

# MIDDLETOWN PLANNING COMMISSION

Middletown Municipal Center  
31 West Main Street, Middletown, MD 21769

February 13<sup>th</sup> Workshop agenda for the February 18, 2019 Meeting  
(agenda is subject to change as a result of discussions at the workshop)  
7:00 p.m.

- I. Public Comment
- II. Miscellaneous
  - Introduce new Planning Commission member – Temp. Alternate Eric Ware
- III. Minutes of January 2019 Planning Commission workshop Approval
- Minutes of January 2019 Planning Commission meeting Approval
- III. Plan Review
  - Zion Lutheran Church Addition Plat Review/Approval
  - The Valley School Revised Site Plan Review/Approval
- IV. Zoning - None
- V. Comprehensive Plan Review
  - Comprehensive Plan Update – Timeline Review
- VI. Miscellaneous
  - PC Rules of Procedure Review
- VII. 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 12:00pm 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.**

Maryland law and the Planning Commission's Rules of Procedure regarding ex parte communications require all discussion, review, and consideration of the Commission's business take place only during the Commission's consideration of the item at a scheduled meeting. Telephone calls and meetings with Commission members in advance of the meeting are not permitted. Written communications will be directed to appropriate staff members for response and included in briefing materials for all members of the Commission.

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

**Workshop**

**January 16, 2019**

The regular workshop of the Middletown Planning Commission took place on Wednesday, January 16, 2019 at 7:00 p.m. at the Middletown Municipal Center, 31 West Main Street, Middletown, MD 21769. Those present (quorum) were Commission Chairman Mark Carney, Commission Members Rich Gallagher, Bob Miller, David Lake, Alternate Dixie Eichelberger, and Eric Ware, Temporary Alternate. Others present in official capacity: Cindy Unangst (Staff Planner). Members of the public in attendance: Mark Crissman (DMW). David Lingg, Mark Lancaster, Burgess Miller, Bob Smart, Jane Weir, Elizabeth Bauer, Chris Goodman, Rich Favarulo, Bernard Pond, and Matthew Foreman.

**JANUARY MONTHLY PLANNING COMMISSION WORKSHOP:**

**PLAN REVIEW** –

**Cross Stone Commons Revised Forest Conservation Plan** - Cindy read thru her staff report. The commission members asked, and were given answers to, questions such as what the seedling size is, how will mowing be done, why the applicant is asking for the revision, and how long a seedling will take to get to the size of a larger stock tree.

**ZONING** –

**Self-Storage Facility Special Exception Use** – Cindy read thru her staff report. Commission member Lake had concerns about the board of appeals determining the hours of access for the self-storage facility before a site plan is even reviewed, whether the property has proper access to Alternate 40, and the determination of whether the self-storage facility is accurately an accessory use to a primary business. Due to the discrepancy in the town code concerning whether the self-storage use is a primary use as a special exception in the GC district, or whether it is an accessory use, Cindy was asked to contact the town attorney for his opinion. The revisions to the concept plan from the review last May were discussed.

**COMPREHENSIVE PLAN REVIEW** –

**Comprehensive Plan Update – Introduction – Chapter 1** – Cindy reviewed the timeline for the update, and Burgess Miller informed the commission members about the plans to have forums for public input.

**MISCELLANEOUS** – Chairman Carney expressed the desire by the owner of the Fratelli's Restaurant to temporarily pave the Building #2 pad site at Cross Stone Commons for additional parking.

**Workshop adjourned at 8:20pm.**

Respectfully submitted,

Cynthia K. Unangst, AICP  
Middletown Staff Planner

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

**Regular Meeting**

**January 21, 2019**

The regular meeting of the Middletown Planning Commission took place on Monday, January 21, 2019 at 7:00 p.m. at the Middletown Municipal Center, 31 West Main Street, Middletown, MD 21769. Those present (quorum) were Commission Chairman Mark Carney, Commissioner Tom Catania (Ex-Officio), Commission members David Lake, Rich Gallagher, Bob Miller, Dixie Eichelberger (Alternate) and Eric Ware (Temp Alternate). Others present in official capacity: Cindy Unangst (Staff Planner) and Annette Alberghini (Recording Secretary). Others present: David Lingg (Lingg Property Consulting), Mark Lancaster (Lancaster Builders), Bob Smart (resident), Richard Favarulo (resident), John Huegelmeyer (resident), and Peter Regan (resident).

**JANUARY MONTHLY PLANNING COMMISSION MEETING:**

**I. PUBLIC COMMENT** – John Huegelmeyer, 110 Manda Drive, had several questions concerning the Dowd property development. He was asked to hold his questions until the public comment at the end of the meeting because his questions might be answered when the Dowd property agenda items are discussed.

**II. ELECT PLANNING COMMISSION CHAIR AND VICE CHAIR FOR 2019**

- **Planning Commission Chair** – The Staff Planner opened the floor to accept nominations for Chair of the Planning Commission for 2019. Commission member Gallagher nominated Mark Carney as Planning Commission Chair for 2019. Seconded by Commission member Eichelberger. There were no other nominations. Motion carried (4-0).
- **Planning Commission Vice Chair** – The Staff Planner opened the floor to accept nominations for Vice Chair of the Planning Commission for 2019. Commissioner Catania nominated Rich Gallagher as Planning Commission Vice Chair for 2019. Seconded by Commission Chair Carney. There were no other nominations. Motion carried (4-0).

**III. Regular Workshop Minutes of November 14, 2018** – Approved as submitted.

**Regular Meeting Minutes of November 19, 2018** – Approved as submitted.

**IV. PLAN REVIEW**

**Cross Stone Commons Revised Forest Conservation Plan** – (David Lingg (Lingg Property Consulting) present). The current Forest Conservation Plan (FCP) was approved in May of 2014. The revised Offsite Forest Conservation Plan has been submitted to the Maryland Department of Natural Resources for review and approval. The plan indicates that the Forest Conservation requirement will be met via offsite mitigation with planting to be done at Wiles Branch Park. The location within Wiles Branch Park was reviewed via a map. The revised proposal intends to use smaller seedling stock instead of larger nursery stock. Town Code lists the preferred sequence for afforestation and reforestation. Offsite afforestation or reforestation using whip and seedling stock is listed directly after nursery stock that is greater than 1.5 inches in diameter in the preferred sequence. Staff recommends approval of the revised plan using the container grown seedling size which complies with the Code requirements. Staff will also note that since the offsite planting area will be done on a steep slope, it will be important to develop a good site preparation and maintenance strategy for key survival of the trees.

- **Proposed Tree Planting** – The revised Offsite FCP is proposing two other tree stocking options. One specifies that 401 container grown overstory seedlings instead of 128 1.5" caliper trees, and 72 container grown understory seedlings instead of 22 1.5" caliper understory trees are proposed to be planted to meet the town's regulations for afforestation. The other option proposed would be bare root seedlings with 625 deciduous overstory plantings and 110 understory plantings. The proposals would use the same ratio of overstory plantings (85%) to understory plantings (15%) currently approved with the larger stock.
  - **Survival Rates** - Bare root seedlings and container grown seedlings have minimum stocking ratios and survival rates which are different than the requirements for larger trees. The survival rate is lower for bare root seedlings (55%) because the stock density per acre is higher (700/acre), than for the container grown seedlings with a 65% survival rate and a minimum 450/acre density. If fewer trees are planted per acre, then the survival rate requirement increases. The contractor the developer will use to do the planting recommended the use of smaller stock on the steep slope where the planting will take place for better survival rates. Town Code dictates that reforestation survival rate is 65% over two growing seasons. The Staff Planner will physically count the seedlings each growing season to determine the survival rate. If the number is less than 65%, the developer is notified and must plant more seedlings to meet the Town Code.
  - **Seedling Spacing** – The question was raised as to the new seedling spacing requirement with the usage of smaller plants. According to the Maryland State Forest Conservation Technical Manual bare root seedlings or whips must be planted 8 feet apart. Container grown seedlings must be planted 10 feet apart. The revised plan meets these conditions.
- **FRO Cost Estimates** – The dollar amount used for the 1.05acre planting with the seedling stock should be \$5,227.20 per acre instead of \$7,405.20 which is shown. Therefore, the dollar amount for the 1.05-acre planting should be \$5,488.56; the subtotal should be \$7,848.56; the 15% contingency should be \$1,177.28; and the surety should be \$9,025.84. These discrepancies must be addressed and can be completed at the staff level.
- **Timing** - According to Town Code, a person required to conduct afforestation or reforestation shall accomplish it within one year or one growing season, whichever is a greater time period, following development project completion. There is a concern that the afforestation might not take place for many, many years if Building #2 doesn't come to fruition soon. It is recommended that if this revised plan is approved, the plantings might take place this spring, or once Building #4 is completed either this fall or next spring. The developer intends to plant the seedlings within a year after building #4 is completed.

**Action:** Commission member Lake motioned to approve the Cross Stone Commons Revised Forest Conservation Plan using staff recommendations and using the container grown stock. Seconded by commission member Miller. Motion carried (4-0).

## V. ZONING

**Self-Storage Facility Special Exception Use** – (David Lingg (Lingg Property Consulting) and Mark Lancaster (Lancaster Craftsman Builders), present). There is a conflict within the Town Code regarding storage facilities as a primary versus accessory use. The Planning Commission is tabling this item until this conflict is reviewed and resolved by the Town Board.

**Action:** Item tabled.

**Middletown Valley Center Revised Concept Plan** - (David Lingg (Lingg Property Consulting) and Mark Lancaster (Lancaster Craftsman Builders), present). This is for the proposed development of 48,800 square feet of commercial space in three separate buildings with 208 parking spaces, with a self-storage facility in the

rear of the property; located on the north side of US Route 40-A just east of the Safeway shopping center. The area is zoned GC General Commercial and is currently a vacant lot. This district permits numerous uses along with numerous special exception uses 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. A revised copy of the concept plan was received today and distributed to Planning Commission members and the Town Engineer for review.

While the previous plan showed two one-story buildings and one two-story building, the revised plan shows two one-story retail pads and one three-story office building. The proposed retail square footage dropped from 24,450 square feet to 9,200 square feet. The proposed office square footage increased from 28,050 square feet to 39,600 square feet. The prior concept plan had a much smaller proposed indoor self-storage square-footage area than the revised plan although it encompasses the same space. The proposed indoor self-storage buildings are 8,400 square feet each with an additional 600 square foot office. The prior concept plan showed 296 parking spaces plus 13 for the self-storage use, while the revised plan shows 208 parking spaces plus 8 for the self-storage use. The Town Code does not identify the number of parking spaces required for self-storage facilities. The revised plan also shows how the proposed parking would be integrated with the existing parking in relation to drive aisles and so forth. The developer stated that this revised concept plan will meet the State regulations for stormwater management because of the additional landscaping that will occur. The developer provided the Planning Commission with a copy of the proposed architectural rendering of the 3-story building. It meets the Town Code for height and will not be much taller than the Safeway building.

- **Transportation Plan** - The revised plan shows a proposed 30-foot wide common access to the property from Old National Pike which includes land from the AC Jets property. The granting of access to the property at that location will be determined by the State Highway Administration. A letter was received from The Traffic Group along with Exhibit 1 entitled Trip Generation for Subject Site. Based on a review of the letter and exhibit, several questions emerged. The letter indicates that the development is projected to generate 59 AM and 75 PM trips. It also states that the development would not have a major impact on the roadway network with about 1 trip/minute coming to or from the site. When the Traffic Impact Analysis is completed, staff would like to better understand how one trip per minute would not be a major impact. Exhibit 1 suggests (in parenthesis) that due to the size of the office building, AM trips are too high by using the equation, and therefore, PM trips were used for AM. Again, that statement appears to be improper and an explanation should be included in the more detailed assessment of the traffic impact study. Staff recommends that the developer hold discussions with the shopping center owner to discuss possible improvements to the circulation into and through the property to make the necessary connections to the proposed development. If the rear of the proposed development is to include RV and boat storage, the turning radiuses within the two properties will need to be examined.
- **Property Easements & Access** – The developer gave a simplified overview of the easements that were granted to the property in 1983. One is an easement, and potential access, from the Safeway Shopping Center which delineates possible reciprocating benefits to each property involved. A second easement, and possible access, is from US Alt 40 and is located on the southeast corner of the property. There is no access from the west to the proposed self-storage area. The developer was asked to provide a copy of the easement information to the Town Engineer and the Town Attorney for review.
- **Town Residents Comments and Concerns** –
  - Richard Favarulo, 103 Manda Drive – This revised concept plan shows no buffering or screening to surrounding properties, and how will the lighting impact neighboring properties? Landscaping, lighting and architectural review are addressed at the Site Plan Review. Residents are welcome to attend those meetings to give input.
  - John Huegelmeyer, 110 Manda Drive – Even if there is DOT allowed access from US Alt. 40, most individuals will access the development through the Safeway parking lot which is already busy and overcrowded. He is against a 3-story building because of

possible stalker/voyeur potential. He is also against recreational vehicle and boat storage at this proposed self-storage because of the range of possible vehicles stored there and the varying degrees of upkeep they may be in, and also because of the potential of those owners working on their vehicles at that location and the noise it will generate. Again, those issues can be addressed at the Site Plan Review.

- Bob Smart, 7525 Coblenz Road, - Asked if it was possible for the proposed architectural rendering of the 3-story building provided to the Planning Commission be placed in the appropriate place on the Planning and Zoning page of the town website for others to see. Staff will place it on the website as requested.

The residents in attendance were recognized for their interest and concerns with this proposed development. They were encouraged to bring their concerns to the Site Plan Review for this project once scheduled.

**Action:** None taken.

## V. COMPREHENSIVE PLAN REVIEW

**Comprehensive Plan Update - Timeline** – The Staff Planner reviewed the draft 2020 Comprehensive Plan time line. In February 2019 there are several public forums scheduled for residents to give their input, with the possibility of more in the future as this update progresses. Public input will help drive some of the goals. An intern has been assisting with updating GIS so that areas will be more readily identifiable. This may also help with the inclusion of more graphics in the finished 2020 Comprehensive Plan. In 2013 the Maryland General Assembly changed the requirement for an update to every 10 years.

## VI. MISCELLANEOUS

## VII. ADDITIONAL PUBLIC COMMENT

- Rich Favarulo, 103 Manda Drive – With the Dowd property cleared of trees and brush, the lights from the Safeway Shopping Center now shine onto the neighborhood properties behind the Dowd property. He hopes that something will be done to address that if development is going to take a while. The Town Administrator is taking night time pictures of the lighting of the property. It was suggested that perhaps the owner of Safeway can make some adjustments to the current lighting.
- Peter Regan, 109 Manda Drive – Does not understand why the developer got rid of the third building. What happens if no one rents the space of the new development? Who maintains those buildings? It is too soon in the development process to have identified renters of the spaces in the proposed development. The Town and the developer both do not want the buildings to stand vacant. Mr. Regan also stated how rough the property was looking with all the trees torn out. He was wondering if anyone was watching what happens to the run off when it rains. The Soil Conservation District and Frederick County Stormwater Management are aware of the clearing of the site. There are environmental requirements that must be met when a site is cleared. If there are any problems, they are the ones to be notified.

**Meeting adjourned at 8:22pm.**

Respectfully submitted,

Annette Alberghini  
Recording Secretary

## Middletown Planning Office

### MEMORANDUM

Date: 2/5/2019  
Hansen# n/a

To: Middletown Planning Commission

From: Cynthia K. Unangst, Middletown Staff Planner

RE: **EVANGELICAL LUTHERAN CHURCH ZION ADDITION PLAT**

Tax Map Identification #03-144127 and #03-130363

Applicant: Jim Gauss, R.F. Gauss & Associates, Inc.

Property Owners: Evangelical Lutheran Church Zion

Plan Dated: January 2019

Date Received: February 1, 2019

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#### GENERAL INFORMATION

Proposal: both lots being considered for this addition plat are owned by the church; addition of Parcel A (5513.6 square feet) at the corner of Elm Street and West Green Street to the original area of the main church lot (Parcel 46/40) will result in a lot area of 74,235.6 square feet or 1.7044 acres; remainder of Parcel 6137/234 will result in a lot of 5,535.4 square feet or 0.1270 acres.

Location: Situated on West Main Street, Elm Street and West Green Streets

Zoning: TC Town Commercial. This district is intended to provide areas for frequently used retail, service and employment establishments while maintaining the basic character of the area in which they are located. Residential uses are a permitted use in the TC district.

Present Use: Church and commercial

#### COMMENTS

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

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

- b. If over five acres remain, a deed plotting can be used; *n/a*
  - 4. Signature of a registered surveyor certifying it as an accurate survey; *Will be signed prior to Plat recordation*
  - 5. A signature block for the planning commission's approval; *Shown*
  - 6. 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;" *Shown*
  - 7. A road dedication, if applicable. *n/a*
- B. No transfer of land shall be approved if the original lot from which the transfer was made causes said lot to be less than the minimum lot size for its zoning district or causes the lot to be in violation of any other applicable zoning or health requirements. *See comments in #3 below*
  - C. The approved survey plat shall be recorded with the clerk of the circuit court. *Acknowledged*
2. **Nonconforming structure** - The existing white brick building on the remainder lot that fronts West Main Street is an existing nonconforming principal structure to the front and side yard setbacks.
  3. **Required lot area, lot width and yards in the town commercial district** – Note 6 states the incorrect minimum building restriction lines for the Town Commercial district. The front yard depth is to be determined by the planning commission, each side yard is to be 5 feet, and the rear yard is to be 25 feet in depth. There is no minimum lot area or lot width in the Town Commercial district. For residential uses in the Town Commercial district, the R-3 setbacks are to be used which are a front yard of 35 feet, 12-foot side yards and a rear yard of 40 feet. Residential uses in the TC district shall meet the lot area requirements of the R-3 district which requires a minimum lot area of 6,000 square feet and a minimum lot width of 60 feet. If the remainder lot were to be used exclusively for residential purposes, it would not meet the necessary minimum lot area or lot width. The plat should show how the rear setback is being met for the remainder lot.
  4. **Plat information clarification** – It would be helpful if the applicant would better delineate the parking areas shown on the plat, and show the grassy areas on the lots. It isn't entirely clear that the measurement of 297.80 shown on the east side of the remainder lot is the distance from West Green Street to L4. The abbreviation for building is incorrect on the building adjacent to West Greet Street. If there is room on the plat, it would be helpful to add the words 'line to be vacated' to the border of Parcel A as appropriate.
  5. **Submittal to ARRO Engineering** – The plat was submitted to ARRO Engineering for review.
  6. **Submittal to Frederick County Health Department** – The plat was submitted to the Health Department for review and approval. All plats are reviewed and approved by the Health Department, although since the department does not sign addition plats, no Health Department signature block is required.

**RECOMMENDATION**

**Staff recommends that the Planning Commission conditionally approve the Evangelical Lutheran Church Zion Addition Plat taking into effect the staff comments for revisions to the plat, approval by the Health Department, and with the understanding that any future development or change of use of the parcels on this plat for development will be submitted in the regular manner for approval in accordance with the provisions of the existing zoning regulations.**

This review will be included in the Middletown Planning Commission materials for the February 18, 2019 public meeting. The applicant is encouraged to attend this meeting and the workshop on the Wednesday prior to the meeting which will be February 13, 2019.

cc: Jim Hoover, Zion Lutheran Church Administrator

17.20.060 - Required lot area, lot width, and yards in commercial districts.

The following requirements apply in commercial districts:

	Minimum Lot Area	Minimum Lot Width	Front Yard Depth**	Each Side Yard**	One Rear Yard in Depth**
TC general commercial*	None	None	To be determined by planning commission	5 feet	25 feet
MB mixed business	1 acre	100 feet #	30 feet #	30 feet #	30 feet #
GC general commercial***	None	None	40 feet	20 feet	40 feet

\* Residential uses in the TC district shall meet lot area requirements of the R-3 district.

\*\* Yards adjacent to a residential district (not lot) are measured from structure or parking area, whichever is closest to the lot line, and must be equal to the height of the building or required dimension, whichever is greater.

\*\*\* Yard requirements in the GC district are measured from the parking area or structure, whichever is closest to the lot line.

# See Section 17.20.015(C)(2). Any lot on which a structure exceeding thirty (30) feet in height is situated, the thirty (30) foot setback requirement shall be increased by one foot for every foot of the structure which exceeds thirty (30) feet in height. Additionally, for any portion of a structure which is adjacent to a residential district or state highway, the setback requirement is one hundred (100) feet. The one hundred (100) foot minimum lot width may be modified by the planning commission.

(Ord. No. 15-05-01, § 1, 5-11-2015, eff. 10-1-2015; Ord. 04-09-02 § 1 (part), 2004; Ord. 182 § 6.5, 1976)



210 WEST MAIN STREET

208 WEST MAIN STREET

206 WEST MAIN STREET

103 WEST MAIN STREET

205 WEST MAIN STREET

207 WEST MAIN STREET

201/203 WEST MAIN STREET

ELM

123 WEST MAIN STREET

117 WEST MAIN STREET

101 WEST MAIN STREET

JEFFERSON

4 NORTH JEFFERSON STREET

29 WEST MAIN STREET

23 WEST MAIN STREET

17 WEST MAIN STREET

8 WEST GREEN STREET

10 WEST MAIN STREET

GARAGE

5-7 West Main Street

GREEN

JEFFERSON

MAIN





## Middletown Planning Office

### MEMORANDUM

Date: 2/5/2019

To: Middletown Planning Commission

From: Cynthia K. Unangst, Middletown Staff Planner

RE: **THE VALLEY SCHOOL REVISED SITE PLAN**

Tax Map Parcel #03-588489

Applicant: Hebba Hassanein, Owner

Property Owner: LAM Properties, LLC

Plan Dated: May 2013, Revised February 4, 2019

Date Received: February 4, 2019

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#### GENERAL INFORMATION

Proposal: Addition of a shed to store classroom supplies and equipment, not to exceed 150 square feet

Location: 30 East Green Street, approximately 850 feet east of the intersection of East Green and North Church Streets

Zoning: R-2 Medium Density Residential

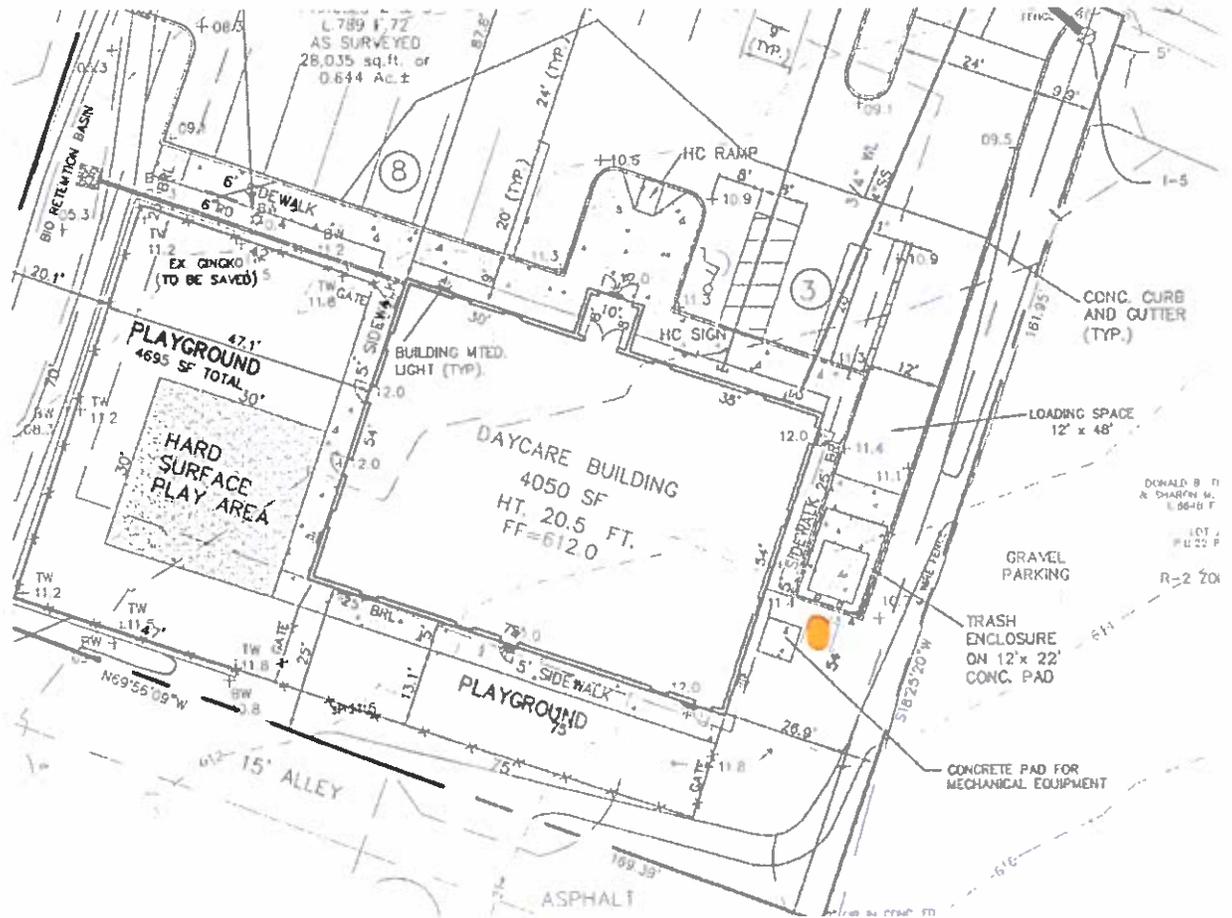
Present Use: Child care center

#### COMMENTS

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

1. **Proposed shed** – The property owner would like to add a small shed, less than 150 square-feet in size, to the east side of the property behind the trash enclosure. The shed would be used to store classroom supplies and equipment.

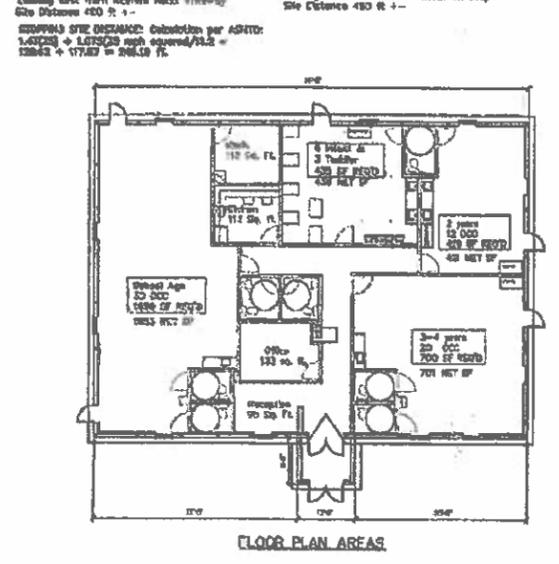
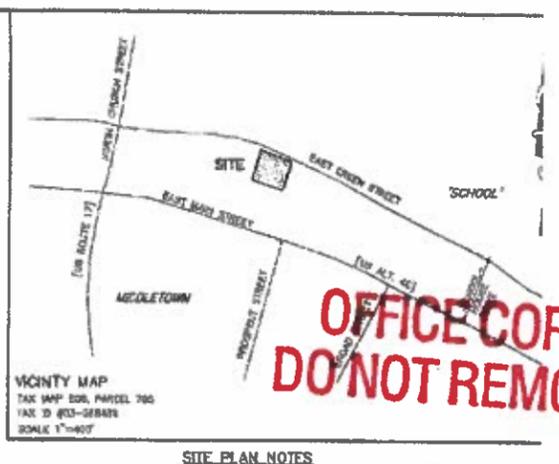
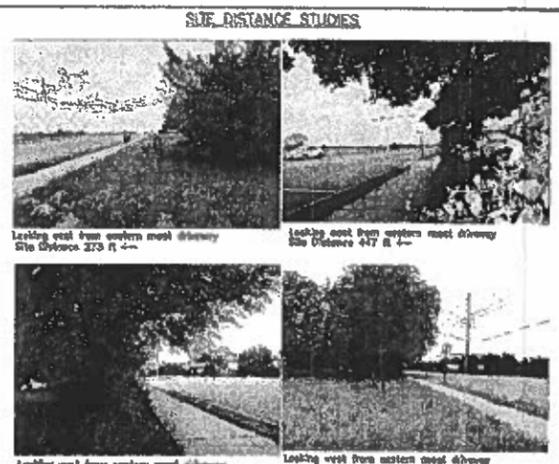
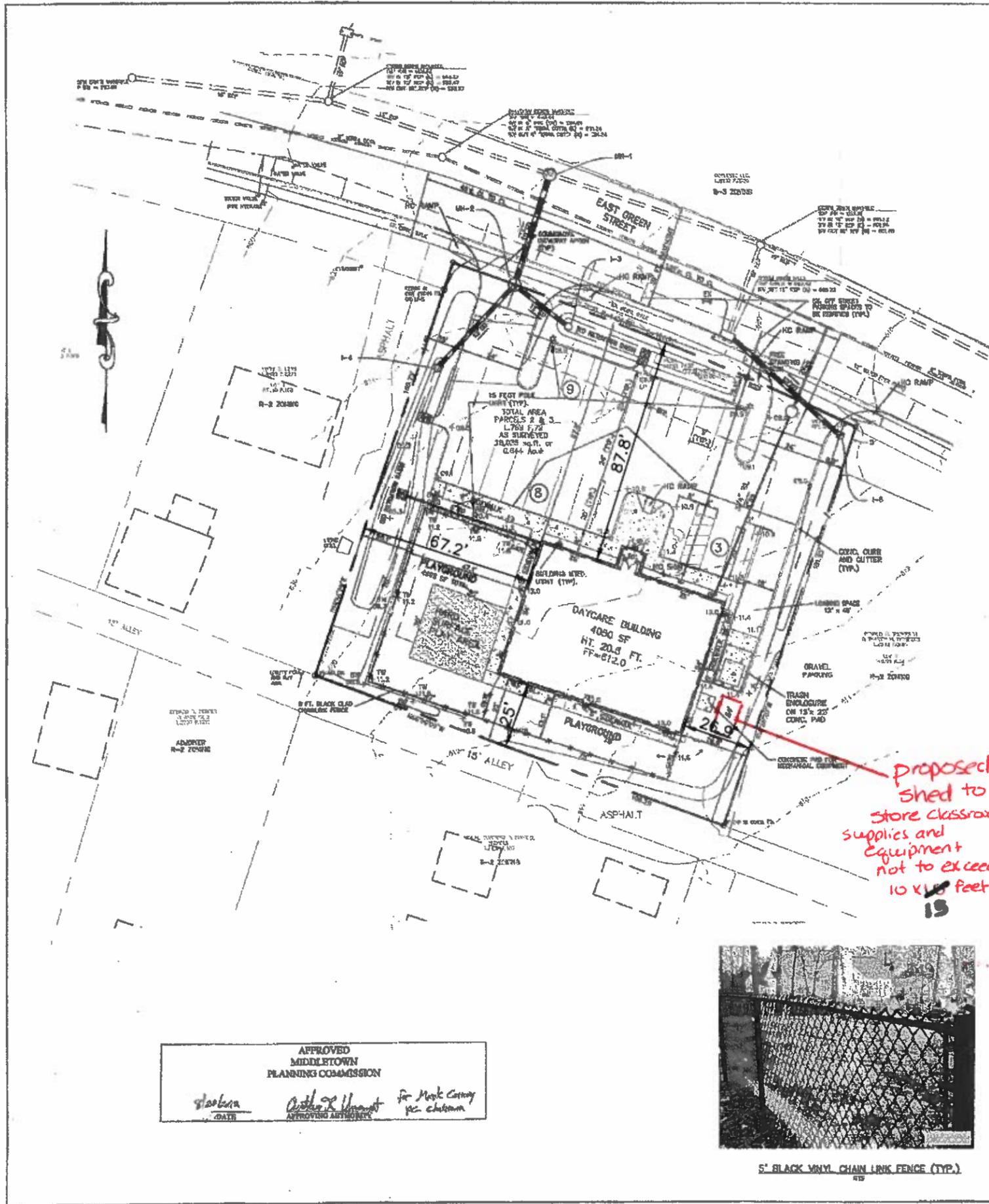




- Existing use and lot requirements**— The existing use is a child care center. Lot area requirements for child care centers are a minimum 12,000 square foot lot area and a minimum lot width of 100 feet. The property is 27,878 square feet with a lot width of roughly 170 feet. The required yard setbacks are 25 feet from all property lines. The setbacks shown for the building are 26.9 feet for the east side yard, 67.2 feet for the west side yard, 25 feet for the rear yard, and 87.8 feet for the front yard. The yard requirement for a one-story accessory building is that it may project into the side and rear yards providing it projects no closer than six feet to the side or rear lot lines. The trash enclosure is 10 feet from the side lot line, and the proposed shed would be in line with the enclosure. Proposed shed location is highlighted in yellow in the above diagram.

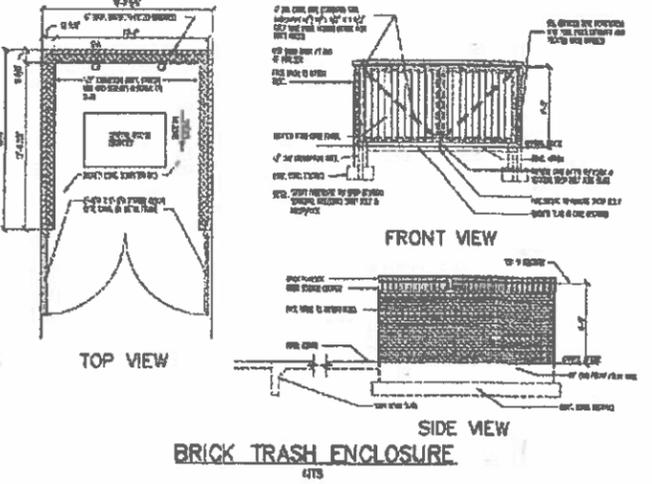
This review will be included in the Middletown Planning Commission materials for the February 18, 2019 public meeting. The applicant is encouraged to attend this meeting and the workshop on the Wednesday prior to the meeting which will be February 13, 2019.

cc: LAM Properties



- SITE PLAN NOTES**
- SITE INFORMATION:** The site is located at 30 East Green Street, Middletown Maryland. It is 54 acres or 23,520 sq. ft. The legal reference is found at Liber 9827, Page 205.
  - ZONING:** R-2, Medium Density Residential
  - DEVELOPMENT HISTORY:** May 8, 2013 Middlesex Board of Appeals approved a Special Exception for a Child Care Center, Case #13-013-2.
  - EXISTING USE:** Garage and shed, rubber tree crop.
  - PROPOSED USE:** 4,000 sq. ft. Daycare Center
  - AREA BOUNDARY:**  
Total Lot Area: 23,520 sq. ft.  
Building: 4,000 sq. ft.  
Asphalt/Concrete Paving: 18,017 sq. ft.  
Playground: 4,841 sq. ft.  
Open Space: 5,370 sq. ft.
  - DESIGN REQUIREMENTS:**  
Front Yard Setback: 25 ft.  
Side Yard Setback: 25 ft.  
Rear Yard Setback: 25 ft.  
Minimum Lot Area: 12,000 sq. ft.  
Minimum Lot Width: 100 ft.
  - FLOOR AREA CALCULATIONS:** 35 sq. ft. of usable space required for each child required. 2010 sq. ft./70 children = 28.86 sq. ft. per child provided.
  - WATER AND SEWER:** Water and Sewer service will be provided by the Town of Middletown.
  - ENVIRONMENTAL FEATURES:** There are no wetlands per the observation of 100 year floodplain per FEMA Community Panel # 240402 2009.
  - FOREST CONSERVATION ORDINANCE:** After installation requirements will be met by payment of fee in lieu of \$4,179.10 as approved by the Planning Commission.
  - STORMWATER MANAGEMENT:** Stormwater management will meet the 2007 Maryland Stormwater Design Guidelines. Storm drain from lot-adjacent areas will be less than 15' above ground located in E. Green Street.
  - SITE LIGHTING:** Building mounted lights and 5-10 foot pole lights will provide lighting for the site. The building and site will not be lit up on weekends or after 6:30 pm.
  - PARKING REQUIREMENTS:** 1 space per 7 students (71) plus one space for each employee (10). 7 / 71 = 18 spaces plus 10 spaces = 28 spaces total required. 20 spaces provided (Exclude accessibility spaces).
  - LOADING SPACE:** One space per 1,000 sq. ft. of required. One loading space 12 ft. wide and 28 ft. long provided.
  - SIGN REGULATIONS:** Daycare will have one monument sign not to exceed 4 feet in height. Area of sign cannot exceed 1 sq. ft. of roof drainage to a maximum size of 20 sq. ft. 178 ft. / 8 = 22.25 ft. allowed, 12-18 ft. provided.
  - WASH COLLECTION:** Will be provided by private container from Dumpster location shown on plan.
  - HANDICAPPED ACCESSIBILITY:** The project will meet the requirements of the Maryland Accessibility Code, COMAR 05.08.02.
  - PLAYGROUND:** SEE COMAR 13A.16.08.02 regarding playground size and to administered by the MD State Department of Education Office of Childcare. An activity area must have at least 75 sq. ft. per child for 1/2 of the approved capacity. 75 x 30 students = 2,250 sq. ft. required, 4,000 provided.

*Proposed shed to store classroom supplies and equipment not to exceed 10 x 15 feet*



**Harris Smariga & Associates, Inc.**  
Planners/Engineers/Surveyors  
103 South Carroll Street, Suite 104, Frederick, MD 21701  
301-222-4400 / FAX 301-682-6806

**REVISIONS:**

1-13-13	1 revision per town comments
2-20-13	Revised per PC meeting

**FINAL SITE PLAN**

FOR  
**THE VALLEY SCHOOL**

SECOND AND THIRD PARCELS  
AS RECORDED IN LIBER 789 AT FOLIO 72

SITUATED ON EAST GREEN STREET  
TOWN OF MIDDLETOWN  
MIDDLESEX ELECTION DISTRICT 16-3  
FREDERICK COUNTY, MARYLAND

SCALE: 1"=20'  
DRAWN BY: AHW  
CHECKED BY: MAM  
DATE: MAY 2013  
SHEET: 1 OF 1  
PROJECT: 7491  
SP-

**RECEIVED**  
FEB 04 2013  
TOWN OF MIDDLETOWN, MD

March 17, 2016

Maryland Department of Planning  
Attn: Charles Boyd  
301 West Preston Street, Room 1101  
Baltimore, MD 21201

**RE: SENATE BILL 236: SEPTIC TIER MAP AND COMPREHENSIVE PLAN**

Dear Mr. Boyd:

The Burgess & Commissioners of Middletown recently held a joint workshop with the Middletown Planning Commission to review the Town's Comprehensive Plan approved in March 2010. After reviewing the goals and recommendations of the Plan, it was mutually decided not to update the Plan at this time and instead to plan an update in conjunction with the 2020 Census. Per Table 3 in MDP's publication "Managing Maryland's Growth – Transitioning to the Comprehensive Plan 10-Year Review Cycle," the Middletown Comprehensive Plan will be updated in the 2022-2024 frame as recommended by MDP. There is no intention to include the Septic Tier map into the Town's Comprehensive Plan until that time frame due to the fact that there would be no consequence of not including it at this time. So while MDP has recommended in the guidance document referenced above to incorporate such a map in 2016, the Town will not be going thru the process to do that at this time. According to Frederick County's Septic Tier map adopted February 26, 2013, the entire Town of Middletown is shown as being in Tier 1 as all properties within the town are served by public sewer. The map also shows the properties outside the town boundaries but within the County's Community Growth Area as being in Tier II, which are planned to be served by public sewerage systems. Additionally, two properties to the north of the Town and within the Town's Growth Boundary are shown as being in the County's Tier IIA, which also are planned to be served by public sewerage systems in the future.

If you have any questions, please do not hesitate to contact the Middletown Planning and Zoning Office, 301-371-6171 at your earliest convenience.

Sincerely,  
**BURGESS & COMMISSIONERS**  
**Middletown, Maryland**

John Miller  
Burgess of Middletown

Cynthia K. Unangst, AICP  
Staff Planner

**cc:** File  
Burgess John Miller  
Jim Gugel, Planning Director, Frederick County Community Development Division

## RULES OF PROCEDURE

of the

### MIDDLETOWN PLANNING COMMISSION

EFFECTIVE September 19, 2011 (amended November 21, 2016)

#### FOREWORD

The Rules of Procedure are issued to assist the Middletown Planning Commission in the orderly and efficient conduct of all matters with which the Commission is concerned. In all matters not provided for in these Rules, the applicable rules in the current edition of Robert's Rules of Order Newly Revised govern. All meetings and workshops of the Middletown Planning Commission are subject to the Maryland Open Meetings Act.

#### 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 the Land Use Article (<http://www.michie.com/maryland/lpExt.dll?f=templates&eMail=Y&fn=main-h.htm&cp=mdcode/1f224>) 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 required.

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 for 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.
- 4.5 No member shall vote on a matter in which he (she) has personal involvement or as otherwise specified in the Town'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 Town's Ethics Ordinance (Ethics Ordinance 2014 14-05-02) 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.
- 5.5 Ex-parte communications – Commission members shall refrain from ex-parte communication (meaning communication that occurs outside a formal Planning Commission meeting) regarding matters that will likely come before the Commission for decision. It is important to maintain the impartiality and integrity of the Planning Commission. It is also important that Planning Commission decisions be based solely on information presented in public documents and during open and public meetings. Receiving communication outside Planning Commission meetings denies participants the opportunity to respond to all information upon which Commission members may base their decisions.

## 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 20th day of June, 2016.

ATTEST:

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

11/29/16  
\_\_\_\_\_  
Date

APPENDIX A

ANNOTATED CODE OF MARYLAND  
LAND USE ARTICLE

<http://www.michie.com/maryland/lpExt.dll?f=templates&eMail=Y&fn=main-h.htm&cp=mdcode/1f224>

**Town of Middletown Planning Department**

To: Burgess & Commissioners and Middletown Planning Commission

From: Cindy Unangst, Staff Planner

Date: 2/4/2019

RE: Monthly Planning Update - February

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**Major Subdivisions:**

**Middletown Glen** - Preliminary plans signed – May 29, 2013  
Improvement plans conditionally approved – October 16, 2013  
FRO planting at Remsberg Park completed – February 2017  
All plats recorded at the Courthouse – May 17, 2016 - March 16, 2018

**Site Plans, Plats and Minor Subdivisions:**

**Caroline's View/Horman Apartments-** Site Plan approved – April 21, 2008 (no sunset provisions prior to November 14, 2010)  
Improvement Plans conditionally approved – May 17, 2010 (no sunset provisions prior to 11/10)  
Revised Improvement Plan mylars signed – July 21, 2017  
**Next step – submittal of PWAs for approval and apply for building and grading permits**

**Cross Stone Commons** – Final FRO Plan approved – May 19, 2014  
Revised Site Plan conditionally approved – October 20, 2014  
Improvement Plan mylars signed – November 6, 2015  
Architectural renderings for Building #4 approved – March 19, 2018  
**Revised Forest Conservation Plan approved – January 21, 2019**  
**Next step – submit architectural renderings for building #2 for review/approval**

**Dowd Property** – Forest Stand Delineation approved – April 16, 2018  
Revised Concept plan reviewed by PC – January 21, 2019  
**Special Exception materials submitted for self-storage use – December 21, 2018**  
**Next step – PC review/recommendation and BOA review/approval of special exception for self- storage use**

**Franklin Commons** - Improvement Plans approved – Sept. 21, 2015 (**Plans expired 9/21/2018**)  
Resubmitted site plan conditionally approved – May 21, 2018 (Plans expire May 21, 2021)  
BOA approved height variance request – July 12, 2018 (BOA approval expires July 12, 2019)  
**Next step – resubmittal of improvement plans for review and approval**

**Jiffas** – Site Improvement Plan conditionally approved – October 20, 2008 (no sunset provisions prior to November 14, 2010)

Forest Conservation Plan approved – October 20, 2008

Architectural plans approved by PC – March 16, 2015

BOA approval for variance requests – March 29, 2016 (**Expired March 29, 2017**)

**Next step – apply for variance requests for siting of duplex building**

**Miller (Ingalls)** – Revised Concept Plan reviewed by PC – September 16, 2013

Site plan (Phase III) conditionally approved by PC – July 20, 2015

Improvement plans (Phase III) conditionally approved by PC – June 19, 2017 (Expires 6/19/20)

Improvement plan (Phase III) mylars signed – January 2, 2018

**Richland Driving Range** – Concept plan reviewed by PC – January 18, 2016

Revised Site Plan conditionally approved – January 15, 2018 (Plans expire January 15, 2021)

Improvement Plans reviewed and tabled by PC – September 17, 2018

**Next step – approval of improvement plans by Planning Commission**

**School Complex roadway plans** – Improvement plans and FCP plans reviewed and approved by Town Board – May 8, 2017 (informed in June 2017 that funding was not approved for project)

SWM plans re-submitted to Frederick County and SCD for review/approval – 8/3/17

**St. Thomas More Academy Site Plan revision** – conditionally approved August 20, 2018

**Valley School** – revised Site plan submitted for review and approval – February 4, 2019

**Zion Lutheran Church** – addition plat submitted for review and approval – February 1, 2019

#### **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 by Town Board – October 11, 2010

**Admar Property** – annexation petition sent to PC by Town Board – January 9, 2017

PC approval of consistency with zoning/comp plan – February 20, 2017

Public Hearing - April 5, 2018

Town Board passed annexation resolution – April 9, 2018

#### **Text Amendments:**

#### **Reports:**

**Grants:** MEA Smart Energy Communities grant application – award granted – May 2017

**Meetings:** Next Middletown Green Team Meeting – February 19, 2019

**Next Joint town board/planning commission workshop** – May 6, 2019