

MIDDLETOWN PLANNING COMMISSION
31 West Main Street
Middletown, Maryland

Regular Meeting

November 17, 2014

The regular meeting of the Middletown Planning Commission took place on Monday, November 17, 2014 at 7:00 p.m. at the Middletown Municipal Center, 31 West Main Street, Middletown, MD 21769. Those present (quorum) were Commissioners Mark Carney (Chairman), Chris Goodman (Ex-Officio), Bob Miller, Bob Smart, and Rich Gallagher. Others present in official capacity: Cindy Unangst (Staff Planner), Bruce Carbaugh (Director of Public Works), Ron Forrester (Zoning Administrator), and Annette Alberghini (Recording Secretary). Others present: Tim Quinn (Rodgers Consulting), Randy Frey (Rodgers Consulting), Mike Fitzgerald (Hailey Development LLC), Heather Delauter (329 S. Jefferson), Matt Delauter (329 S. Jefferson), and Lester Hurst (resident).

I. PUBLIC COMMENT – None

II. Regular Meeting Minutes of October 20, 2014 – Approved as revised.

III. PLAN Review

329 South Jefferson Demolition Plan – (Heather and Matt Delauter, the applicants, were present.) This demolition Site Plan is to remove an existing house and two sheds on the property located at 329 South Jefferson Street. All Middletown Municipal Code requirements have been met. Letters have been sent to the adjacent property owners informing them of the proposed demolition. The property has also been posted. The demolition and removal of materials is to be performed by a licensed contractor. The buildings material is being tested for lead, asbestos and other hazardous material prior to its demolition. Additional precautions and remediations have been planned if hazardous materials should be identified. The demolition permit will be obtained from Frederick County once approval is given by the Planning Commission.

- **Director of Public Works Recommendations** - The Director of Public Works recommended that the applicant and/or its contractor cap the water and sewer connections for protection, and to prevent debris from entering the sewage collection system and water service. He also recommended that the applicant be prepared to water the demolition if dust becomes prevalent, and asks that the contractor use the existing driveway area for loading trucks and for entering the street so as not to damage the edge of the road with dump trucks.
- **Demolition Completion** - Town ordinance states that the demolition must be completed within 90 days from Planning Commission approval. The applicant stated that the contractor is not only going to complete the demolition, but once finished would immediately excavate the site for the basement as part of the construction of the new building being proposed for that location. The applicant asked if there was any way to delay the demolition so that it could be done in the Spring of 2015 so the ground was not frozen. The Staff Planner stated that a caveat could be given that if not done within 90 days, the applicant could notify the Town Zoning Administrator (and through him the Planning Commission) and establish a new timeline, or the Planning Commission could in its motion for approval add a condition that could extend the time line. It was suggested that grading and seeding of the property would be required if construction of the new building was not begun. The Town Zoning Administrator would inform the Planning Commission as to construction progress of the property.

Action: Commissioner Smart motioned to conditionally approve the Demolition Plan for 329 South Jefferson Street, conditional upon the approval of a demolition permit from Frederick County, demolition to begin within the next 60 days, and must be completed within 90 days from the start of demolition, the Town Zoning Administrator must be notified of the demolition date prior to demolition commencement and the demolition must include the Director of Public Works recommendations. Seconded by Commissioner Gallagher. Motioned carried (5-0).

Coblentz Property Final Plat – (Tim Quinn was present as a representative for Rodgers Consulting. Randy Frey was present as a representative for Rodgers Consulting. Mike Fitzgerald was present as a representative for Hailey Development LLC.) This is a proposed Neo-traditional development on 24.8 acres located east of North Church Street and north of East Green Street. The final plats are being submitted on two sheets with Sheet 1 showing lot dimensions and metes and bounds, and Sheet 2 showing the various easements needed. Two-sheet submittal per plat is necessary because if all the information was placed on one sheet the plat would be difficult to read. The Frederick County Health Department has the plats for review.

- **Plat Discrepancies** – It was noted that on Green Street there is no sidewalk identified. The applicant stated that the sidewalk is within the existing right of way. Parcel A shows a sidewalk easement with no arrows. The applicant stated there will be a sidewalk there. North side of lots 27 and 28 show setbacks of 20 feet. Lot 29 shows setbacks of 8 feet. The applicant stated that this is because Lot 29 is a corner lot. The Preliminary Plan shows that all buildings in those lots are in alignment. The applicant agreed to make the appropriate changes to the plats as noted.
- **Director of Public Works Recommendations** – The Director of Public Works noted that Plat 3, HOA Parcel B has a public sidewalk located on it. A sidewalk easement will be needed for the sidewalk. Plat 4, Sheet 2 has a storm drain that extends across lots 49 and 50. There is no public storm drain easement shown at the same location. Lots 45 and 46 show a public storm drain easement. He questioned if it should be changed to a private easement. The applicant stated that for consistency across all the plats that storm drain easement will change from a public easement to a private easement. The applicant will review all plats for consistency in terminology. Easement covenants will be addressed between the developer and the Home Owners Association.
- **Recording the Plats** – The developer plans to record the plats in phases. Two plats will be recorded first (20 lots). The others will follow at a later time. The property for development is currently owned by Coblentz L.L.C.. It will convey/transfer to a different company prior to Plat signature. The developer will get a new title report prior to recording the Plats.

Action: Commissioner Miller motioned to conditionally approve the Coblentz Property Final Plats, conditional upon Frederick County Health Department approval, that guarantees and public works agreements are in place and reflect any changes prior to signature, that location and size of water and sewer lines on the plats is waived, and that recommendations by both the Director of Public Works and Staff Planner have been met. Seconded by Commissioner Smart. Motion carried (5-0).

Cross Stone Commons Update – The Staff Planner reported that the addition plat has been signed and recorded. The developer is moving forward on the CVS building permit. The developer is also finishing up the improvement plan for signature. A question was asked if the public works agreement had to be signed prior to construction commencement. The Staff Planner will look in to that.

IV. ZONING

Gun Retail Business Regulations – (Lester Hurst, town resident, was present for discussion of this issue.) A request was made at the August 2014 Town Board meeting to implement Gun Retail Business regulations similar to what was implemented for Adult Entertainment Businesses. The Town Board forwarded this issue to the Planning Commission for discussion. The Staff Planner stated that while it is illegal for the Town to prohibit those businesses, other municipalities across the country have regulated gun sales within their limits.

Chicago has instituted an ordinance that prohibits gun businesses within a five hundred foot radius of parks, schools, and playgrounds. She stated that there are regulations in place for firing ranges as well.

- **Federal Firearm License (FFL)** – Mr. Hurst (1 Woodmere Circle) stated that he understood the ordinance would address retail gun sales within the Town, but asked if the Planning Commission was aware that there are individuals in Town that possess Federal Firearm Licenses. These individuals transfer firearms that are purchased on the internet. They do the background check on the purchaser/owner, hold the gun during the waiting period, and once approved, they then pass the gun over to the purchaser/owner. Mr. Hurst stated these federally licensed individuals should be excluded from retail gun sales ordinances within the Town as they are not selling the firearm, only holding/transferring the firearm during the purchase process. This process is followed for the purchase and procurement of handguns only. Rifles and shotguns can be purchased directly through a retail store. It was stated that these FFL individuals will have to complete the Home Occupation process with the Zoning Administrator as they are a home based business operating within Town limits.
- **Town Oversight** - The question was raised as to how much oversight the Town should take in this gun retail business process. Mr. Hurst stated that the State of Maryland has some of the strictest gun control laws in the country. With oversight by both State & Federal authorities he was unsure if Town oversight was needed. It was suggested that gun retail businesses potentially located within commercial zones in Town could need a special exception approval. The Planning Commission recommended that this topic be an item on the combined Town Board/Planning Commission meeting in January.

Action: None taken.

Violations –

- **Illegal Parking on Properties**– The Zoning Administrator stated that all reported violations have been closed. These violations consisted primarily of several residents illegally parking their vehicles, or recreational vehicles where they are not supposed to, or without proper screening. Residents have complied once notified.
- **Storage Container at Middletown Library** – The Frederick County Public Library will come before the Planning Commission at the December meeting regarding a storage container currently on-site at the Middletown Library.
- **Thompson Funeral Home Parking Lot** – The parking lot behind the building has been paved. Landscaping still needs to be completed. Pavement markings have not been added yet. The Zoning Administrator will be checking periodically for any signs being erected there. If so they will have to go through the approval process.
- **Political signs** – The Zoning Administrator reported that the majority of the political signs have been removed from properties. Sign size for future political signs needs to be addressed. The Town Ordinance currently allows signs up to six square feet to be displayed. The question of what to do with those political signs larger than 6 square feet was asked. Another question concerning the length of time a political sign could be displayed was asked. It was decided that this should be an item for the next combined Town Board/Planning Commission meeting in January.

The Zoning Administrator informed the Planning Commission that there will be two Board of Appeals Hearings on Wednesday, November 19, 2014, beginning at 7pm. One hearing is in regards to Chesterbrook Phase 2 requests for variances. The second is in regards to 329 South Jefferson Street requests for variances.

V. MISCELLANEOUS –

- **Planning Commission Rules of Procedures Amendment** – The Planning Commission Rules of Procedure Amendment has been signed. The Staff Planner stated that they will be saved in pdf format and placed on Blue Beam for Planning Commission members to access.
- **Blue Beam** – If any Planning Commission member is still having problems with the Blue Beam program they can contact the Blue Beam Help Desk or the Staff Planner for assistance. The Staff Planner stated that there are training videos available to view for assistance as well.

VI. ADDITIONAL PUBLIC COMMENTS – None.

Meeting adjourned at 8:05pm.

Respectfully submitted,

Annette Alberghini
Recording Secretary