directives. These signs shall include, but not be limited to signs on automatic teller machines, gas pumps, vending machines or newspaper delivery boxes.

"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

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.

17.36.140 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;
9. Government sponsored banners affixed to light standards promoting community events.

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.

17.32.040 Prohibited uses.

- A. Billboards are prohibited in all districts.
- B. Private or public rifle shooting ranges are prohibited in all districts.
- C. Junk yards are prohibited in all districts.
- D. Salvage yards of any waste materials are prohibited in all districts.
- E. Mobile homes and mobile home courts or parks are prohibited.
- F. Video lottery facilities are prohibited in all districts. This provision does not apply to gaming permitted under Frederick County Code Section 1-2-101, et seq.

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

Town of Middletown Planning Department

To: Burgess & Commissioners and Middletown Planning Commission

From: Cindy Unangst, Staff Planner

Date: 11/4/2013

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)

Minor Site Plans and Subdivisions:

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

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

Coblentz Grove minor subdivision – Preliminary/Final Plat conditionally approved – Nov. 15, 2010
FSD & Forest Conservation Plan approved – November 15, 2010
Improvement Plans conditionally approved – February 21, 2011
Final Plat approved – July 18, 2011 (recorded – October 24, 2012)
Building permits applied for – October 30, 2012
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
Concept Site Plan reviewed by PC at their August meeting
Fire Station plat conditionally approved – October 16, 2013
Fire Station Site Plan submitted – November 4, 2013

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

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

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

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

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

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

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)
Revised Concept Plan reviewed by PC – May 20, 2013
FRO Plan submitted – July 22, 2013
Addition Plat reviewed by PC – August 19, 2013
Site Plan reviewed by PC – August 19, 2013
SWM Development Plan submitted to County – October 2, 2013
Revised Site Plan submitted – November 4, 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)
Demolition Plan approved – July 15, 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 scheduled for December 5, 2013

Reports:

Meetings:

Town of Middletown Zoning Department

To: Burgess & Commissioners and Middletown Planning Commission
From: Cindy Unangst, Zoning Administrator
Date: 11/4/2013
RE: Monthly Zoning Update

P & Z Issues:

Zoning Code review – ongoing

New State FRO Ordinance – Forest Preservation Act of 2013

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
Forwarded to Planning Commission for review and recommendation – Oct. 28, 2013

BOA Hearings:

Zoning Violations: none

October 2013 Zoning Permits	Address	Permit #	M-town Received	C Unangst Approved	County Approval
LAM Properties-daycare center	30 E. Green St.	112527	6/3/2013	10/7/2013	yes
Roessler – addition	18 Linden Blvd	113249	9/27/2013	10/9/2013	yes
Shockley – swimming pool	24 Woodmere Cir.	113376	10/14/2013	10/14/2013	yes
MHS Sports Club – sign	200 Schoolhouse	113452	10/4/2013	10/16/2013	yes
Admar Custom Homes-sfd	6 Hoffman Drive	113311	10/9/2013	10/21/2013	yes
Pakenas – hot tub	25 Woodmere Cir	113613	10/15/2013	10/23/2013	Yes
Rapp – solar panels	1 Ivy Hill Drive	113642	10/23/2013	10/23/2013	Yes
FCPS – storage shed	200 Schoolhouse	113751	10/25/2013	10/29/2013	Yes
Admar Custom Homes – propane tanks	Coblentz Road	Town	8/21/2013	10/11/2013	n/a
St.Thomas More Academy – sign	103 Prospect St.	Town	10/17/2013	10/17/2013	n/a
Perlet – fence	118 Ivy Hill Drive	Town	10/21/2013	10/28/2013	n/a