

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

**Regular Meeting**

**May 18, 2020**

The regular meeting of the Middletown Planning Commission took place on Monday, May 18, 2020 at 7:00 p.m. via a Zoom meeting. Those present (quorum) were Commission Chairman Mark Carney, Commission members David Lake, Rich Gallagher, commissioner Jean LaPadula (Ex-officio), Bob Miller, Dixie Eichelberger (Alternate) and Eric Ware (Temp Alternate). Others present in official capacity: Cindy Unangst (Staff Planner) and Patty Guyton (Recording Secretary). Others present: Mark Lancaster (Mark Lancaster Properties LLC), Jim Kehoe (Antietam Gallery), Bob Smart (resident), Lori Benedetto (resident), commissioner Jennifer Falcinelli, commissioner Rick Dietrick, and John Miller (Burgess).

**PUBLIC HEARING – ORDINANCE 20-03-01 – FOREST CONSERVATION-** No comments were made at the hearing. The Planning Commission will move forward with their recommendation to the Town Board.

**MAY MONTHLY PLANNING COMMISSION MEETING:**

- I. PUBLIC COMMENT** – None.
- II. Minutes of the April 2020 Planning Commission Workshop** – Approved as submitted.  
**Minutes of the April 2020 Planning Commission Meeting** – Approved as submitted.

**III. PLAN REVIEW**

**Hollow Creek Professional Center Architectural Renderings** – Mark Lancaster (Mark Lancaster Properties, LLC) present. This is for the proposed development of 47,970 square feet ± of commercial space in three separate buildings with 205 parking spaces, and 2± acres reserved for future development; 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.

During the past two months, the commission members reviewed the proposed changes that were made to the 3-story professional services building, as they conducted their architectural review of the building.

The renderings now include the view of the back of the building, the view of the west side of the building, views of the front retail buildings as seen from the south and from the north, as well as the lighting plan for the retaining wall signage.

The rendering changes include the following: 1.) Three-story building has projections on each corner which breaks up the exterior wall for some added interest. 2.) The window frames for much of the office are black and a darker double brick soldier course was added to create a band above the windows which further enhances the visual appearance of the building. 3.) The color of the metal roof for office building, retail buildings and gazebo is shown as well as the color of the stucco for the office building. 4.) The brick planters located in the median strip of the parking area replicates the details of the building using the same brick as the building and the darker brick for the row lock cap. 5.) The maximum height of the brick planters is shown as 42-inches (3 ½ feet).

The specifications for the gazebo are included with a height of 15-feet indicated in the rendering. There are depictions of what the gazebo columns and railing will look like as well as the pavers that will be used for the

gazebo floor and courtyard area. The pavers will be the same color as the retaining wall used at the front of the property.

The renderings were provided to the Main Street Middletown Architectural Review Committee for review and comment. It was suggested that the windows be changed to a more traditional window look with divided lights. If the windows were a more rectangular shape and portrait-oriented, it might improve the look. The roof line and the parts of the wall that recess and project could be more dramatic, and the center of the front façade still looks odd or out of scale. Suggestions from other architects were received by the town staff on Monday, April 20<sup>th</sup> just ahead of the Planning Commission meeting.

**Action:** Commissioner Jean LaPadula motioned to conditionally approve the Hollow Creek Professional Center Architectural renderings with the following changes as presented in a document she submitted:

1. Make the triangular peak on the metal roof (of 3-story building) larger and more proportional and integral to the roof and separate from the elements below it.
2. The “top molding” should be similar size/look to that shown in the 2/17/20 architectural plan submittal but should go all the way across the top and not stop at either side of the window.
3. Make the top molding and all of the trim and columns white to add definition, interest, and separate from the body color.
4. Make the trim around the large main group of windows, in the center of the 3-story building, continuous and go all the way around and consistent with the top molding.
5. Use siding (i.e., hard plank or similar material) on top 2 levels that is the same color as the proposed stucco/concrete color which ties into Safeway.
6. Use a contrasting window grille color. For the proposed black windows, use white window grilles instead of proposed dark brown throughout the building.
7. Use one color of brick for all brick work.
8. Make the main front door(s) bigger and more proportional to the size of the building.
9. Make the front columns larger so they are more to scale/proportional with building and entrance.
10. Add an awning on the right side that mirrors the one on the left.
11. Use an awning-style covering of appropriate size/scale for the front entrance instead of a second triangular peak.
12. Replace proposed brick planters with white planters that blend with gazebo.
13. Align the walkways (between large and smaller buildings) so that they are perpendicular to buildings.
14. All entrances of the smaller buildings should be identical.
15. Change design elements of the smaller buildings (style of column, color of windows grilles, peels, etc.) to make them consistent with changes to the larger building.
16. Provide revised Architectural Review Plan incorporating these changes to the Planning Commission prior to submission of the improvements Plans.

Seconded by Commission member Lake stating his second would allow for the discussion of the motion made. Motion was defeated (1-4).

**Action:** Commission member Gallagher motioned to delay the architectural review of the Hollow Creek Professional Center until the June Planning Commission meeting so that the Planning Commission and the developer can review the recommendations and the additional information received today. Commission member Gallagher added that the back of the building should be shown with the developer’s concepts similar to the other views of the building. After confirming the motion would direct the developer to bring back design concepts that he would support, the motion was seconded by Commission member Lake. Motion carried (5-0).

**Middletown Memorial Park Revised Site Plan-** Tabled. - MVAA still needs to provide updated information for a storage shed less than 150 square feet.

**Antietam Gallery - Change of Use-13 West Main** – The proposed use is for the addition of an art gallery and picture-framing business to the second floor of More Ice Cream. There are four rooms on the second level. One room would be used for taking framing orders with samples on the wall. A second room would be decorated with

art. The third room would be a work area for employees, and the fourth room would be used for storage. The gallery would most likely be open Thursdays – Sundays from 10am – 5pm and by appointment other days of the week. Mr. Kehoe would run the business with the help of one employee two days a week to help with framing work.

The current use of this building is an ice cream parlor with seating on the first floor and on the large covered porch. The second level contains two rooms with art on the walls, mainly with Middletown high school sports. The third room is a break room for the ice cream parlor employees and the fourth room is used for storage.

Based on the square footage (Section 17.32.060), the eating establishment use requires one parking space per 90 square feet of gross floor area or three seats, whichever requirement is greater. The parking spaces needed for the ice cream parlor based on square footage (936 square feet) is 11 spaces (determined to be the actionable item from the code as referenced above). In 2018 when the Planning commission conditionally approved the ice cream parlor, the approval included a waiver of three of the required 11 spaces. Eight parking spaces are provided in the parking lot behind the business. Based on the square footage of the second floor of 870 square feet, the parking spaces needed for the retail use would be 6 additional spaces. (Retail shops require a minimum of one parking space per 150 square feet). Section 17.32.060 does allow the planning commission to waive or reduce the parking requirements in the town commercial district. When the ice cream parlor was approved, the parking lot at the corner of East Green street and North Church street had not been designated as a municipal parking lot. That lot is only a short walk from 13 West Main street. Accordingly, it was stated that the 6 additional parking spaces needed for the Gallery would be waived with the intent that the North Church street parking lot could be used as needed.

The applicant would like to add a sign approximately 18 inches by 30 inches to hang on two chains below the existing freestanding sign in the front yard. All signage will need to be approved by the zoning administrator.

According to Section 17.32.230 site plans are required for all commercial buildings unless all of the following conditions are met: A. There is no change in the amount of parking needed; B. The intensity of use has not changed; C. There are no exterior structural changes; D. The building or use has not been grandfathered; E. The building or site meets all existing regulations for the district in which it is located. Since the intensity of use and the amount of parking needed are proposed to change, the site plan does require approval by the planning commission. A change of use application will need to be filed with the Frederick County Permits department.

**Action:** Commission member Lake motioned to approve the Revised Site Plan for 13 West Main Street – Antietam Gallery. Seconded by Commission member LaPadula. Motion carried (5-0).

#### **IV. ZONING**

**Forest Resource Ordinance Text Amendment** - Last year Maryland Senate Bill 234 Natural Resources – State and Local Forest Conservation Funds (effective October 1, 2019) was passed which made changes to the State’s Forest Conservation Act. This bill requires a few changes to the Town’s Forest Resource Ordinance. This proposed ordinance would comply with the new State regulations.

- **Summary of Changes to the State’s Forest Conservation Act:**

- Adds mitigation banking to the forest conservation fund.
- The annual report requirements have been revised to require additional information on the number of acres for which the fees were collected, and the number of acres forested, afforested, or conserved using the fees.
- Requires the local governments to submit to the Maryland Forest Service:
  - A general plan identifying appropriate and potentially available areas for mitigation projects.
  - Detailed accounting procedures for accurately tracking money received into and expended out of the forest conservation fund.

- The method that the local government will make the forest conservation fund plans and accounting procedures available to the public.

In accordance with State law, the Town must send all FRO text amendments to the Maryland Department of Natural resources for review and approval. The amendments were sent to the State on September 2, 2019, with revisions sent on January 2, 2020. Approval of the proposed changes was received from MD DNR on February 11, 2020.

**Action:** Commission member Lake motioned to move forward with the recommendation of the Forest Conservation Ordinance proposed changes per changes in the State regulations to the Town Board. Seconded by Commission member Miller. Motioned carried (4-0-1 abstention)

**Accessory structure code changes** – The Burgess & Commissioners requested the Planning Commission to review proposed changes to accessory structures in the Town Code, Section 17.32.170 – Modifications to yard requirements. The proposed changes were as follows and apply to any accessory building, use or structure within the Town:

- 1) Location – All accessory buildings and structures shall be located behind the front building line of the principle building.
- 2) Easement – No accessory building or structure, except for public utility panels or boxes, shall be erected in any easement areas. All accessory buildings or structures shall be a minimum of one foot off easements.
- 3) Height – Accessory structures shall not exceed 15 feet, measured at the peak of the roof. Accessory structures may not exceed the height of any principal building on a lot.
- 4) Size – Accessory buildings or structures may project into yard provided that: (1) An accessory structure shall be limited in size, when located on a residential zoned property, to the following. (a) The total square footage of all the floors of the accessory structure shall not exceed the footprint of the principal dwelling. (b) The cumulative area of all accessory structures may not exceed the following, based on the residential zone.

| Zone                   | Minimum Lot Size | Cumulative square footage allowed for all accessory structures |
|------------------------|------------------|--|
| R-20                   |                  |  |
| Single family dwelling | 20,000           | 10% of rear yard not to exceed 2,000 square feet               |
| R-1                    |                  |  |
| Single family dwelling | 10,000           | 10% of rear yard not to exceed 1,000 square feet               |
| R-2                    |                  |  |
| Single family dwelling | 6,000            | 10% of rear yard not to exceed 600 square feet                 |
| Two family dwelling    | 4,000            | 10% of rear yard not to exceed 400 square feet                 |
| Duplex                 | 6,000            | 10% of rear yard not to exceed 600 square feet                 |
| R-3                    |                  |  |
| Single family dwelling | 6,000            | 10% of rear yard not to exceed 600 square feet                 |
| Two family dwelling    | 4,000            | 10% of rear yard not to exceed 400 square feet                 |
| Duplex                 | 6,000            | 10% of rear yard not to exceed 600 square feet                 |
| Multi-family dwelling  | 4,000            | 10% of rear yard not to exceed 400                             |

|  |  |             |
|--|--|-------------|
|  |  | square feet |
|--|--|-------------|

5) The square footage allowed for business purposes in an accessory structure shall be 600 square feet. (2) When more than ten (10) feet from the building, it may project into the side or rear yards providing it projects no closer than six feet to the side or rear lot lines; (3) garage accessory buildings entered from alley or street in the case of double frontage lots are not closer than ten (10) feet to the street or alley line; (4) one-story or 10 feet in height, or a maximum of 15 feet with roof, accessory structures on townhouse lots may be located up to two feet of a side property line and six feet of a rear property line provided the accessory structure is no more than eighty (80) square feet in size.

6) No accessory structure may be used for living, sleeping or other occupancy.

7) Homeowners Association. It is the homeowner's responsibility to have the accessory structure approved by his or her homeowners' association where applicable. A Zoning Certificate from the Town does not negate a homeowners' association's covenants and/or restrictions.

Discussion of the proposed changes by the Planning Commission centered on the height of the accessory structures and the maximum size allowed in the R-20 district.

**Action:** Commission member Lake motioned a recommendation to approve the Accessory Structure Zoning Code changes but with a few modifications: 16 feet for the max height of an accessory building or structure instead of the 15 feet; 20,000 square ft lots maximum size is 1,000 square ft instead of 2,000 square ft.; and making the height language for townhouse lots consistent with the rest of the code section. Seconded by Commission member Gallagher. Motion carried (4-0-1 abstention)

**Height of buildings code changes** – Tabled. – Planning Commission needs/wants more time to review. Will review during June meeting.

**Temporary signs code changes** – Tabled – Planning Commission will review the Temporary Sign Regulations in the June meeting.

**V. MISCELLANEOUS**

**2019 Annual Planning and Zoning Report** – The Planning Commission has the most current version of the draft 2019 Annual Planning Report for review. The report is missing Town Administrator comments on a few sections.

**Action:** Tabled – Planning Commission will review in June meeting, needs more information from the Town Administrator.

**VI. COMPREHENSIVE PLAN UPDATE**

**Chapter One review- Introduction** - Tabled- Cindy will add Vision Statement and any pertinent Community Comments to Chapter One for the June meeting.

**VII. ADDITIONAL PUBLIC COMMENT** – None.

Meeting adjourned at 9:03 PM.

Respectfully submitted,

Patty Guyton  
Recording Secretary