

# MIDDLETOWN PLANNING COMMISSION

Middletown Municipal Center  
31 West Main Street  
Middletown, MD 21769

AGENDA  
Monday, October 20, 2014  
7:00 p.m.

- I. **Public Comment**
- II. **Minutes of September 2014 Planning Commission meeting** **Approval**
- III. **Plan Review**
  - Chesterbrook Phase 2 Site Plan** **Discussion/Approval**
  - Schoonover Addition Plat** **Discussion/Approval**
  - Cross Stone Commons Revised Site Plan** **Discussion/Approval**
  - Cross Stone Commons Revised Improvement Plans** **Discussion/Approval**
- IV. **Zoning**
  - Zoning Code Update review – Section 17.04 Definitions (time permitting)**
  - Zoning Code Update – Town Board Timeline Proposal** **Discussion**
  - Violations**
- V. **Miscellaneous**
  - Planning Commission Rules of Procedures amendment** **Discussion/Approval**
- VI. **Additional Public Comment**

**\*\* All requests to be on the Planning Commission agenda must be received at the Middletown Municipal Center, 31 W. Main Street, Middletown by 4:00pm on the Monday two weeks prior to the monthly meeting held on the third Monday of each month. All plans being submitted for review must be folded, and an electronic plan is required as well.**

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

**Regular Meeting**

**September 15, 2014**

The regular meeting of the Middletown Planning Commission took place on Monday, September 15, 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), David Lake, Bob Miller, Bob Smart, and Rich Gallagher (Alternate). Others present in official capacity: Cindy Unangst (Staff Planner) and Annette Alberghini (Recording Secretary). Others present: Lee Ropp (Model Garage Properties).

**I. PUBLIC COMMENT – None**

**II. Regular Meeting Minutes of July 21, 2014** – The Planning Commission reviewed the suggested corrections to the minutes submitted by email from Commissioner Lake and the Zoning Administrator, Ron Forrester.

**Action:** Commissioner Lake motioned to approve the minutes as corrected. Seconded by Commissioner Smart. Motioned carried (5-0).

**III. PLAN Review**

**Asian Café Overflow Parking Lot Revised Plan** – (Lee Ropp was present as the representative of Model Garage Properties.) This would be a revision to the Asian Café Finalized Site Plan. The Asian Café Finalized Site Plan was conditionally approved by the Planning Commission on November 21, 2011. The approved plan shows that the existing overflow parking area is to be used by employees of Asian Café and the garage.

- **Current Use of the Overflow Parking Lot** - The Staff Planner has been recording the use of the Asian Café parking lot and the overflow parking lot weekdays since May 2014 and noted that the businesses of Model Garage Properties rarely utilize the overflow parking lot. The Staff Planner has also spoken with those business owners and none of them had any challenges with the overflow parking lot being used by another business. Middletown Valley Bank would like permission for its employees to utilize the overflow parking lot as there is currently not enough parking at its location.
- **Site Plan Revision** – The question concerning whether or not just the Asian Café Site Plan or both it and the Model Garage Property Site Plan needed to be revised was raised. The garage received an exemption from the required 20 parking spaces to only 5 needed for employees. The applicant has stated that only 2-3 employees were working there and park adjacent to the building. They have not used the overflow parking lot at all. If approved the revised Asian Café Site Plan would allow use of the overflow parking lot by Model Garage Properties and extend to include employees of the Middletown Valley Bank. It was stated that if, in the future, additional businesses wanted to use the overflow parking lot then the Asian Café revised site plan would have to come back before the Planning Commission for revision and approval.

**Action:** Commissioner Smart motioned to approve use of the overflow parking lot of Model Garage Properties to include use by Middletown Valley Bank employees with this use being noted in the Asian Café Site Plan. Commissioner Miller seconded. Motioned carried (5-0).

**Cross Stone Commons Improvement Plans** – (Cross Stone Commons Representatives present: none) The Staff Planner reported that the revised plans incorporating the changes required by the State Highway

Administration, Frederick County and from Middletown have been submitted by the applicant. The Middletown Director of Public Works is reviewing this revised plan. It has also been sent to ARRO for review. The Staff Planner also stated that the approved Addition Plat has not been submitted for signature as the applicant is reviewing the easements for the Right-Turn-In along Nancy Newton's property.

**Action:** None taken.

#### IV. ZONING

**Adult Entertainment Business Revised Text Amendment** – Because of information presented and remarks made at the Public Hearing held September 4, 2014, the Town Board referred the Adult Entertainment Business Revised Text Amendment back to the Planning Commission for review and to provide recommendations to the Town Board.

- **The Revision** – The revisions in this text amendment occur in Title 17 Zoning, Section 17.32.225, subsection b. It originally stated, “Adult entertainment businesses are permitted provided that such businesses are not located within 1,500 feet of any school, park, child day care center, church or house of worship or another adult entertainment business.” The additional language added includes “, or within 600 feet of any property located within a Residential zoning district.”

**Action:** Commissioner Lake motioned to approve the revised Adult Entertainment Business Text Amendment as proposed and to forward it to the Town Board for approval. Seconded by Commissioner Smart. Motioned carried (5-0).

**Gun Retail Business Regulations** – The Staff Planner will be attending a webinar in late October addressing this topic. Further discussion will take place in November.

**Action:** None taken.

#### Violations –

- **More Ice Cream** – The Zoning Administrator stated at the Planning Commission workshop that people are parking on the grass at the back of the property. The Staff Planner reviewed the minutes from the meeting where approval took place, and stated there was no mention in those minutes or on the Site Plan regarding vehicles parking on the grass. The Planning Commission would like it added as an agenda item for the next joint Town Board/Planning Commission meeting.
- **Dumpster Information** – The Staff Planner confirmed that in the zoning code update the Planning Commission has added language for dumpsters in the C container section of the code. It has not gone to the Town Board for approval.

V. MISCELLANEOUS – None

VI. ADDITIONAL PUBLIC COMMENTS – None

Meeting adjourned at 7:35pm.

Respectfully submitted,

Annette Alberghini  
Recording Secretary

**Middletown Planning Office**

**MEMORANDUM**

Date: 9/29/2014  
Hansen# 14838

To: Middletown Planning Commission

From: Cynthia K. Unangst, Middletown Staff Planner

RE: **CHESTERBROOK – PHASE 2 - SITE PLAN REVIEW**

Tax Map Parcel #03-162338

Applicant: J.F. Brown III & Assoc., Inc., Andrew Brown

Property Owner: Chesterbrook Land, LLC

Plan Dated: August 2014

Date Received: September 10, 2014

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**GENERAL INFORMATION**

Proposal: 20 townhouse/condominiums in three buildings on a 1.74 acre parcel located on property adjacent to the existing Middletown Valley (Chesterbrook) apartments.

Location: South side of Broad Street and west of Franklin Street

Zoning: R-3 High Density Residential which permits townhouses and multifamily dwellings such as apartments and condominiums containing no more than twelve individual residential units.

Present Use: Vacant lawn area

**COMMENTS**

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

**Site plan requirements (per Section 17.32.240) –**

**Information as to Existing Physical Conditions and Proposed Development.**

Boundaries	The boundaries of the land being developed in heavy outline, and the acreage therein. <b>Shown.</b>
Topography	Topographic contours at five-foot intervals. <b>These are not as clear as they should be and are hard to discern.</b>
Physical features	Watercourses, floodplain areas, wooded areas, buildings, transmission lines, other utilities, and any other significant items, with the sizes and grades of any water or sewer lines. <b>Existing buildings and utility lines are shown. There are no floodplain areas or wooded areas.</b>

Streets and roads	Locations, widths and names of all existing roads or other public ways within or adjoining the site; utility or other rights-of-way or easements. <b>Shown.</b>
Buildings	Layout, numbering and dimensions of buildings. <b>Shown.</b>
Open spaces	Portions of the property intended to be conveyed or temporarily reserved for public use or for the joint use of property owner, with an explanation of the provisions or conditions of such conveyance or reservation and the proposed arrangements for ownership and maintenance. <b>Not shown.</b>
Utilities	Locations for utilities and drainage facilities, with six-foot easements for same along all property lines. <b>Shown.</b>
Building setback	Proposed building lines along all streets, with the amount of setback indicated. <b>Shown.</b>
Stormwater Management Plan	Proposed method of storm water management for the site which will comply with the 2009 Maryland Stormwater Regulations, as amended from time to time. <b>Shown – Site Plan Note #4.</b>
Condominiums or multi-family projects	Additional items shall be shown: Location of each building – <b>Shown</b> ; Total number of units in each building – <b>Shown</b> ; Number of parking spaces in each off-street parking area, and total thereof – <b>Shown and indicated in Site Plan Note #3</b> ; Interior road or street access, whether public or private – <b>Shown.</b>

1. **Required lot area, lot width and yard requirements** – According to Section 17.16.070 of the Municipal Code, the minimum lot area per family or rental unit in the R-3 District is 6,000 square feet for condominiums. Section 17.16.080 states that for townhouse developments, the overall density shall not exceed one dwelling unit per 6,000 square feet or 7.26 units per acre of the net development area. A minimum of forty percent of the common area (net development area minus area in lots) shall be allocated to green space. That section of the Code also states that each townhouse lot shall be at least 1,600 square feet. The setback requirements for townhouses include a 20-foot front yard and a rear setback of 30 feet; end units shall provide a minimum side yard setback of 22 feet. The Planning Commission should consider whether the townhouse regulations should apply to this proposed development instead of the lot requirements for condominiums since condominiums are essentially an ownership matter as opposed to a structural issue. Although the Planning Commission might determine that the structures are more in line with townhouses, the lot regulations in Section 17.16.080 were principally set-up for individual townhouse units. Also, as proposed, the lot area requirement per unit would not be met for this phase of the development. It should be noted as well that the existing development does not meet the current lot area requirements for multifamily dwellings.
2. **Building height regulations** – Section 17.16.050 of the Middletown Municipal Code states that no building will exceed two and one-half stories or thirty-five feet in height.

Site Plan Note #2 indicates the Design Requirements as such, but there is no indication on the plan as to the proposed height of the buildings.

3. **Open space requirements** – In the planning and development of residential properties consisting of five or more dwelling units in one structure, at least .05 acres per dwelling unit shall be devoted to use as an active recreational area for the combined area being developed. Areas designated, in whole or in part, as a stormwater management facility or as a forest resource conservation area shall not be considered as part of the recreational area required by this section and shall not be calculated into the required area to be designated as the recreational area. The areas to be designated as a recreational area shall be subject to the review and approval of the planning commission (Section 17.16.075). Due to the fact that this proposal is Phase 2 of the Chesterbrook development, the Planning Commission should determine whether the existing recreational area is adequate to serve the needs of this site plan. Since 20 dwelling units are being proposed, one acre would need to be devoted as an active recreational area. (The previously approved site plan was submitted and reviewed prior to the addition of Section 17.16.075 to the Municipal Code. The existing apartments do have a playground and maintained turf field for use by the development.)
4. **Parking requirements** – Site Plan Note #3 states that 23 on-street spaces are to be provided. The plans only show 22 proposed parking spaces on-street. The driveway lengths are noted to be 18-20 feet long. The applicant informed staff that they are working with the builder to make all driveways 20-feet in length as required by the Town Code.
5. **Lighting Plan** – If any site lighting is planned, the locations of such should be noted on the plans along with the height of any proposed poles and the type of lighting proposed.
6. **Landscape plan** – Although a landscape schedule is included on the plan sheet, the plans do not indicate where the proposed 60 trees are to be located. The landscape schedule specifies that scarlet oaks and Austrian pines are to be planted. Austrian pines are not on the preferred planting list for the Town of Middletown. Please inquire with the staff planner for a copy of the list.
7. **Signage** – If any signage is planned for the lot, the location, size and height of the signage should be provided at the improvement plan stage.
8. **Sidewalks** – Proposed sidewalks in front of the units should be extended to the proposed sidewalks on Broad Street and Franklin Street for connectivity.
9. **Stormwater management** – Site Plan Note #4 indicates that stormwater management shall be provided in part with permeable pavement. The location of the proposed permeable pavement should be shown on the plans. Also, the details for the SWM fence should be provided.

10. **FRO** – A Simplified Delineation and Combined Forest Conservation Plan has been submitted to the Planning Commission for review and approval.
11. **Missing or incorrect information** – The Liber and Folio should be provided in General Note #1. If the units are not to be apartments, then the title of the plans might be revised to delete that wording.
12. **Expiration of site plan** – Per Section 17.32.250 of the Town Code, approval of a site plan shall expire three years after the date on which the Planning Commission approves the site plan unless construction has begun. Upon written request submitted to the Planning Commission no later than one month prior to the expiration date, and for good cause shown by the applicant, a one-time extension for a period not to exceed six months may be granted by the Planning Commission. Extension of the site plan may be granted by the Planning Commission for delays attributable to town, county or state agencies.
13. **Previously approved site plan** – A site plan for Phase 2 Chesterbrook that included 16 rental apartments and 48 parking spaces was previously approved on July 17, 2006.
14. **Review by Town Engineer, Bruce Carbaugh** – The plans have been provided to the town engineer for review.
15. **County review** – The site plan has been routed and reviewed by County agencies with these comments received from those agencies thus far.
  - Office of Life Safety – Denied - 9/17/2014
  - Health Department – Conditional Approval – 9/30/2014
  - Development Review, Engineering – Conditional Approval – 10/1/2014
  - Soil Conservation District –

### **RECOMMENDATION**

**Staff recommends that the Planning Commission not approve the Site Plan until it has been determined whether the applicant needs Board of Appeals approval for variances of lot requirements, and additional information is provided in terms of landscaping and lighting. It would be helpful if the applicant would also provide some architectural renderings to show how the proposed buildings will conform to the existing development.**

This review will be included in the Middletown Planning Commission materials for the October 20, 2014 public meeting. The applicant is encouraged to attend this meeting and the workshop on the Wednesday prior to the meeting which will be October 15, 2014.

Cc: Andrew Brown, J.F.Brown III & Associates, Inc.

Noel S. Manolo, Miles and Stockbridge P.C.

## Middletown Planning Office

### MEMORANDUM

Date: 10/2/2014

Hansen# n/a

To: Middletown Planning Commission

From: Cynthia K. Unangst, Middletown Staff Planner

RE: **SCHOONOVER ADDITION PLAT**

Tax Map Parcel #03-0129446

Applicant: Drew Bowen, Town of Middletown

Property Owners: Carey and Theresa Schoonover, Burgess & Commissioners of Middletown

Plan Dated: September 11, 2014

Date Received: September 23, 2014

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#### GENERAL INFORMATION

Proposal: Combine Parcel A (2,295.6 sq. ft.) from the remaining lands of Carey and Theresa Schoonover's Parcel 2 (5,794.4 sq. ft.) with Parcel 2 owned by the Burgess & Commissioners of Middletown to create a net square footage of that lot of 7,910.1 square feet.

Location: West side of Lombardy Drive and north of Linden Boulevard

Zoning: R1 Low Density Residential. This district is intended to encourage and promote the development of single-family residential neighborhoods free from land usage which might adversely affect such development.

Present Use: Lawn and streambed.

#### 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 submitted addition plat shows all the information required. A confirmatory deed shall be recorded and the addition plat shall be referenced in all successive deeds according to Note #4 on the plat.

2. **Minimum building restriction lines** – Although General Note #2 indicates the correct minimum building restriction lines of 35-foot front yard, 12-foot side yards, and 40-foot rear yard for the parcel within the R1 Residential district, the rear building restriction line shown on the plat shows a curved line instead of straight lines mimicking the new rear lot line. The plat should be revised to show the correct rear BRL.
3. **Incorrect information** - The distance from coordinate Point 100 to coordinate Point 503 should be 41.47 instead of 60.72. Also the Purchaser information in the box towards the bottom left of the plat should be corrected to include an ‘s’ at the end of Commissioner and the phone number should be corrected to 301-371-6171.

This review will be included in the Middletown Planning Commission materials for the October 20, 2014 public meeting. The applicant is encouraged to attend this meeting and the workshop on the Wednesday prior to the meeting which will be October 15, 2014.

cc: Ronald Skutch, Frederick Seibert Associates, Inc.  
Carey and Theresa Schoonover

## Middletown Planning Office

### MEMORANDUM

Date: 10/8/2014

Hansen# 13756

To: Middletown Planning Commission

From: Cynthia K. Unangst, Middletown Staff Planner

RE: **CROSS STONE COMMONS REVISED 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 September 2014**

Date Received: October 3, 2014

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#### 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 **in a two-phase approach.**

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 Revised Site Plan with **revised language shown in bold:**

1. **Two-phase approach – Attached to this staff report is a letter to the Planning Commission from Mark Crissman, Daft McCune Walker, Inc. In the letter Mr. Crissman explains why the developer is submitting a revised set of plans for Planning Commission approval that show a two-phase approach to the development. Basically during the latest review of the plans from the State Highway Administration (SHA), SHA has requested that the developer revise the designs along 40-A to be compatible with the streetscape improvements currently under design. General Note #15 on Sheet 1 has been added to address the revision to the previously-approved plans.**

2. **Previous site plan approval** – On November 18, 2013, the Planning Commission conditionally approved the site plan, conditional upon formal approval of the SWM plan by Frederick County and official acceptance by SHA of the right-in-only turn lane off Alt. US 40. The site plan was signed on July 21, 2014 after those conditions of approval were met.
3. **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.

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.

4. **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.
5. **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.

6. **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.
7. **SHA review** – In a letter dated June 30, 2014, the State Highway Administration (SHA) concurred with the conceptual geometric design of the right-in-only turn lane. The letter also stated that SHA will not require the submission of a revised concept plan or traffic analyses, but an access permit would be required for all construction within the SHA right-of-way.
8. **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. Modifications requested by the applicant are listed in a table under General Note #3 on Sheet 1 of the plans and were previously approved by the Planning Commission.
9. **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.

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.

10. **Stormwater management approval by Frederick County – The stormwater management plan was approved by Frederick County on December 4, 2013.**
11. **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. **One Eastern Redbud tree and some liriope groundcover are located within the area now designated as Phase 2; all other landscaping is located in Phase 1.**
12. **Signage** – A proposed freestanding shopping center identification sign is indicated on the plans at the corner of Old National Pike and the Middletown Parkway.
13. **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. 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.
14. **Architectural review** – According to the Middletown Municipal Code, the Planning Commission has architectural review authority for shopping centers. **At the November 18, 2013 Planning Commission meeting, Chairman Mark Carney recommended that the architectural review, including materials and visuals, occur simultaneously as part of the improvement plan review process.**

This review will be included in the Middletown Planning Commission materials for the October 20, 2014 public meeting. The applicant is encouraged to attend this meeting and the workshop on the Wednesday prior to the meeting which will be October 15, 2014.

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



OCT 03 2014

TOWN OF MIDDLETOWN, MD

October 3, 2014

The Town of Middletown Planning Commission  
ATTN: Mr. Mark Carney, President  
Middletown Municipal Center  
P.O. Box 135  
31 West Main Street  
Middletown, MD 21769

Re: Cross Stone Commons (Newton Property)  
Revised Site Plan and Improvement Plan Approval  
DMW Project No 12706

Dear Planning Commission Members

As you may be aware, the developer of the subject property is currently working with the State Highway Administration (SHA) to resolve design issues for the proposed road widening and right-in only on MD Route 40-A. These improvements are a part of the approved Site Plan, conditionally approved Improvement Plans and as identified in the approved Traffic Impact Study. This design work is proceeding and will ultimately be approved by SHA, but at the current pace, we fear that these approvals will impact the project schedule and delay the start of construction to the point that the project could be jeopardized. During the review of the access permit application and Improvement Plans, the SHA has requested that we revise the designs along MD Route 40-A to be compatible with the street scape improvements currently under design. We have just been made aware that the SHA design will require the street grade to be lowered in the vicinity of the Newton Property and require adjustments to our designs of the right-in and deceleration lanes. Coordination of these designs will have an impact on the project schedule. If it were not for the required SHA review of the MD Route 40-A improvements, we would most likely have the grading permits and be under construction by now.

In an effort to expedite the approval of the major portion of the plans and to initiate the start of construction as soon as possible, the developer would like Planning Commission approval of the revised Site Plan and the revised Improvement Plans as submitted herewith. On these revised drawings, you will note the following:

1. Revised Site Plan – We have labeled the proposed improvements along MD Route 40-A as “Phase 2” work. All other work on this project will become Phase 1 work. It is our intention to separate the on-site work and the Middletown Parkway improvements as Phase 1 development. The Phase 2 improvements (MD Route 40-A) would only be started after receiving SHA approvals.
2. Revised Improvement Plans – We have removed the MD Route 40-A work from these plans. The plans now become “Phase 1” Improvement Plans and will be resubmitted to all review agencies for approval. After approval of these plans, the developer will submit the Public Works Agreements (PWA's) and bonding sureties for the work and obtain the grading permit. The developer will start construction.

3. Addition Plat – We are currently securing the owner's signature on the plat. Once the easements that are required for all Phase I work have been executed and recorded, we will note them on the plat and submit the plat to the Town of Middletown for recording.
4. CVS Building Permit – After recording the Addition Plat, the CVS architect will submit the plans for building permit review.
5. Phase 2 Improvement Plans (MD Route 40-A) – These plans are currently under revision in accordance with comments we have received from SHA (dated September 17, 2014). Once all comments have been addressed, we will resubmit to the appropriate review agencies and continue with the process. After these plans have been approved by SHA and other required agencies, we will file the access permit, post the sureties as required by SHA and begin construction on the MD Route 40-A work.

At this point, we believe it is absolutely necessary to separate the approvals of this project and proceed on the two (2) tracts outlined above.

If you should have any questions, please feel free to contact me at 301-696-9040.

Sincerely,

Daft-McCune-Walker, Inc.



Mark S. Crissman, P.E., P.L.S.  
Vice President / Branch Office Manager

Enclosures

MSC/tb

cc: Mr. Victor White, Hogan Companies (via email only)  
Mr. John Dixon, Reliable Real Estate Services (via email only)  
Mr. David Lingg, Lingg Property Consulting (via email only)  
Ms. Cynthia Unangst, Town of Middletown (via email only)  
Mr. Bruce Dean, Esq., Linowes & Blocher (via email only)

## Middletown Planning Office

### MEMORANDUM

Date: 7/10/2014

Hansen# 14281

To: Middletown Planning Commission

From: Cynthia K. Unangst, Middletown Staff Planner

RE: **CROSS STONE COMMONS IMPROVEMENT PLAN – PHASE 1**

Tax Map Parcels #03-156044 and 03-174158

Applicant: DMW and Lingg Property Consulting

Property Owner: Nancy R. Newton, ET. AL.

Plan Dated: January 30, 2014; revised August 19, 2014

Date Received: October 3, 2014

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#### GENERAL INFORMATION

Proposal: Site is to be developed with 35,357 square feet ± of commercial space in four separate buildings with 219 parking spaces **in a two-phase approach. This set of improvement plans is for Phase 1.**

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 Improvement Plan for Phase 1 **with revised language shown in bold:**

1. **Previous Improvement Plan approval – The Planning Commission conditionally approved the Improvement plans for Cross Stone Commons on July 21, 2014. The approval was contingent on the following:**
  - **The applicant shall address all agency comments as the project moves forward to final signature set submission.**
  - **The applicant shall address all comments by the Town Engineer and ARRO Engineering as the project moves forward to final signature set submission.**
  - **The applicant shall require a review and approval of the Planning Commission if any closure or modification of the entrance from Alt. US 40 is made in the future.**

- **Any proposed uses within the shopping center that are special exception uses in the General Commercial district will need a recommendation from the Planning Commission and subsequent approval by the Middletown Board of Appeals.**
  - **The applicant shall revise the Landscape Plans to correct the discrepancies noted by staff.**
  - **The applicant shall add the bike rack locations to the plans.**
  - **The applicant shall return to the Planning Commission for architectural review and approval of any dramatic change to Building 3 due to proposed tenants ahead of building permit approval.**
  - **The applicant shall submit architectural renderings for Buildings 2 and 4 to the Planning Commission for review and approval ahead of building permit approval.**
2. **Expiration of improvement plans** – Per Section 16.12.060 of the Town Code, approval of an improvement plan shall expire three years from the date on which the Planning Commission approves the improvement plan unless construction has begun as defined by “start of construction.” Once improvements have begun, the developer will be expected to proceed with due diligence to completion with visible, substantial and progressive construction activities. Extension of the improvement plan may be granted by the Planning Commission for delays attributable to town, county or state agencies.
  3. **Phase 1 submittal** – **The plans submitted have been revised to take into account all comments received thus far from the Staff Planner, the Town Engineer, ARRO Engineering, and Frederick County.**
  4. **Traffic Impact Study** – The Town Board expressed concern about the possibility of increased traffic along the Middletown Parkway in conjunction with the proposed shopping center. They feel that the developer of the shopping center should install the extra lanes needed (decel, accel and turning lanes) since the potential of increased traffic will necessitate those lanes to be built and the Town does not want to be put in the position of paying for the road construction as they have had to do in the past. The Town Engineer, Bruce Carbaugh, in his review has stated that the Town will require some type of acceleration and deceleration lane into each proposed entrance as required by the Town’s Design Manual for Streets and Commercial entrances. The developer submitted a drawing to the Town Board showing improvements to the Middletown Parkway that include accel and decel lanes. At their meeting on Monday, July 14<sup>th</sup>, the Town Board accepted, on a 5-1 vote, the recommendation of Bruce Carbaugh to allow the two entrances on the parkway with the proposed accel and decel lanes. In addition to the Middletown Parkway improvements, the developer has also agreed to bond 50% of the improvement cost of closing the median at the north entrance. The median would only be closed in the event of a to-be-determined accident count attributed directly to the left-in/left-out movement, within a certain number of years after the improvements are completed. The Town Board accepted the proposed improvements subject to the bond and its specific language yet to be determined. **The accel and decel lanes are shown on the submitted plans.**
  5. **Landscape plan** – **Changes have been made to the plant schedule and landscape plans and the staff planner will need additional time to ensure that the plans are satisfactory.**

6. **Fencing** – Staff assumes that the Board Fence detail on Sheet 2 is for the dumpster enclosures. The detail shows the board fence to be 8 feet tall. According to Section 17.32.170 of the Municipal Code, fences no more than six feet high shall be allowed in any yard areas in the commercial and industrial districts. Fences in excess of six feet in height in commercial and industrial districts and for nonconforming businesses may be approved by the planning commission subject to review of the fence material during site plan review. **The board –on-board fence detail was removed from Sheet 2. The 6-foot tall vinyl fence is proposed to be used for screening the site and for the dumpsters.**
7. **Bike racks** – There is a detail shown on Sheet 2 for a bicycle rack, but the locations for bike racks are not shown in the plans. **The bike rack detail was removed from Sheet 2 as no bike racks were required by the Site Plan or are proposed by the developer.**
8. **Architectural review** – The Planning Commission approved the architectural renderings for Buildings 1 (CVS) and 3 at their March 17, 2014 meeting, except that any dramatic change to Building 3 due to proposed tenants will need to come back to them for review and approval ahead of building permit approval.
9. **Missing information on plans** – **The cover sheet of the plans does not indicate that these plans are for Phase 1 and should be revised to add that information.**
10. **Review by Town Engineer, Bruce Carbaugh** – The revised plans have been submitted to Bruce Carbaugh for his review.
11. **Approval by Frederick County** – The Stormwater Management Development Plan was approved by the County on December 6, 2013.
12. **County review** – The improvement plans have been routed and reviewed by County agencies with these comments received from those agencies thus far.
  - Office of Life Safety – conditional approval – 2/21/2014
  - Health Department – conditional approval – 2/28/2014
  - Development Review, Engineering – conditional approval – 2/27/2014
  - Soil Conservation District – incomplete
  - State Highway – **conditional approval – 6/30/2014**

### **RECOMMENDATION**

**Staff recommends that the Planning Commission approve the Improvement Plans for Phase 1 with the following conditions.**

- 1) **The applicant shall address all agency comments as the project moves forward to final signature set submission.**
- 2) **The applicant shall address all comments by Town Engineer, Bruce Carbaugh, and ARRO Engineering as the project moves forward to final signature set submission.**
- 3) **The applicant shall require a review and approval of the Planning Commission for Phase 2.**

- 4) Any proposed uses within the shopping center that are special exception uses in the General Commercial district will need a recommendation from the Planning Commission and subsequent approval by the Middletown Board of Appeals.
- 5) The applicant shall return to the Planning Commission for architectural review and approval of any dramatic change to Building 3 due to proposed tenants ahead of building permit approval.
- 6) The applicant shall submit architectural renderings for Buildings 2 and 4 to the Planning Commission for review and approval ahead of building permit approval.

This review will be included in the Middletown Planning Commission materials for the October 20, 2014 public meeting. The applicant is encouraged to attend this meeting and the workshop on the Wednesday prior to the meeting which will be October 15, 2014.

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

Title 17 - ZONING

Chapter 17.04 ADOPTION, PURPOSE AND DEFINITIONS

**Chapter 17.04 ADOPTION, PURPOSE AND DEFINITIONS**

**Sections:**

[17.04.010 Adoption.](#)

[17.04.020 Purpose.](#)

[17.04.030 Definitions.](#)

**17.04.010 Adoption.**

Under the authority granted by Article 66B of the Annotated Code of Maryland, the following ordinance codified in this title for the control of zoning is adopted and this title amends and recodifies the zoning ordinance adopted March 3, 1969, and readopted December 17, 1974.

This zoning ordinance has been prepared for the purpose of promoting the health, safety and general welfare of the Town of Middletown. It defines residential, commercial and industrial districts in the community in a manner reflective of the master development plan. Each district sets forth allowable uses, lot areas, height of structures, advertising sign requirements and other pertinent data. Filing procedures, fees and procedures of the board of appeals are also established.

(Ord. 132 (part), 1373)

**17.04.020 Purpose.**

A. This title is made in accordance with the Middletown master plan and is designed for the following purposes:

1. To control congestion in the streets;
2. To secure the public safety;
3. To promote health and the general welfare;
4. To provide adequate light and air;
5. To promote the conservation of natural resources;
6. To prevent environmental pollution;
7. To avoid undue concentration of population;
8. To facilitate the adequate provision of transportation, water, sewerage, schools, recreation, parks and other public requirements.

B. Further these regulations are made with reasonable consideration to the character of each district, its suitability for particular uses and with a view to conserving the value of buildings and encouraging the orderly development and the most appropriate use of land throughout Middletown.

(Ord. 132 § 10, 1975)

**17.04.030 Definitions.**

For the purpose of this title certain terms or words used in this chapter shall be interpreted as follows:

**Commented [CU1]:** Should this be changed to 'comprehensive'?

Title 17 - ZONING

Chapter 17.04 ADOPTION, PURPOSE AND DEFINITIONS

Words used in the present tense include the future. All words in the singular include the plural and all words in the plural include the singular. The word "shall" is mandatory and not directory. The word "used" shall be deemed to include "designed, intended, or arranged to be used."

"Accessory use or building" means a use or building customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building. An accessory building is not attached by any part of a common wall or common roof to the principal building.

"Active adult community" means a community designed and planned exclusively for independent home living by active adults with households occupied by at least one resident who is fifty-five (55) years of age or older. The community shall be designed to provide the following benefits:

1. An attractive environment for older active adults which is suitable for their special needs, including smaller dwelling units which are more appropriate for older adults without children, and smaller yards resulting in reduced privately owned property requiring homeowner maintenance;
2. Open space and recreation areas for active older adults to be owned and maintained by a homeowners' association;
3. A pattern of development which preserves trees, outstanding natural topography and geographical features and prevents soil erosion;
4. A creative and flexible approach to the use of land and related physical development which results in a community design and housing types uniquely different from other residential communities not specifically designed for active adults;
5. An efficient use of land resulting in smaller networks of utilities and streets and thereby promoting lower unit costs per house;
6. An environment in harmony with the overall subdivision and surrounding development.

"Agriculture or agricultural" means the use of land for agricultural purposes, including farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture and animal and poultry husbandry and the necessary accessory uses thereto.

"Alley" means a right-of-way which provides secondary service access for vehicles to the side or rear of abutting properties.

"Amend or amendment" means any repeal, modification, or addition to a regulation; any new regulation; any change in the number, shape, boundary, or area of a zone; or any repeal or abolition of any map, part thereof, or addition thereto.

"Animal boarding place" means any building or buildings used, designed or arranged for the boarding, breeding or care of dogs, cats, pets, fowl, or other domestic animals for profit, but not to include those animals raised for agricultural purposes.

"Arterial street" means a continuous route through urban areas that typically carry high volumes of traffic.

Automobile Garage, Private. "Private automobile garage" means an accessory building or portion of a main building designed, arranged, or used for the housing of private motor vehicles, only one of which may be a commercial vehicle.

"Automobile parking space" means a permanently surfaced area of not less than one hundred eighty (180) square feet, either within a structure or in the open, exclusive of driveways or access drives, for the parking of a motor vehicle.

"Automobile repair and service station" means a building, lot or both in or upon which the business of general motor vehicle repair or body and fender repair is conducted, but excluding junk and/or auto wrecking business.

Title 17 - ZONING

Chapter 17.04 ADOPTION, PURPOSE AND DEFINITIONS

"Automobile sales lot" means a lot arranged, designed or used for the storage and display for sale of any motor vehicle or any type of trailer, provided the trailer is unoccupied, and where no repair work is done except minor incidental repair of automobiles or trailers displayed and sold on the premises.

"Automobile service station" means any area of land, including buildings and other structures thereon that are used to dispense motor vehicle fuels, oils and accessories at retail, where repair service is incidental, and no storage or parking space is offered for rent.

"Basement" means that portion of a building below the first floor joists.

"Bed and breakfast home" means a facility that serves the traveling public with sleeping rooms and at least one meal per day for overnight guests only in a setting reflecting a residential rather than a commercial character.

"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.

"Board" means the Middletown board of appeals.

~~"Boarding house" means a dwelling in which, for compensation, lodging, or meals, or both are furnished to not more than five guests. A boarding house shall not be deemed a home occupation.~~

"Building" means a structure having one or more stories and a roof, designed primarily for the permanent shelter, support or enclosure of persons, animals or property of any kind.

Building, Height of. "Height of building" means the vertical distance from grade plane to the average height of the highest roof surface. As used herein, "grade plane" means a reference plane representing the average of finished ground level adjoining the building at exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or, where the lot line is more than six feet from the building, between the building and a point six feet from the building.

"Building setback line" means a line beyond which the foundation wall and/or any enclosed porch, vestibule or other enclosed portion of a building shall not project as determined by the yard requirements.

Cellar. See "basement."

"Cemetery" means a place used for the permanent interment of dead human bodies ~~of or~~ the cremated remains thereof. It may be either a burial park for earth interments, a mausoleum for vault or crypt interments, a columbarium for cinerary interments, or a combination of one or more thereof.

"Child care center" and "nursery school" mean an individual agency or institution offering or supplying group care to children who have not the same parentage, for a portion or all of a day and on a regular schedule for more than once a week. Such child care centers shall be licensed by the Maryland Department of Human Resources Child Care Administration and be subject to any regulations administered by that department.

~~"Clubs, lodges and fraternal organizations" means an organized society of persons associated together in an environment of companionship.~~

~~"Collector street" means a minor tributary, gathering traffic from numerous smaller (local) streets and delivering it to and from minor arterials.~~

"Commercial vehicles" see "Restricted vehicles."

"Commission" means the Middletown planning commission.

"Commissioners" means the town commissioners of Middletown.

"Community center" means the use of property for a building which serves a public function, to be used for cultural, recreational or social activities, including senior centers, and similar community or government facilities.

Title 17 - ZONING

Chapter 17.04 ADOPTION, PURPOSE AND DEFINITIONS

"Comprehensive plan" means the policies, statements, goal, and interrelated plans for private and public land use, transportation and community facilities documented in texts and maps which constitute the guide for the town's future development. For the purpose of this definition, "master plan" or "plan" shall refer to the Middletown Comprehensive Plan, as adopted in accordance with Article 66B of the Annotated Code of Maryland.

"Condominium" means a communal form of individual ownership of individual units of property which are supported by collectively held facilities and areas and which is subject to or established under the provisions of the Real Property Article, Section 11-101 et seq., Annotated Code of Maryland; provided, however, to be considered as a condominium under the provisions of this title, there must be at least five separate and individual units subject to one condominium regime which are intended for use solely for residential purposes.

"County" means Frederick County, Maryland.

"Court" means an open, unoccupied and unobstructed space other than a group of buildings.

"Demolition" means the destruction or partial destruction of buildings, structures, facilities or material by use of fire, water, explosives, mechanical or other means.

"Development" means any activity, other than normal agricultural activity, which materially affects the existing condition or use of any land or structure.

"Dwelling" means a building or portion thereof arranged or designed to provide living facilities for one or more families, but not including a tent, cabin, ~~mobile home~~ mobile home, bus or a room in a motel or hotel.

Dwelling, Attached. "Attached dwelling" means a building arranged or designed to provide living facilities for more than one family. Individual units will be separated by a common wall.

Dwelling, Detached. "Detached dwelling" means a building designed to provide living facilities for one family entirely separated from any other building or structure by space on all sides.

Dwelling, Duplex. "Duplex dwelling" means two dwelling units arranged or designed to be located on abutting and separate lots and separated from each other by a continuous vertical party wall, without openings from the lowest floor level to the highest point of the roof which lies along the dividing lot line, and such dwelling is separated from any other structure by yards or other green areas on all sides.

Dwelling, Multiple-Family. "Multiple-family dwelling" means a building containing three or more dwelling units (townhouse, apartments and garden apartments).

Dwelling, One-Family. "One-family dwelling" means a building containing not more than one dwelling unit.

Dwelling, Two-Family. "Two-family dwelling" means a building containing not more than two dwelling units, arranged one above the other or side by side, not, however, to include duplexes.

"Dwelling unit" means a building or portion thereof arranged or designed for occupancy by not more than one family for living purposes and having cooking facilities.

"Easement" means a grant by a property owner of the use of land for use, construction, or maintenance of facilities, utilities, drainage, or access without giving up title to the land.

Educational Institution, Private. "Private educational institution" means every private school or educational or training institution, however designated, which offers a program of college, professional, preparatory, high school, junior high school, elementary, kindergarten or nursery school instruction, or any combination thereof, or any other program of trade, technical, or artistic instruction, but such term does not include any educational institution of the county board of education. No private educational institution shall be deemed a home occupation.

"Eleemosynary or philanthropic institution" means a private, nonprofit organization which is not organized or operated for the purpose of carrying on a trade or business, no part of the net earnings of which inures to the benefit of any member of such organization or individual.

Title 17 - ZONING

Chapter 17.04 ADOPTION, PURPOSE AND DEFINITIONS

"Enclosed structure" means any structure with a roof overhead and attached to the principal structure.

"Family" means an individual or two or more persons related by blood or marriage, or legal adoption and/or a group of people including not more than two persons not related by blood or marriage. In all cases, foster children placed by an agency licensed to operate in Maryland and, housed on the premises are considered as members of the family.

"Family day care home" means a residence in which care is given in lieu of parental care to children for less than twenty-four (24) hours a day for which compensation is paid. Such family day care homes shall be registered by the Maryland State Department of Education Office of Human Resources Child Care Administration and be subject to any regulations administered by that department.

"Farm" means a parcel of land not less than twenty-five (25) acres in size used for agriculture as defined hereinabove.

Floor Area of Building, Total. "Total floor area of building" means the total number of square feet of floor area in a building, excluding cellars, uncovered steps and uncovered porches; but including the total floor area of accessory buildings on the same lot. All horizontal measurements shall be made between interior faces of walls.

"Frontage" means the length of the front property line of the lots, or tract of land abutting a public street, road or highway, or rural right-of-way.

"Home occupation" means an occupation conducted entirely within a dwelling and/or accessory structure by a member or members of a family residing therein. Boarding and rooming houses, tourist homes and private educational institutions shall not be deemed home occupations.

"Home owners association" means an incorporated, nonprofit organization operating under recorded land agreements through which: (1) each lot and/or home owner in a planned unit or other described land area is automatically a member; and (2) each lot is automatically subject to a charge for a proportionate share of the expenses for the organization's activities, such as maintaining a common property; and (3) the charge, if unpaid, becomes a lien against the property.

~~"Hospital, sanitarium or sanatorium" means any institution-receiving inpatients and rendering medical, surgical and/or obstetrical care. This shall include general hospitals and institutions in which service is limited to special fields such as cardiac, eye, ear, nose and throat, pediatric, orthopedic, skin and cancer, mental, tuberculosis, chronic disease and obstetrics. The term "hospital" shall also include sanitariums and sanatoriums, including those wherein feeble-minded and mental patients, epileptics, alcoholics, senile psychotics or drug addicts are treated or cared for.~~

"Hotel" means any building containing ten (10) or more guest rooms, where, for compensation, lodging, meals or both are provided for ten (10) or more guests, excluding a fraternity or sorority house, school or college dormitory, tourist home, motel or apartment hotel as defined in this chapter.

"Industrial park" means a tract of land for industrial use developed according to a plan for occupancy by a group of industries and equipped with streets and necessary utilities.

"Infrastructure" means the built facilities, generally publicly funded, that are required in order to serve a community's developmental and operational needs. The infrastructure includes such things as roads and water and sewer systems.

"Junk yard" means any land used for the abandonment, storage, keeping, collecting or baling of paper, rags, scrap metal, other scrap or discarded materials, or for the abandonment, demolition, dismantling, storage, or salvaging of two or more unlicensed or inoperative automobiles or other vehicles, machinery, or parts thereof.

"Kennel" means any place or premises, other than a pet shop or veterinary clinic, used in whole or in part for the commercial housing, boarding or care of eight or more dogs or cats at any one time and in any combination. No kennel may house, board or care for more than fifteen (15) dogs or cats, in any combination, at any one time.

## Title 17 - ZONING

### Chapter 17.04 ADOPTION, PURPOSE AND DEFINITIONS

"Land use" means the types of buildings and activities existing in an area or on a specific site. Land use is to be distinguished from zoning, the latter being the regulation of existing and future land uses.

"Large retail/commercial establishment" means a retail establishment (store) with any commercial retail uses or a combination of such commercial retail uses comprised of greater than twenty-five thousand (25,000) square feet and less than sixty thousand (60,000) square feet of total floor area.

"Lot" means a parcel of land occupied or to be occupied by a building and its accessory buildings, together with such open spaces as required, and having frontage on a public right-of-way unless where excepted elsewhere in this title, provided, however, a lot in a shopping center shall be controlled by the provisions of Section 17.20.070 of this code.

Lot Area, Net. "Net lot area" means the total horizontal area included within the rear, side and front lot or proposed street lines of the lot, excluding any streets or highways, whether dedicated or not dedicated to public use, but including off-street automobile parking areas and other accessory uses.

Lot, Corner. "Corner lot" means a lot abutting on two or more streets at their intersection which does not exceed one hundred thirty-five (135) degrees.

"Lot depth" means the average distance between the front lot line and the rear lot line.

Lot Frontage, Minimum, at Front Lot Line. "Minimum lot frontage at front lot line" means the least permissible width of a lot measured horizontally along the front lot line.

Lot Line, Front. "Front lot line" means the street line running along the front of the lot separating it from the street. In a through lot, both lines abutting the street shall be deemed to be "front lot lines." A corner lot shall be deemed normally to have two front lot lines.

Lot Line, Rear. "Rear lot line" means the lot or lines generally opposite or parallel to the front lot line, except in a through lot. If the rear lot line is less than ten (10) feet long or the lot comes to a point at the rear, such lot line is assumed to be a line not less than ten (10) feet long, lying wholly within the lot, parallel to the front lot line, or in the case of a curved front lot line, parallel to the chord of the arc of such front lot line.

Lot Line, Side. "Side lot line" means any lot line other than a front lot line or a rear lot line.

Lot, Through. "Through lot" means an interior lot, fronting on two parallel or approximately parallel streets.

"Medical or dental clinic" means any building or group of buildings occupied by medical practitioners and related services for the purpose of providing health services to people on an out-patient basis.

"Medical care facility" means any institution which receives in-patients and out-patients and provides medical, psychological, surgical, or similar services.

~~"Mobilehome"~~ Mobile home means any vehicle or similar portable structure having no foundation other than wheels, jacks, or skirting and so designed or constructed as to permit occupancy for dwelling or sleeping purposes.

~~"Mobilehome"~~ Mobile home park or mobilehome mobile home subdivision means any site, lot, or parcel of ground maintained or intended for the purpose of supplying a location or accommodation for two or more ~~mobilehomes~~ mobile homes for living purposes and including all buildings, structures, vehicles, accessories and appurtenances used or intended as equipment in such a park.

"Motel" means any group of dwelling units combined or separate, used for the purpose of housing transient guests, each unit of which is provided with its own toilet, washroom and off-street parking facilities.

"Nonconforming" means a use of a building or of land lawfully existing at the time this and/or previous ordinances or amendments thereto became effective and which does not conform with the use regulations of the zone in which it is located.

## Title 17 - ZONING

### Chapter 17.04 ADOPTION, PURPOSE AND DEFINITIONS

"Nursing home" includes rest homes, convalescent homes and homes for the aged and means a place devoted primarily to the maintenance and operation of facilities for the treatment and care of any persons suffering from illnesses, diseases, deformities or injuries, not requiring extensive and/or intensive care that is normally provided in a general hospital or other specialized hospital, but who do require care in excess of room and board and who need medical, nursing, convalescent, or chronic care.

"Open space" means areas of land not covered by structures, driveways, or parking lots. Open space may include homeowners' association common areas, parks, streams and ponds, etc.

"Overlay zoning district" means a district that is superimposed on top of portions of one or more underlying general use-based zoning districts that allow application of additional standards addressing a special purpose.

"Parcel" means a lot or group of lots under a single ownership or control. A parcel is usually viewed as a single unit for development purposes.

"Planned unit development" or "PUD" means a planned, larger-scale development, greater than twenty (20) acres, which may contain a variety of residential and nonresidential building types, land uses and common open space.

"Plat" means the map of a subdivision showing the number and dimensions of lots, public rights-of-way, and easements. The final plat must be filed and recorded with the county clerk in the county plat book.

"Private club" means an incorporated or unincorporated association for civic, social, cultural, religious, literary, fraternal, political, recreational, or like activities, operated for the benefit of its members and not open to the general public.

"Professional office" means rooms and/or buildings used for office purposes by a member of any recognized profession, including doctors, dentists, lawyers, accountants, engineers, veterinarians, etc., but not including medical or dental clinics or veterinary clinics.

"Public safety services" means fire, police, or emergency medical services (EMS) provided to the community and authorized pursuant to the appropriate governing body and shall include building and facilities reasonably necessary to store and maintain equipment and house personnel.

"Public utility" means any use or structure which provides to the general public such services as water, sewerage, sewage treatment, electricity, piped gas or telecommunications.

"Recreational equipment" means any mobile apparatus specifically designed for recreational activities and including utility trailers, travel trailers, pickup campers, motorized dwellings, tent trailers, boat trailers, houseboats or storage containers used for transporting recreational equipment.

"Restricted vehicles" means:

- A. A motor vehicle with permanent outside dimensions greater than eight feet wide or eight feet tall, or twenty-two (22) feet long; or
- B. A motor vehicle with externally mounted work equipment that causes the outside dimensions to be greater than eight feet wide, or eight feet tall, or twenty-two (22) feet long; or
- C. A trailer or semitrailer; or
- D. Recreational equipment with permanent outside dimensions greater than eight feet wide, or eight feet tall, or twenty-two (22) feet long are deemed to be restricted vehicles.

"Right-of-way" means the right to cross over property and usually refers to public land. Rights-of-way across private property are usually for utility lines or driveways.

"Road" means and includes street, highway, avenue, lane, marginal access street, service drive, alley, bridge, viaduct or any segment thereof.

"Screening" means the use of fencing, walls, vegetation or berms to shield or obscure an object or use from view from adjoining and nearby properties.

Title 17 - ZONING

Chapter 17.04 ADOPTION, PURPOSE AND DEFINITIONS

"Setback" means the distance between a building or structure (not including ground-level parking lots or other paved surfaces) and property lines or from other buildings.

"Shed" means a structure of no more than one story with a maximum height of fifteen (15) feet that is not intended for the storage of cars or trucks.

"Shopping center" means 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.

"Sign" means any structure, part thereof, or device attached thereto or painted or represented thereon or any material or thing, illuminated or otherwise, which displays or includes any numeral, letter, word, model, banner, emblem, insignia, device, trademark, or other representation used as, or in the nature of, an announcement, advertisement, direction, or designation of any person, firm, group, organization, place, commodity, product, service, business, profession, enterprise, or industry which is located upon any land or any building, in or upon a window or canopy, or indoors in such a manner as to attract attention from outside the building.

Sign, Business. "Business sign" means a sign which directs attention to a business, commodity, service or other activity conducted upon the premises upon which the sign is located.

Sign, Directional or Information. "Directional or information sign" means a sign describing the location of a community or institution of public or quasipublic nature or the opening of an event of public interest, but not including signs pertaining to real estate.

Sign, Personal Service. "Personal service sign" means name plates or signs designating home occupations, accessory uses, such as a doctor's office, or similar use, or advertising exclusively the sale of farm products produced on the premises.

Sign, Billboard. See "Billboard."

Sign, Real Estate. "Real estate sign" means a sign advertising for sale, lease, rental, or development of any particular premises or directing attention to the opening and location of a new subdivision, neighborhood, or community.

"Site development plan" or "site plan" means the plan showing the location of existing and proposed buildings, structures, paved areas, storm water management, walkways, vegetative cover, landscaping, screening and other matters which may be required with regard to a site proposed for development.

"Solar collection system" means a panel or other solar energy device, the primary purpose of which is to provide for the collection, inversion, storage, and distribution of solar energy for electricity generation, space heating, space cooling, or water heating.

"Solar collection system, building-mounted" means a solar collection system which is connected to or mounted upon a principal or accessory building.

"Solar collection system, freestanding" means a solar collection system which is not connected to or mounted upon a principal or accessory building.

"Special exception" means a grant of a specific use that would not be appropriate generally or without restriction and be based upon a finding that certain conditions governing specific exceptions as detailed in the zoning ordinance exist, that the use conforms to the town master plan and is compatible with the existing neighborhood.

"Storage container" means a prefabricated "sea container" or "C container" or similar object which is or resembles a modified trailer, tractor-trailer, railroad car or intermodal shipping container and which is manufactured or used primarily for storage or shipping purposes.

"Story" means that portion of a building included between the surface of any floor and the surface of the floor next above it or, if there is no floor above it, the space between such floor and the ceiling next above it. A basement shall be counted as a story if it is used for business or dwelling purposes. A mezzanine

Commented [CU2]: Change to 'comprehensive'?

Title 17 - ZONING

Chapter 17.04 ADOPTION, PURPOSE AND DEFINITIONS

floor shall be counted as a story if it covers more than one-third of the area of the floor next below it or if the vertical distance between the floor next below it and the floor next above it is twenty (20) feet or more.

"Street" means a public or dedicated way, or a public proposed right-of-way, widening, or extension of an existing street or public way shown on any plan approved by the planning commission.

"Structural alteration" means any change in the structural members of a building, such as walls, columns, posts, beams or girders.

"Structure" means an assembly of materials forming a construction for occupancy or use including, among others, buildings, stadiums, gospel and circus tents, reviewing stands, platforms, stagings, observation towers, radio and T.V. broadcasting towers, water tanks, trestles, open sheds, coal bins, shelters, fences, walls, signs, power line towers, pipelines, railroad tracks and poles.

"Subdivision" means the division by plat or deed of a piece of property into two or more lots, plots, sites, tracts, parcels, or other land divisions in accordance with local county code.

"Swimming pool" means any artificial structure, basin, chamber or tank, either above or below ground, containing in depth more than eighteen (18) inches of water, used or intended to be used for the primary purpose of swimming, diving, wading, or recreational bathing.

Theater, Indoor. "Indoor theater" means a building designed and/or used primarily for the commercial exhibition of motion pictures or stage presentations to the general public.

"Townhouse" means one of a group of three or more attached dwelling units divided from each other by party walls and each having separate front and rear or front and side entrances from the outside.

"Tract" means land under single ownership or control. A tract usually covers a substantial acreage and has the potential to be subdivided into lots.

"Trailer" means a vehicle that has no motive power, and is designed to carry people or property and to be towed by a motor vehicle.

"Use" means the principal purpose for which a lot or the main building thereon is designed, arranged or intended and for which it is or may be used, occupied or maintained.

"Variance" means a modification only of density, bulk or area requirements in the zoning ordinance where such modifications will not be contrary to the public interest and where, owing to conditions peculiar to the property, and the results of any action taken by the applicant, a literal enforcement of the ordinance would result in unnecessary hardships.

"Video lottery facility" means a facility at which video lottery terminal players play video lottery terminals.

"Video lottery terminal" means any machine or other device that, on insertion of a bill, coin, token, ticket, coupon or similar item, or on payment of any consideration:

1. Is available to play or simulate the play of any game of chance in which the results, including the options available to the video lottery terminal player, are randomly and immediately determined by the machine or other device; and
2. By the element of chance, may deliver or entitle the video lottery terminal player who operates the machine or device to receive cash, premiums, merchandise, tokens, or anything of value, whether the payout is made automatically from the device or in any other manner.

"Video lottery terminal" means and includes a machine or device:

1. That does not directly dispense money, tokens, or anything of value to winning video lottery terminal players; and
2. Described in this definition that uses an electronic credit system making the deposit of bills, coins, or tokens unnecessary.

Commented [CU3]: Delete?

Commented [CU4]: Delete?

Title 17 - ZONING

Chapter 17.04 ADOPTION, PURPOSE AND DEFINITIONS

"Video lottery terminal" does not include a machine or device that is available to play the Maryland State lottery conducted under Sections 9-101 et seq., of the State Government Article of the Annotated Code of Maryland.

"Video lottery terminal player" means an individual who plays a video lottery terminal in a video lottery facility.

"Yard" means open space on the same lot with a building or group of buildings, lying between the building or outer building of a group and the nearest lot or street line, and unoccupied and unobstructed from the ground upward, except as provided in this title.

"Yard Sales" means sales of items limited to those items normally found at residential premises and shall not include heavy commercial, industrial or agricultural equipment.

Yard, Front. "Front yard" means open space extending across the full width of lot between the front line or the proposed front street line and nearest line of the building or any enclosed portion thereof. The depth of such yard shall be the shortest horizontal distance between the front lot line or proposed front street line and the nearest point of the building or any enclosed portion thereof.

Yard, Rear. "Rear yard" means open space extending across the full width of lot between the rear line of the lot and the nearest line of the building, porch or projection thereof. The depth of such yard is the shortest horizontal distance between the rear lot line and the nearest point of the building.

Second story overhang, roof overhang, unenclosed porches, or similar architectural features are excluded from the measurement if they do not project more than six feet into the rear yard.

Yard, Side. "Side yard" means open space between the side lot line, the side street line, or the proposed side street line, if such line falls within the lot, and the nearest line of the foundation of the building, porch or projection thereof, extending from the front yard to the rear yard.

"Zone" means an area within which certain uses of land and buildings are permitted and certain others are prohibited; yards and other open space are required; lot areas, building height limits, and other requirements are established; all of the foregoing being identical for the zone in which they apply.

"Zoning administrator" means an officer of the town, appointed by the burgess with advice and consent of the commissioners, who administers the zoning regulations and acts as secretary to the board of appeals.

"Zoning certificate" means an official document ~~written statement~~ issued by the zoning administrator, authorizing buildings, structures or uses consistent with the terms of this title and for the purposes of carrying out and enforcing its provisions.

"Zoning map" means the zoning map of the Town of Middletown together with all amendments thereto subsequently adopted.

(Ord. No. 12-01-01 § 1, 1-9-2012, eff. 1-29-2012; Ord. No. 11-03-01, § 1, 7-11-2011, eff. 7-31-2011; Ord. No. 10-10-03, § II, 10-25-2010; Ord. No. 10-10-02, § 1, 10-25-2010; Ord. No. 10-04-01, § 1, 3-22-2010; Ord. No. 09-03-03, § 1, 3-9-09; Ord. 08-09-72 § 1, 2008; Ord. 08-01-01 § 1, 2008; Ord. 07-10-02 § 1, 2007; Ord. 07-01-01 § 1, 2007; Ord. 05-09-01 § 1 (part), 2005; Ord. 05-06-01 § 1, 2005; Ord. 04-10-01 § 1, 2004; amended after public hearing, 2-14-2000; Ord. 182 § 12.0, 1975)

## **2015 ZONING CODE UPDATE PROPOSAL**

Town board to schedule public hearings for the Code sections listed by month:

January 2015 – 17.04 Definitions

17.08 Administration and Enforcement

February 2015 – 17.12 Establishment of Districts

17.16 Residential Districts

17.28 Open Space Districts

17.30 Agricultural Districts

March 2015 – 17.20 Commercial Districts

17.24 Industrial Districts

April 2015 – 17.32 Design Standards

May 2015 – 17.36 Signs

17.48 Specific Standards for Special Exceptions

# DRAFT

## RULES OF PROCEDURES

of the

### MIDDLETOWN PLANNING COMMISSION

EFFECTIVE September 19, 2011

#### FOREWORD

The Rules of Procedures are issued to assist the Middletown Planning Commission in the orderly and efficient conduct of all matters with which the Commission is concerned.

#### OBJECTIVE

The Middletown Planning Commission seeks to conduct all business which may properly come before it by law or custom to secure the harmonious development of the entire Town for the benefit of its present and future inhabitants. The Commission will conduct its business in accordance with the provisions of ~~Article 66B~~ <http://www.michie.com/maryland/lpExt.dll?f=templates&eMail=Y&fn=main-h.htm&cp=mdcode/1f224> *the Land Use Article* (Appendix A) of the Annotated Code of Maryland as well as these rules of procedure.

Though this Commission recognizes that its powers and responsibilities within the Town do not extend to land outside the Town, the Commission will, where appropriate, assist and coordinate its activities with the County and its planning and zoning agencies, and on request provide staff assistance to those agencies within the limits of available resources. With the County, the Commission seeks out mutual cooperation.

#### SECTION 1 – DEFINITION

“Authorized Member” shall mean one of the seven members appointed by the burgess with confirmation by the commissioners, one of whom is a town commissioner to serve in an ex officio capacity concurrent with his/her official term, one of whom is designated as an alternate who may sit in the absence of any member of the commission, and one of whom is designated as a temporary alternate to sit on the commission when the alternate is absent.

The word “Commission” shall refer to the Middletown Planning Commission, and consists of five authorized members.

## SECTION 2 – OFFICERS AND COMMITTEES

- 2.1 The Commission shall organize annually in the month of January and elect a Chairman and Vice-Chairman.

The Chairman or in the Chairman's absence, the Vice-Chairman or designated Town Board liaison, shall preside at all meetings or hearings of the Commission. In the absence of an officer, the member with most current continuous Planning Commission service shall preside. The presiding officer shall decide on all points of order and procedure, consistent with these rules and Article 66B.

- 2.2 A designated member of the Town Commissioners may serve as a member of the Commission having all the rights and privileges of the regularly appointed members, and serve in an ex-officio capacity concurrent with his/her official term.
- 2.3 Ad-hoc committees may be appointed by the Commission for special purposes or study.

## SECTION 3 – MEETINGS

- 3.1 Regular meetings shall be held on the 3<sup>rd</sup> Monday of each month. In addition, a workshop shall be held on Wednesday prior to the regular meeting. The staff shall give each member 48 hours or more notice of any change of date of the meeting.
- 3.2 Special meetings and workshops may be called by the Chairman or in the Chairman's absence the Vice-Chairman. Reasonable notice of a special meeting shall be given each member, 48 hours or more before said meeting. Meetings requiring advertisement or other notice may be called only after the appropriate notice or advertisement is provided.
- 3.3 Attendance – It shall be the duty of each member to attend all meetings. A member is required to contact the town planner, chair or vice-chair, to notify them of a planned absence which will be deemed excused. Should any member be absent from three consecutive unexcused absences, the Commission shall recommend to the Burgess and Commissioners that the member's resignation be requested, unless determined by vote of a majority of Commission members that there is a sufficient excuse for non-attendance. The Chair shall have the discretion to recommend a member's resignation if that member is absent from one half of all meetings held during the year.

## SECTION 4 – VOTING

- 4.1 A quorum shall consist of four out of five authorized members of the existing membership. A presiding officer must be present to conduct a meeting. No official business can be conducted without the presence of a quorum.

- 4.2 The order of business shall be in accord with the agenda as approved or modified as the first order of business.
- 4.3 Questions put to a vote are decided by a majority of the members present and voting. No decision may be made in the absence of a quorum.
- 4.4 A tie vote by the Commission shall be interpreted as a failure to approve the motion upon which the vote was taken. Additional motions may then be proposed. If a tie vote remains on an advisory matter, the Commission's action shall be deemed as "No-Recommendation". If a motion can not be approved on non-advisory matters (i.e. subdivision, site plan, etc.) then the matter shall be deemed "not approved" but may be brought back before the Commission by the Applicant.
- Town's
- 4.5 No member shall vote on a matter in which he (she) has personal involvement or as otherwise specified in the State's Ethics Ordinance. Unless specifically defined in the Ethics Ordinance, the judgment of a conflict is at the discretion of the member. Members recusing themselves from a commission matter shall leave the dais of the Planning Commission for the duration the matter is being considered. Members are encouraged to consult the Commission's counsel as to the propriety of their voting on any matter which may involve an actual or perceived conflict of interest.
- 4.6 In order to be eligible to vote, a member should attend all relevant meetings or review the audio, video or transcript of any meetings from which the member was absent. It is a member's obligation to be familiar with any proceedings of any prior meeting on a topic that comes to the PC for a vote.
- 4.7 The Commission's votes shall be recorded on each motion. Each member shall either vote on each motion (affirmative or negative) or abstain from voting by indicating a desire to abstain. The chair shall announce the results of each vote. All votes will be a voice vote of either positive, negative or abstention unless a raising of hands (counted vote) is requested by the Chair.

## SECTION 5 – CONDUCT OF COMMISSION MEMBERS

- 5.1 Speaking for the Commission – A member will not appear to speak for the Commission except as authorized by the Commission. This includes any public or private statement concerning Commission affairs.
- 5.2  Ethics Ordinance – Commission members are subject to and must comply with the State's Ethics Ordinance (Annotated Code of Maryland - Maryland State Government – Title 15. Public Ethics). (<http://michie.lexisnexis.com/maryland/lpext.dll?f=templates&fn=main-h.htm&cp=>) and any other applicable ordinances.

- 5.3 Conduct at meetings – Members shall conduct themselves at Commission meetings in a fair, understanding and courteous manner. They shall be considerate of all individuals, attitudes and differences of opinion involved in official Commission business. It is the presiding officer’s responsibility to manage the meetings in a manner that is consistent with these rules of conduct.
- 5.4 Being recognized – Commission members shall only speak after being recognized by the chair. Any member may raise “point of order” if they feel that the item being discussed is inconsistent with the agenda item being discussed or is otherwise not in conformance with the conduct of the Commission’s business at hand. It is the presiding officer’s responsibility to rule as to whether the “point of order” is valid.

## SECTION 6 – MEETING PROCEDURES

- 6.1 All agenda items that require an advertised public hearing shall be preceded by notices as prescribed by law in Maryland Code Article 66B and the Middletown Municipal Code.

- 6.2 Commission meetings shall be public meetings and subject to the Maryland Open Meetings Act (Annotated Code of Maryland - Maryland State Government – Title 10. Governmental Procedures Subtitle 5. Meetings). (<http://michie.lexisnexis.com/maryland/lpext.dll?f=templates&fn=main-h.htm&cp=>)

Any person is entitled to appear and be heard by the Commission before it reaches a decision on any matter. Except as otherwise permitted by the Maryland Open Meetings Act, voting shall be held during a public meeting and the Commission shall keep an open record of its resolutions, proceedings and actions which shall be available for public inspection during business hours. Nothing contained herein shall be construed to prevent the Commission from holding closed sessions for discussion of those items as permitted under the Maryland Open Meetings Act.

Summary of MD Open Meetings Act: The Act is based on the General Assembly’s policy determination in favor of open decision-making by governmental bodies. It is applicable to any entities that consist of at least two people and are created by certain formal legal instruments. The Act applies only if a public body is holding a “meeting,” which is defined as “convening a quorum of a public body for the consideration or transaction of public business.” It does not apply when a public body is carrying out an “executive function,” a “judicial function,” or a “quasi-judicial function.” Exceptions to the Open Meetings Act include permitting a meeting to be closed to protect the privacy of individuals with respect to a matter that is not related to public business, or when the discussion deals with a “personnel matter.”

- 6.3 Recording of Proceedings – It shall be the duty of the Administrative Specialist or Administrative Assistant, assisted by the Commission’s staff, to keep a true and

accurate record of all proceedings at all meetings and public hearings. A video or audio recording may be accepted as the official record. Minutes shall be prepared, distributed to the individual members, and if approved by the Commission, placed in a record book or file. The Administrative Specialist or Administrative Assistant shall sign the minutes, resolutions, and other official documents, as adopted or approved.

6.4 Anyone may appear in his/her own behalf or be represented by an agent or attorney at a Commission meeting. In the absence of any appearance by or on behalf of the Applicant the Commission will proceed to dispose of the matter on record before it or the Commission may by consensus postpone indefinitely the item and it will only be rescheduled upon proper request by the Applicant.

6.5 The ordinary order of hearing and time limits for testimony (EXCEPT AS PROVIDED IN SECTION 6.6) shall be as follows:

Staff Report & Recommendation

The Applicant or the Applicant's Agent or Attorney (15 minutes)

Public Comment (5 minutes per individual or 10 minutes per organization)

Applicant's Rebuttal (5 minutes);

It is the presiding officer's responsibility to notify the speaker of their time limit prior to the testimony and to notify them when their time has expired.

Additional time for any speaker to address pertinent issues or make a public presentation may be requested in writing at least 7 days (one week) in advance of the meeting. Decisions on whether to grant the additional time shall be made by the Chairman or in their unavailability, by the Vice-Chairman. The additional time granted shall be defined at the time of approval and must be contained in the approved agenda.

6.6 Special Rezoning Meetings – In order to efficiently review rezoning cases in accordance with Sections 17.08.090 and 17.08.100 of the Zoning Ordinance, the following special meeting procedures shall apply.

A. As required in the Zoning Ordinance a public hearing shall be held on rezoning applications. All review of rezoning cases shall take place in a public meeting or workshop. The order of the Agenda of cases shall be determined prior to the meeting by the Staff Planner.

B. Applicant testimony, the staff report, and reviewing agency comments will be presented to the Planning Commission at the Public Hearing held for this purpose.

C. Public testimony will be permitted in connection with review of rezoning applications during public hearings held for this purpose. The date and time of these hearings will be advertised no less than 14 days in advance of the hearings. The ordinary order of hearing and time limits for testimony shall be as follows:

**Staff report & Recommendation**

**The Applicant or the Applicant's Agent or Attorney (30 minutes)**

**Public Comment (5 minutes per individual or 10 minutes per organization)**

**Applicant's Rebuttal (5 minutes)**

- D. **Written comments must be filed in advance of or at the Planning Commission meeting in order to be considered by the Commission in making its decision. Extensions may be granted by the action of the Chair.**
  - E. **The Planning Commission shall base its findings and recommendations on the information presented and within the time limits as required in the Zoning Ordinance.**
- 6.7 **The Commission may postpone to a time certain any case due to lack of quorum or for further study and information as determined by the Commission but in no event longer than six (6) months, except where otherwise provided by law.**
- 6.8 **The Commission may require any additional relevant Planning materials in the form of maps, charts, reports, and studies, in order to reach a decision.**
- 6.9 **The presiding officer will allow reasonable cross-examination/testimony of interested parties at a time and in a manner considered reasonable by the presiding officer under the circumstances. An issue may be postponed for one month to achieve this information if in the presiding officer's opinion such information would provide new or relevant information related to the matter under consideration.**

**SECTION 7 – PROCEDURE IN BRINGING MATTERS BEFORE THE COMMISSION**

- 7.1 **The agenda shall be prepared by the staff who will consult with the Chairman on such matters of the agenda as may be appropriate. Members of the Commission who wish to add to the agenda shall first notify the Chairman of their request at least 7 days prior to the meeting.**
- 7.2 **Miscellaneous requests and petitions shall, from time to time, come before the Commission, either upon the initiation of an individual or agency or by reference from the governing body. In all cases, the Commission shall be guided by the principles set forth in the "Comprehensive Plan"; the "Subdivision Regulations"; the "Zoning Ordinance"; and rules, regulations and ordinances of the Town. All such matters shall be handled with as much dispatch as possible.**
- 7.3 **Any agenda item continued by the Commission shall not be rescheduled for 60 days unless otherwise provided by a majority vote of the Commission, or otherwise provided by law.**

SECTION 8 – FINAL DISPOSITION OF COMMISSION MATTERS

- 8.1 The disposition of all formal petitions and requests before the Commission requiring further action by the Burgess & Commissioners shall be in the form of a letter of recommendation to the Burgess & Commissioners. In all matters, the Applicant shall be notified by letter of the action taken by the Commission.

SECTION 9 – DELEGATION OF AUTHORITY

- 9.1 The Chairman shall and may delegate some of its authority to the vice-chair or Staff Planner in order to expeditiously and efficiently perform the work of the Commission. This would include such items as the signing of subdivision plat approvals and letters when the Commission has approved such documents. In the absence of the chairman, the vice-chair, or Staff Planner may perform this work in order to expeditiously dispose of these administrative matters.

SECTION 10 – COMMISSION – STAFF RELATIONSHIPS

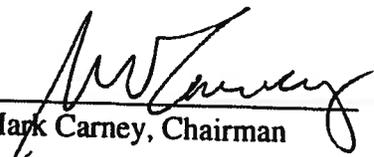
- 10.1 The Staff Planner or his/her designees is the normal contact for all routine communications between Commission members and the staff. The Staff Planner is also the normal contact for preliminary/final plats and site plan agenda items. Commission members take no part in the daily routine or administration of regulations and research of matters of fact, although they do participate in field trips and discussions pertaining to the more significant matters to be considered at Commission meetings. Issues of conflict in this realm can be raised to the Commission or Chairman for direction.
- 10.2 Matters of policy and important changes in the administration of the Commission's affairs are developed by the Staff Planner on behalf of the Commission and presented for resolution to members at regular meetings.

SECTION 11 – AMENDMENTS

Amendments to these rules of procedure may be introduced at any meeting and recorded in the minutes. The Commission will then vote on any such amendments at any subsequent regular meeting with passage requiring majority vote of the membership.

The foregoing is a true and correct copy of the Rules of Procedure of the Middletown Planning Commission as amended on the 19<sup>th</sup> day of September

ATTEST:

  
\_\_\_\_\_  
Mark Carney, Chairman

9/19/11  
\_\_\_\_\_  
Date

**Town of Middletown Planning Department**

To: Burgess & Commissioners and Middletown Planning Commission

From: Cindy Unangst, Staff Planner

Date: 10/7/2014

RE: Monthly Planning Update

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**Major Subdivisions:**

**Coblentz on Green** -Water Tap agreement approved by Burgess & Commissioners – March 2012  
Master Plan Amendment approved - March 11, 2013  
Planning Commission conditionally approved preliminary plan – March 18, 2013  
Improvement plans conditionally approved – October 16, 2013  
Final FRO Plan approved – April 21, 2014

**Foxfield Section 4-** 7 homes still to be built.  
2<sup>nd</sup> year FRO review – 68% compliance – 196 additional trees were planted (May 2014)  
With additional trees planted, the rest of the FRO LOC was released – June 2014

**Site Plans and Minor Subdivisions:**

**Asian Café/Model Garage – Revised parking lot site plan approved – September 15, 2014**

**AMVETS Expansion Plans – Revised Site Plan approved – May 19, 2014 (Plans expire 5/19/2017)**

**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  
**Phase 2 Site Plan submitted – September 10, 2014**  
**Simplified Delineation/Combined Forest Conservation Plan submitted–September 10, 2014**

**Fire Station – Concept plan submitted to PC for comments – April 22, 2013**  
Fire Station plat conditionally approved – October 16, 2013  
Fire Station Site Plan conditionally approved – November 18, 2013 (Plans expire 11/18/2016)

**Hollow Creek Golf Course SWM Pond #1 Revision plans submitted to County - December 1, 2010**  
Plans approved by County – December 22, 2010  
Revised Plans submitted for PC review – December 30, 2010

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

**Jiffas – Site Improvement Plan conditionally approved – October 20, 2008**  
Forest Conservation Plan approved – October 20, 2008  
Revised Architectural Plans submitted and reviewed – June 16, 2014

**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  
SHA comment letter received February 18, 2014

**Newton Property (Cross Stone Commons)** – Concept Plan submitted – October 1, 2012  
BOA Special Exception Use Hearing – May 8, 2013 (Conditionally approved)  
Addition Plat conditionally approved by PC – November 18, 2013  
Revised Site Plan conditionally approved by PC – November 18, 2013  
Revised architectural plans approved by PC – March 17, 2014  
Final FRO Plan approved – May 19, 2014  
Improvement Plans conditionally approved by PC – July 21, 2014  
**Revised Site Plan submitted – October 3, 2014**  
**Revised Improvement Plans submitted – October 3, 2014**

**Potomac Gun Depot** – plans conditionally approved – February 18, 2013  
Revised site plan conditionally approved – June 17, 2013; (Plans expire June 17, 2016)

**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)

**Schoonover property – Addition Plat submitted – September 23, 2014**

**Subway property - Garden Center** – Revised Site plan conditionally approved – May 19, 2014  
(Plans expire – May 19, 2017)

**Thompson Funeral Home Parking Lot** – revised site plan conditionally approved April 22, 2013  
SWM Plans conditionally approved by Frederick County – October 29, 2013

**Verizon Small Cell Antenna Installation** – site plan reviewed – June 16, 2014  
Revised site plan conditionally approved – July 21, 2014; (Plans expire – July 21, 2017)

**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

**Text Amendments:**

**Zoning Code review** – ongoing

**Adult Uses text amendment** – PC recommended approval of text amendment - July 21, 2014  
Public Hearing held – September 4, 2014  
Town Board revised text amendment and sent back to PC for recommendation-Sept. 8, 2014  
**PC recommended approval of revised amendment – September 15, 2014**

**Public Hearing held - October 2, 2014**

**Gun sales restrictions – PC deferred discussion of potential regulations to November meeting**

**Reports:** none

**Meetings:** Maryland/Delaware APA Conference – October 28-29, 2014