

MIDDLETOWN PLANNING COMMISSION

Middletown Municipal Center
31 West Main Street
Middletown, MD 21769

AGENDA
Monday, May 21, 2018
7:00 p.m.

- I. **Public Comment**
- II. Minutes of April 2018 Planning Commission workshop **Approval**
Minutes of April 2018 Planning Commission meeting **Approval**
- III. **Plan Review**
 - Harne Deck Demolition **Review**
 - Chesterbrook/Franklin Commons Site Plan Resubmittal **Review/Approval**
 - Dowd Property (Valley Center) Concept Plan **Review**
- IV. **Zoning**
 - Microbrewery text amendment **Review/Recommendation**
 - Storage Container text amendment **Review/Recommendation**
 - Demolition Site Plan text amendment **Review/Recommendation**
 - Blighted property ordinance **Discussion**
- V. **Miscellaneous**
 - Planning Commission term limits **Discussion**
- 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.**

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

April 11, 2018

The regular workshop of the Middletown Planning Commission took place on Wednesday, April 11, 2018 at 7:00 p.m. at the Middletown Municipal Center, 31 West Main Street, Middletown, MD 21769. Those present (quorum) were Commission members Mark Carney (Chairman), Bob Miller, David Lake, Rich Gallagher, Tom Catania (Ex-officio), Dixie Eichelberger and Meredith McKittrick. Others present in official capacity: Cindy Unangst (Staff Planner). Other applicants present: Nick Albaugh, contractor for Dewitt deck demolition, and Scott Dewitt, property owner; David Lingg and Mark Crissman, representing the Valley Center Subdivision Lot 2.

APRIL MONTHLY PLANNING COMMISSION WORKSHOP:

PLAN REVIEW –

Dewitt Deck Demolition Site Plan – Cindy went through her staff report and Mark asked what time of day the demolition work would begin. Mr. Albaugh stated that they will begin at 8am. Mark then explained that the Town Board is looking to amend the demolition site plan regulations so that in the future, demolitions such as this will not be required to go before the Planning Commission for approval.

Valley Center Subdivision Lot 2 Forest Stand Delineation – Cindy went through her staff report and also explained when asked why this plan is before the Planning Commission. The Forest Stand Delineation (FSD) was done to show that there are indeed no tree stands on the site that are considered “forest” so that clearing and grubbing of the site can be completed, which is necessary so a property survey can be accomplished. Cindy asked that the FSD be revised to show the correct area of the mowed grass.

2017 Annual Planning Report – The Planning Commission reviewed the PC recommendations in the annual report. As discussed, Cindy will make some modifications to one of them. Any additional recommendations should be brought to the commission for discussion at the meeting on Monday.

MISCELLANEOUS

David asked about the outdoor lighting regulations in relation to an issue he is having with new outdoor lighting that a neighbor has installed.

David also asked that there be a discussion of tree planting along the Middletown Parkway added to the joint agenda in May.

Dixie asked about violations of a site plan in relation to the swimming pool business on West Main Street. She was advised to send an e-mail or letter to the zoning administrator, with copies to the town administrator and the Burgess.

Workshop adjourned at 8:15pm.

Respectfully submitted,

Cynthia K. Unangst, AICP
Middletown Staff Planner

DRAFT

MIDDLETOWN PLANNING COMMISSION
31 West Main Street
Middletown, Maryland

Regular Meeting

April 16, 2018

The regular meeting of the Middletown Planning Commission took place on Monday, April 16, 2018 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 Bob Miller, David Lake, Rich Gallagher and Dixie Eichelberger (Alternate). Others present in official capacity: Cindy Unangst (Staff Planner) and Annette Alberghini (Recording Secretary). Others present: Susan Dewitt (property owner) and David Lingg (Lingg Property Consulting).

APRIL MONTHLY PLANNING COMMISSION MEETING:

- I. PUBLIC COMMENT – None**
- II. Regular Workshop Minutes of March 14, 2018 – Approved as submitted**
Regular Meeting Minutes of March 19, 2018 – Approved as submitted.

III. PLAN REVIEW

Dewitt Deck Demolition Site Plan – (Susan Dewitt (property owner) present). This is the proposed removal of an existing 240 square-foot deck to replace the deck with a new 240 square-foot deck in the same location at 116 Mariam Pass. All the requirements of Section 17.32.160 of the Town Code have been met. Adjacent property owners have been notified and the property has been posted. Demolition will be performed by Albaugh & Sons Contractors and is expected to take no more than half a day to complete. No explosive or incendiary device will be used. There are no water or sewer connections to the deck, and no hazardous materials are present. Safety precautions to be taken include the use of safety glasses and hard hats by the workers. A county demolition permit will be issued once approved by the Planning Commission, as both the County and the Zoning Administrator have signed off on the demolition site plan. All demolition shall be completed within ninety (90) days of issuance of a demolition permit in accordance with Town code.

Action: Commission Member Lake motioned to conditionally approve the Dewitt Deck Demolition Site Plan conditional upon the demolition being completed within 90 days issuance of the demolition permit. Seconded by Commission Member Gallagher. Motion carried (4-0).

Valley Center Subdivision Lot 2 Forest Stand Delineation Review – (David Lingg (Lingg Property Consulting), present). The purpose of the forest stand delineation is to allow for the owner/owner representative to do some clearing and grubbing of the site, which is necessary, so a property survey can be accomplished. The property is located on US Route 40A just east of the Safeway shopping center. According to Section 16.40.031.B.1.a of the Town Code, a forest stand delineation (FSD) shall be submitted for the Planning Commission's approval. All requirements for forest stand delineation have been met. The plans have been provided to the Maryland Department of Natural Resources for review, but no comments have been received to date.

- **Forest Definition** – The definition of a forest according to Section 16.40.001 – Definitions of the Town Code is as follows: a biological community dominated by trees and other woody plants covering a land area of ten thousand (10,000) square-feet or greater; "forest" includes areas that have at least one hundred (100) live trees per acre with at least fifty (50) percent of those trees

having a two-inch or greater diameter at 4.5 feet above the ground and larger, and areas that have been cut but not cleared. According to the FSD there is no existing forest on this site in respect to the Town's definition of "forest". There are stands of trees scattered throughout the site as shown on the plan, but there are no stands of trees large enough, or dense enough to constitute the definition of a forest.

- **Summary of FSD Narrative** – There is one possible specimen tree near the eastern property line which is multi-trunked and will be re-evaluated once it leafs out. One other tree of note is an 18" dbh (diameter base height) pin oak at the rear of the Safeway store. Portions of the site have been maintained as mowed grass, or are covered in grasses and invasive multiflora rose and raspberry. Stands of trees include red maple, box elder, honeylocust, cherry, and invasive species of Bradford pear and tree of heaven. A majority of the trees are entangled with invasive bittersweet and honeysuckle vines. The understory consists primarily of invasive privet and bush honeysuckle. There is one stand of eastern red cedar which are in good shape and relatively clean of vines.
- **Information Correction** – The area shown as "mowed grass" has been revised to correctly delineate that area.

A question was raised as to why a FSD review was needed if the site does not contain a forest. A FSD review can state that there is no forest present. It then becomes part of the record of that site and can be referred to as the property is developed.

Action: Commission Member Miller motioned to approve the Valley Center Subdivision Lot 2 Forest Stand Delineation as presented. Seconded by Commission Member Gallagher. Motion carried (4-0).

IV. ZONING

Proposed Text Amendment Changes – The Zoning Administrator is developing proposed changes to the Town Code regarding demolition plans and storage containers. The intent is that items such as shed demolitions could be approved by the Zoning Administrator and not have to come before the Planning Commission, thus decreasing the wait time for applicants. The Planning Commission would like to discuss its concerns regarding determining a set building size in a demolition that should come before the Planning Commission for approval, as well as, possible site plan review of the property before anything is built to replace a large demolished structure. The Planning Commission requested that this be an agenda item on the next joint Town Board Planning Commission meeting in May.

V. MISCELLANEOUS

2017 Annual Planning Report – The Staff Planner asked for any additional changes to the 2017 Annual Report since the Planning Commission workshop on April 11th. It was noted that on the first page, under the list of the Middletown Planning Commission members that Meredith McKittrick's title as the Temp Alternate should be listed. The Staff Planner will make that change.

Action: Commission member Lake motioned to approve the 2017 Annual Report with the addition of commission member McKittrick's title on the first page. Seconded by Commission member Miller. Motion carried (3-0-1). Commissioner Catania abstained.

Commission Member McKittrick Sabbatical – Commission member McKittrick notified Burgess Miller that she will be taking a sabbatical beginning in August 2018 through June 2019 and will not be able to attend any Planning Commission meetings or workshops. In an email response Burgess Miller suggested that Ms. McKittrick stay on the Planning Commission while on sabbatical and still receive all Planning Commission information.

The Planning Commission values the input from all members to include the Temp Alternate member. Planning Commission members have concerns regarding holding a seat for someone who is not present. The Planning Commission recommends that the Temp Alternate position be open for another appointment to fill and complete Commission member McKittrick's term which ends June 2022. If no one is available to fill that position, Ms. McKittrick can resume her duties upon her return from sabbatical. The Planning Commission Chair will notify Burgess Miller of the Planning Commissions opinion on this topic.

Annexation Update – Commissioner Catania updated the Planning Commission members on the current status of the Memar annexation.

VI. ADDITIONAL PUBLIC COMMENT – None.

Meeting adjourned at 8:04pm.

Respectfully submitted,

Annette Alberghini
Recording Secretary

DRAFT



BLUE LINE
HOME IMPROVEMENTS

TO: Middletown Zoning Administrator

FROM: Kevin Wantz / Owner Blue Line Home Improvements LLC

SUBJ: New Deck

DATE: April 30, 2018

RECEIVED

APR 30 2018

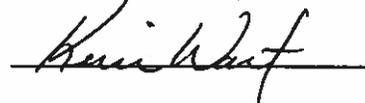
TOWN OF MIDDLETOWN

The property of 6 Caroline Dr. Middletown, MD 21769 was purchased by Kathleen and Brenton Harne late in 2017. Prior to purchasing the home, Mr. Harne requested a home inspection. During the home inspection it was determined the deck was unsafe and needed to be replaced. I was then contacted by their realtor, Kelly Losquadro with Long & Foster to look at the existing deck. I did inspect the deck and noticed it was not built to code and several of the support post were even rotten. I did agree with the findings of the home inspector and felt it was unsafe. At that time winter had begun to set in, which we agreed it would be better to wait for spring.

In the early parts of April I returned back to the property to meet with Mr. Harne. The deck was now even more unstable and was easily shaking when you walked on it. I did make the decision at that point to remove the deck because of safety concerns. The 12'x20' deck was easily removed in approximately 2 hours.

I then made an attempt to apply for permits with your town and was told the process of which I had to proceed. I was also advised the current process is under review for a possible change and to submit this letter explaining the situation, in hopes we would be given permission to proceed due to the circumstances. If you have any questions please feel free to contact me.

Blue Line Home Improvements



Kevin Wantz / Owner

17750 Creamery Rd. Suite 9-B South Emmitsburg, MD 21727

240-674-5248 ** kevinwantz@yahoo.com

MHIC#105007 / PA138213

Like us on Facebook @ [Bluelinehomeimprovements](https://www.facebook.com/bluelinehomeimprovements) or check out our web page @

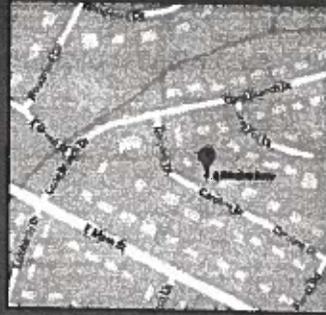
WWW.Bluelinehomeimprovements.com

ORDERED BY:



**PARKER, SIMON,
HAHN & DELISI, LLC**
Attorneys at Law

301.698.9300 | www.villagesettlements.com



PROPERTY ADDRESS: 6 CAROLINE DRIVE

MIDDLETOWN, MARYLAND 21769

SURVEY NUMBER: 1711.3213

FIELD WORK DATE: 12/8/2017

REVISION HISTORY: (REV. 12/14/2017)

17113213
LOCATION DRAWING
LOT 16
WOODMERE NORTH
FREDERICK COUNTY, MARYLAND
12-12-2017 SCALE 1"=30'



GRAPHIC SCALE (In Feet)
1 inch = 30' ft.

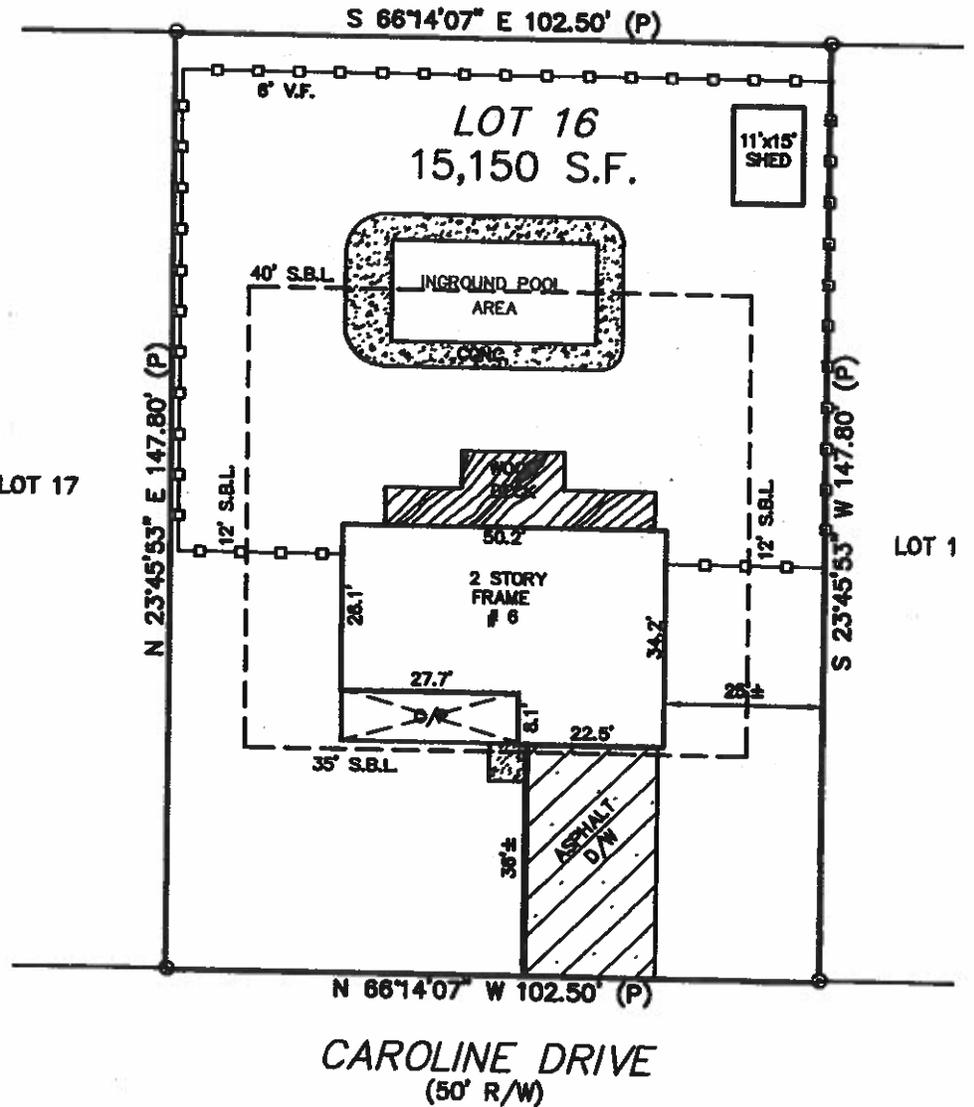
ACCURACY=3 1/2

PLEASE NOTE

This House Location Drawing is for informational purposes only. Per Maryland State Code it may not be relied upon to determine property boundaries and may not be used for building permits or construction.



William D. Hahn
EXPIRES 1-14-2019



EXISTING

Middletown Planning Office

MEMORANDUM

Date: 5/17/2018
Hansen# 14838

To: Middletown Planning Commission

From: Cynthia K. Unangst, Middletown Staff Planner

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

Tax Map Parcel #03-162338

Applicant: Tom Poss, Verdant Development Group

Property Owner: Chesterbrook Land, LLC

Plan Dated: December 2014; revised December 16, 2014

Date Received: May 7, 2018

GENERAL INFORMATION

Proposal: 18 multi-family dwellings in five 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 re-submitted 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. Shown.
Topography	Topographic contours at five-foot intervals. Shown.
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. Existing buildings and utility lines are shown. There are no floodplain areas or wooded areas.

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. Shown.
Buildings	Layout, numbering and dimensions of buildings. Shown.
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. Not applicable.
Utilities	Locations for utilities and drainage facilities, with six-foot easements for same along all property lines. Shown.
Building setback	Proposed building lines along all streets, with the amount of setback indicated. Shown.
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. Shown – Site Plan Note #6.
Condominiums or multi-family projects	Additional items shall be shown: Location of each building – Shown ; Total number of units in each building – Shown ; Number of parking spaces in each off-street parking area, and total thereof – Shown and indicated in Site Plan Note #5 ; Interior road or street access, whether public or private – Shown.

1. **Previously approved site plan** – A site plan for Phase 2 Chesterbrook that included 18 multifamily dwelling units and 59 parking spaces was conditionally approved on January 19, 2015. The approval was conditional upon meeting the comments of the Director of Public Works; the inclusion of the lighting plan with the Improvement Plan; and the review of the architectural rendering at the Improvement Plan stage. The minutes from that meeting are attached to the staff report. This site plan is back before the Planning Commission due to the fact that the previous approval has expired.
2. **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.
3. **Required lot area, lot width and yard requirements** – According to Section 17.16.070 of the Municipal Code, the minimum lot area per multi-family dwelling in the R-3 District is 4,000 square feet. Multi-family dwellings are required to have a minimum lot area of 5,000 square feet per family or per rental unit when such structures include five or more family or per rental units. The proposed plan shows that each structure will have only three or four units, therefore the minimum lot area is 4,000 square feet. Site Plan

Note #3, indicates that this requirement will be met by the proposed plan. The setback requirements for the corner lot fronting on Broad Street and Franklin Street of 35-foot front yards and 12-foot side yards are also being met by the plan.

4. **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. A variance request of 5-feet from the required height regulations was approved by the Middletown Board of Appeals on Tuesday, January 13th, 2015. **The variance request approval is no longer valid.** Section 17.44 090.A of the Middletown Municipal Code states that no order of the board permitting the erection or alteration of a building shall be valid for a period longer than twelve (12) months, unless a zoning certificate for suchis obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.
5. **Parking requirements** – Site Plan Note #5 states that 23 on-street spaces are to be provided, along with 18 driveway spaces and 18 garage spaces, which meets the minimum requirements. The driveway lengths are noted to be 20-21 feet long (previously they were shown to be 18-20 feet long). In taking a scale to the plans, the driveway lengths appear to be more like 19-20 feet long. The Code requires the driveways to be 20-feet in length to qualify as a parking space.
6. **Lighting Plan** – Four proposed 16-foot tall light poles (Site Plan Note #11) are shown on Sheet 2 with the approximate foot-candle limits shown for the pole nearest the entrance to Chester Court. The foot-candle limits should also be shown for the other three light poles, especially the one directly to the north of the existing apartment building. It should be assured that lighting from Lot 1 does not shine into the existing apartments. A lighting plan showing the foot-candle limits was submitted and approved in the review of the Improvement plans.
7. **Landscape plan** – The proposed landscape schedule is included on Sheet 2 along with the locations of the proposed 21 trees. The landscape schedule specifies that redbuds and flowering dogwoods are to be planted. The existing trees shown that will need to be removed due to construction were noted so on the improvement plans.
8. **Signage** – A note was added on the Improvement plans in relation to the existing signage that states “existing signs to remain with minor adjustments.”
9. **Stormwater management** – Site Plan Note #6 specifies that stormwater management shall be provided in part with pervious concrete. The legend on Sheet 1 indicates a symbol for the pervious concrete, as well as a symbol for the asphalt pavement and the reinforced turf for the emergency access from Franklin Street, however the plans do not seem to show where these different surfaces are to be located. The site plan should differentiate between the pervious concrete and the asphalt pavement as was done at the

Improvement Plan stage. As noted in Note #6, the SWM Concept plan was approved by Frederick County on October 1, 2014.

10. **FRO** – A Simplified Delineation and Combined Forest Conservation Plan was submitted to the Planning Commission and approved. The fee-in-lieu was paid on May 31, 2016.
11. **Review by Town Engineer, Bruce Carbaugh** – The plans have been provided to the town engineer for review.
12. **Maintenance of common areas** - According to Section 17.16.080.F of the Municipal Code, if a townhouse development provides for common area, properties or facilities, they shall be conveyed to an incorporated private nonprofit homeowners' association through which each lot owner is automatically a member subject to a charge of a proportionate share of common property maintenance. Such homeowners' association agreements shall be reviewed by the town. Staff recommends that the homeowners' association documents be reviewed by the Planning Commission prior to the first building permit being submitted.
13. **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 – Approved - 12/31/2014
 - Health Department – Conditional Approval (Adequate water and sewer taps must be available) – 1/7/2015
 - Development Review, Engineering – Approved – 10/1/2014
 - Street Name Review – Approved – 12/29/2014

RECOMMENDATION

Staff recommends that the Planning Commission approve the Site Plan conditional on the variance request for the height of the buildings being approved by the Board of Appeals, and the site plan should differentiate between the pervious concrete and the asphalt pavement.

This review will be included in the Middletown Planning Commission materials for the May 16, 2018 public meeting. The applicant is encouraged to attend this meeting and the workshop on the Wednesday prior to the meeting which will be May 21, 2018.

Cc: Noel S. Manalo, Miles and Stockbridge P.C.

MIDDLETOWN PLANNING COMMISSION
31 West Main Street
Middletown, Maryland

Regular Meeting

January 19, 2015

The regular meeting of the Middletown Planning Commission took place on Monday, January 19, 2015 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 David Lake. Others present in official capacity: Commissioners Rich Gallagher (Alternate), Dixie Eichelberger (Temp. Alternate), Cindy Unangst (Staff Planner), Bruce Carbaugh (Director of Public Works), Ron Forrester (Zoning Administrator) and Annette Alberghini (Recording Secretary). Others present: Noel Manalo (Miles & Stockbridge), Tom Poss (Verdant Development Group), Andrew Brown (J.F. Brown, III & Associates), and Trevor Dodson (town resident).

I. PUBLIC COMMENT – None.

II. Regular Meeting Minutes of December 15, 2014 – Approved as submitted.

III. PLAN Review

Chesterbrook Phase 2 Site Plan – (Noel Manalo was present as the representative for Miles & Stockbridge. Andrew Brown was present as the representative for J.F. Brown II & Associates. Tom Poss was present as the representative for Verdant Development Group (the applicant).) This is a revised site plan. A site plan for Phase 2 Chesterbrook that included 16 rental apartments and 48 parking spaces was previously approved July 17, 2006. The applicant now proposes the construction of 18 multi-family dwellings in five buildings on a 1.74 acre parcel located on property adjacent to the existing Middletown Valley (Chesterbrook) apartments. The parcel is zoned R-3 High Density Residential which permits townhouses and multifamily dwellings such as apartments and condominiums containing no more than twelve individual residential units. It meets the minimum required lot area and density. The developer was granted a building height variance of an additional five feet by the Board of Appeals on January 13, 2015. Under the new site plan, there is no open space requirement to be met. There will be 23 on-street parking spaces with 18 driveway, and 18 garage spaces. Driveway lengths are now noted to be 20-21 feet long. In order to accommodate the required driveway length of 20 feet, the sidewalks have been reduced from 5-feet to 4-feet wide. There will be four proposed 16-foot tall light poles. The Director of Public Works has reviewed this new site plan and has provided remarks and recommendations to the developer and the Planning Commission. Staff recommends that the Planning Commission approve the Site Plan conditional upon verification that all driveways are a minimum of 20-feet in length, and a more detailed lighting plan showing the foot-candle limits for all four light poles. It would also be helpful if the applicant would provide some architectural renderings to show how the proposed buildings will conform to the existing development.

- **Definitions** – At the workshop, a resident asked for clarification on the definitions of a townhouse and multifamily dwelling. The Town ordinances define town houses as one of a group of three or more attached dwelling units divided by party walls with either separate front and rear entrances from the outside, or separate front and side entrances from the outside. A section 17.16.080 of the Ordinance considers town houses as separate dwelling units on individual lots. The Staff Planner and Zoning Administrator discussed this section and determined that it relates to town houses as separate units on individual lots. What is proposed with this new plan are multi-family dwellings.
- **Driveways and Sidewalks** – The original site plan showed 5-foot wide sidewalks and 18-20 feet long driveways. To meet the Town codes, the new site plan shows 4-foot wide sidewalks and 20-

21 feet long driveways. Both the Town ordinance and County subdivision regulations require a 4-foot wide sidewalk at minimum. However, the County is asking developers to provide 5-foot wide sidewalks. The Director of Public Works stated that the ADA requirements are 36 inch wide sidewalks with 5-feet by 5-feet passing areas every 200 feet. Discussion arose concerning whether or not the sidewalks should be 4 or 5 feet wide. The Director of Public Works stated that a 5 foot wide sidewalk will still provide enough drive way parking for 95 percent of the vehicles. If someone owns a bigger vehicle, they would extend into the sidewalk when parked. If the Town could tolerate that infringement then it would be fine. With a 4 foot wide sidewalk there would be no problem.

- **Site Plan Notes –**
 1. **Site Plan note #6** specifies that stormwater management shall be provided in part with permeable pavement. The legend on Sheet 1 indicates a symbol for pervious concrete, as well as, a symbol for the asphalt pavement and the reinforced turf for emergency access from Franklin Street. The submitted plans do not show clearly where these different surfaces are to be located. The Staff Planner also noted that the mountable curb areas are also not shown clearly on the plan. The developer stated these will all be identified on the Improvement Plan.
 2. **Site Plan note#12** should be removed as the previous approvals did not include this type of arrangement. The developer stated it was included on this Site Plan because of the possible opening of Broad Street to Route 17 in the future and the multiple variables which would be involved at that time. The developer is welcome to approach the Town Board regarding this issue, but the Director of Public Works will not sign off on the proposed site plans with note #12 present. It was determined that this issue will be worked on through the Improvement Plan.
- **Lighting** – Four proposed 16-foot tall light poles are shown on Sheet 2 with the approximate foot-candle limits shown for the pole nearest the entrance to Chester Court. The foot-candle limits should also be shown for the other three light poles, especially the one directly to the north of the existing apartment building. It should be assured that lighting from Lot 1 does not shine into the existing apartments.
- **Landscaping** – The Staff Planner noted that in addition to the proposed new plantings on the development, any existing trees to be removed due to construction should also be noted on the Site Plan.
- **Architectural Rendering** – Town staff recommended that it would be helpful if the applicant would provide some architectural renderings to show how the proposed buildings will conform to the existing development. The developer provided renderings from two projects within Frederick County to show 2 possible building types available. The developer usually selects an architectural design after Site Plan approval, when details finalize. It was suggested that the developer submit architectural rendering review during the Improvement Plan process.

The Staff Planner noted that the proposed site plan lists the street on the property as Chester Court. The previously approved site plan has it listed as Bellmeade Court. The name can be changed without issue. Chester Court makes sense as it relates to Chesterbrook. It is not an issue if approved as is.

Action: Commissioner Lake motioned to conditionally approve the Chesterbrook Phase 2 Site Plan, conditional upon meeting the comments from the Director of Public Works, include the lighting plan to be developed through the Improvement Plan, and to have architectural rendering review at the Improvement Plan stage. Seconded by Commissioner Smart. Motion carried (5-0)

Middletown Planning Office

MEMORANDUM

Date: 5/17/2018

Hansen# n/a

To: Middletown Planning Commission

From: Cynthia K. Unangst, Middletown Staff Planner

RE: **MIDDLETOWN VALLEY CENTER CONCEPT PLAN**

Tax Map Parcel #03-0140989

Applicant: David Lingg, Lingg Property Consulting

Property Owner: First Financial Bank NA under Thomas N. Dowd Trust

Plan Dated: March 2017

Date Received: May 7, 2018

GENERAL INFORMATION

Proposal: Property is to be developed with 52,500 square feet ± of commercial space in three separate buildings with 296 parking spaces, with the additional possibility of self-storage areas in the rear of the property.

Location: North side of US Route 40-A (Old National Pike) just east of the Safeway shopping center

Zoning: GC General Commercial. 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.

Present Use: vacant

COMMENTS

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

1. **Sketch plan requirements** – The sketch plan is a voluntary submission on the part of the developer in order to obtain the planning commission's comments with regard to the subdivider's proposed development prior to making detailed drawings and formal application for preliminary plat approval. According to Chapter 16.16.020 of the Municipal Code, the sketch plan must contain the following information:
 - Vicinity map indicating the location of the property with respect to surrounding property and streets
 - Title information – proposed name, scale of plat, and date

- Name and address of owner and person responsible for the preparation of the plan
- Northpoint
- Boundary of proposed subdivision
- Location, widths and names of all streets on or adjoining the subdivision
- Location of existing utilities on or within 200 feet of the tract
- The layout of all proposed and existing lots with approximate or typical dimensions and minimum area. Lots should be numbered for review reference
- Zoning district classification, water and sewer classification of master plan for the subject tract

The sketch plan does not contain all the required information, but it is staff's understanding that this sketch is an initial concept and is intended just to get some basic feedback from the Planning Commission.

2. **Consistency with Comprehensive Plan** – The proposed development appears to be consistent with the goals and objectives of the comprehensive plan. There are no environmentally sensitive areas on the site. The site is not within an historic survey district and is not a historic site. The Municipal Growth Element states as an objective that commercial uses be designed and scaled to be compatible with the neighborhood in which it is located.
3. **Transportation plan** – The Walkway and Trail map in the Middletown Comprehensive Plan shows a future greenway at the southern end of the subject property. This proposed greenway would connect the sidewalk along the Middletown Parkway with the AC Jets property and future greenways on that property.

In relation to traffic, staff would recommend 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 indeed to be RV and boat storage, the turning radiuses within the two properties will need to be examined. The applicant stated at the workshop that a traffic study would be completed to consider the various traffic issues with the site.

4. **GC District Uses** – Shopping centers and self-storage rental spaces for storage of personal goods are special exception uses 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." If the proposed development is determined to meet the definition of a shopping center, it will need board of appeals 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. Shopping centers must also have access on a minor arterial as designated in the town master plan. There is no indication of the acreage of the property on the concept plan, but it appears to be about 7.5 acres.

5. **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 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.
6. **Parking requirements** – If developed under the shopping center guidelines, the total parking spaces required per the proposed square footage of the buildings would be 289 spaces. The concept plan provides for 296 spaces. The concept plan shows how the proposed parking would be integrated with the existing parking in relation to drive aisles and so forth.
7. **Review by Town Engineer and consulting engineer** – The plans have been provided to the Town Engineer and the town's consulting engineer for review.

This review will be included in the Middletown Planning Commission materials for the May 21, 2018 public meeting. The applicant is encouraged to attend this meeting and the workshop on the Wednesday prior to the meeting which will be May 16, 2018.

cc: Mark Crissman, DMW Inc.
Mark Lancaster, Lancaster Builders

Middletown Planning Office

MEMORANDUM

Date: 5/8/2018

To: Middletown Planning Commission

From: Cynthia K. Unangst, Middletown Staff Planner

RE: MICROBREWERY TEXT AMENDMENT

On Monday, May 14th, the Town Board will introduce a proposed text amendment to add “microbrewery” as a permitted use in the TC Town Commercial District. It is being forwarded to the Planning Commission for your review and recommendation. Recommendation from the Planning Commission is required due to the location of these proposed changes in the Zoning Section of the Middletown Municipal Code Book.

Attached is a letter that was sent to the Burgess and Commissioners requesting this addition to the Municipal Code. This request was discussed briefly at the joint town board/planning commission workshop on Monday, May 7th. There was discussion that it might be considered as a permitted use in the GC General Commercial district as well.

RECEIVED

APR 23 2018

TOWN OF MIDDLETOWN, MD

Seventh State Brewing Company

Christian and Michele Wilson
7107 Crystal Court
Middletown, MD 21769
240-253-3429
Seventhstate@yahoo.com

April 23, 2018

Burgess Miller and Commissioners
31 West Main Street
Middletown, MD 21769

- BURGESS
- ADMINISTRATION
- PUBLIC WORKS
- PLANNING & ZONING
- WATER & SEWER

Dear Burgess Miller and Commissioners,

Seventh State Brewing Company is respectfully requesting a text amendment to add "microbrewery" as a permitted use in the TC town commercial district.

In Section 17.20.010 (B) "microbrewery" would be added as a permitted use in the TC Town Commercial District. A microbrewery would be compatible with and beneficial as part of the TC town commercial district for the following reasons:

- A. The purpose of the microbrewery will be to provide the town a unique service being producing craft beer on a small scale and serving this product directly to the consumer through an on-site tasting room and through carry-outs. As defined by the Brewers Association (2018), a microbrewery produces less than 15,000 barrels of beer annually.
- B. The appearance of the microbrewery will be compatible with and will harmonize with the surrounding buildings and neighboring community. A site plan of the microbrewery and tasting room will be submitted to the planning commission for review and approval and changes shall be made as necessary.
- C. The location of the microbrewery will be in an existing building adjacent to a planned restaurant and farmers market. These businesses will be complimentary and will provide the town multiple services in a convenient, attractive, and safe location. Parking on site will be shared by the multiple businesses but there is also off street parking available. The proposed group of businesses are walking distance from a newer housing development and many residential homes.

- D. The microbrewery will meet the town's standards concerning noise and congestion. The microbrewery will be closed by 10pm as governed by current state law.
- E. The microbrewery and tasting room will be in compliance with all state and county laws and regulations.

Thank you for your consideration. Please contact us with any questions or concerns.

Sincerely,

Handwritten signatures of Christian Wilson and Michele Wilson. The signature for Christian Wilson is on the left, and the signature for Michele Wilson is on the right.

Christian Wilson and Michele Wilson

17.20.010 - TC town commercial district.

- A. Purpose. The town commercial 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.

The uses permitted in this district will allow for a mixture of uses, including residential, light assembly and fabrication uses in existing buildings provided they can meet basic performance standards concerning noise, congestion, parking, traffic, landscaping and buffers. The location of the town commercial district should be such as to provide for small, safe and attractive shopping areas that cater primarily to pedestrian traffic and are compatible with the surrounding residential environment. The planning commission may waive the parking requirement.

- B. Uses Permitted in the Town Commercial District. No building or structure may be erected or used or occupied except for one or more of the following principal uses subject to site plan approval in accordance with Section 17.20.050 of this Code:

1. All residential uses;
2. Public buildings, structures and services;
3. Retail sales: paint, wallpaper, hardware, food, apparel, appliances, jewelry, fabric, furniture, furnishings, office equipment and supplies, general merchandise, equipment rental, floral items, plants, plumbing, heating, electrical;
4. Office and business services: contractor, finance, insurance, real estate, advertising, employment agencies, business management, photocopying, printing;
5. Eating and drinking establishments;
6. Personal services: laundry, barber, beauty, funeral;
7. Repair services: electrical appliances, furniture, upholstery, jewelry, clothing, shoe;
8. Professional offices and services: medical, dental, legal, engineering, veterinary, architectural, design;
9. Light assembly and fabricating: clothing, draperies, curtains, furniture and cabinets, tool and die, bakery, electrical components, toys; books (subject to Section 17.20.080);

10. Private and commercial schools: business, dance, trade;
 11. Storage, wholesale and warehouse buildings: indoor storage of goods and material which will be sold, processed, or disposed of on or off premises (not, however, to include auto wrecking, junk and other salvage storage or truck or shipping terminals) (subject to Section 17.20.080);
 12. Places of worship;
 13. Public safety services, subject to site development plan approval;
 14. Community centers;
 15. Farmers' markets;
 16. Museums.
- C. Special Exceptions in the Town Commercial District. The board of appeals may authorize the following special exceptions in accordance with the provisions of Section 17.44.060
1. Greenhouses, nurseries;
 2. Bed and breakfast;
 3. Clubs, lodges, fraternal organizations;
 4. Nursery schools and child care centers;
 5. Light vehicle repair limited to a maximum of two and one-half (2.5) ton capacity. Repair and service shall include lubrication, brakes, exhaust systems, wheel alignment, installation of accessories and parts, and installation of tires. Also included are major repairs, involving the repair or replacement of engine, transmission, chassis or body work.

(Ord. No. 15-05-01, § I, 5-11-2015, eff. 10-1-2015; Ord. No. 11-03-04, § I, 3-14-2011; Ord. No. 10-10-02, § V, 10-25-2010; Ord. 07-12-01 § 1 (part), 2008; Ord. 07-01-01 § 2 (part), 2007; Ord. 182 § 6.0, 1976)

17.20.020 - GC general commercial district.

- A. Purpose. The GC district is intended to provide areas for general commercial activities that service the needs of the entire community and the surrounding area. The uses permitted in this district are of such character as to provide for comparative shopping needs, service and repair needs, office uses, specialized commercial and entertainment activities and those establishments which cater primarily to the motoring public.

The location of such areas should be such that stores and commercial activities can be grouped together in an attractive and convenient manner at locations that will not infringe on residential areas. It is also essential that areas for this district be on major thoroughfares in order to provide for vehicular accessibility.

- B. Uses Permitted in the GC District. No building or structure may be erected or used and no land may be used or occupied except for one or more of the following principal uses:
1. Clubs, lodges, fraternal organizations;
 2. Public buildings, structures and services;
 3. Retail sales: paint, wallpaper, hardware, food, apparel, appliances, jewelry, fabric, furniture, furnishings, office equipment and supplies, general merchandise, equipment rental, floral items, plants, plumbing, heating and electrical;
 4. Eating and drinking establishments;
 5. Personal services—laundry, barber, beauty, funeral;
 6. Office and business services—contractor, finance, insurance, real estate, advertising, employment agencies, business management, photocopying, printing;
 7. Repair services—electrical appliances, furniture, upholstery, jewelry repair, clothing, shoe;
 8. Professional offices and services—medical, dental, legal, engineering, veterinary, architectural, design;
 9. Commercial recreation—theaters, bowling alleys, amusements;
 10. Places of worship;
 11. Light assembly and fabricating: clothing, draperies, curtains, furniture and cabinets, tool and die, bakery, electrical components, toys, books. (Subject to Section 17.20.080);
 12. Storage, wholesale and warehouse buildings: indoor storage of goods and material which will be sold, processed or disposed of on or off premises. (Not, however, to include auto wrecking, junk or other salvage storage or truck or shipping terminals.) (Subject to Section 17.20.080);
 13. Public safety services, subject to site development plan approval;

14. Farmers' markets;
15. Museums;
16. Medical care facilities.

C. Special Exceptions in the GC District. The board of appeals may authorize the following principal uses as special exceptions in accordance with the provisions of Section 17.44.060

1. Residential uses;
2. Gasoline stations;
3. Greenhouses, nurseries;
4. Private and commercial schools—dance, business trade;
5. Shopping centers;
6. Lumber and other building material—retail;
7. Vehicle repairs and services;
8. Hotels and motels;
9. Vehicle sales;
10. Animal kennels and clinics;
11. Nursery schools and child care centers;
12. Light vehicle repair limited to a vehicle weight maximum of one-ton capacity. Repair and service shall be limited to lubrication, brakes, exhaust systems, wheel alignment, installation of accessories and parts, and installation of tires;
13. Self-storage rental spaces for storage of personal goods.

(Ord. No. 15-05-01, § I, 5-11-2015, eff. 10-1-2015; Ord. 07-12-01 § 1 (part), 2008; Ord. 07-01-01 § 2 (part), 2007: amended after public hearing, 4-6-00; Ord. 182 § 6.1, 1976)

17.20.030 - Building regulations in commercial districts.

No building shall exceed three (3) stories or thirty-five (35) feet in height or exceed sixty thousand (60,000) square feet in size.

(Ord. No. 10-04-01, § II, 3-22-2010; Ord. 182 § 6.2, 1976)

17.20.040 - Off-street parking and loading.

There shall be provided in the commercial districts adequate off-street parking and loading areas in accordance with the requirements in Chapter 17.32.

(Ord. 182 § 6.3, 1976)

17.20.050 - Site plans required in commercial districts.

Whenever any use is to be established within a TC SC/LM or GC district, a site plan of development must be submitted to the planning commission and approved by them. 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. New principal structures in the commercial districts shall be compatible with the massing, size, scale, materials, and architectural features of nearby buildings, so as to present an aesthetically pleasing and finished appearance as viewed from all sides. Loading docks, service areas or other similar features shall be screened from view from all public street and adjoining residential districts. To ensure aesthetically pleasing development compatible with adjacent or neighboring buildings, all applications for site plan approval shall include architectural plans, elevations, and architectural renderings or other information concerning the design and materials of the proposed building. The site plan shall conform to all specifications and requirements of the district and of Chapter 16.28, Design Standards, and Chapter 16.32, Improvements, of the Middletown subdivision regulations codified in Title 16 of this code.

- A. Site Plan Format. In addition to the requirements stated in this section the site plan shall comply with the plat requirements of Chapter 16.16 of the town subdivision regulations.
- B. Site Plan Fee. At the time of submitting a site plan to the planning commission, the developer shall pay a fee to the town to partially defray the cost of examination and consideration of the site plan. The amount of the fee shall be as established from time to time by resolution of the burgess and commissioners.

(Ord. No. 15-05-01, § 1, 5-11-2015, eff. 10-1-2015; Ord. 00-04-04 § 2, 2000; Ord. 182 § 6.4, 1976)

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.

Middletown Planning Office

MEMORANDUM

Date: 5/8/2018

To: Middletown Planning Commission

From: Cynthia K. Unangst, Middletown Staff Planner

RE: STORAGE CONTAINERS REVISIONS TEXT AMENDMENT

On Monday, March 26th, the Town Board introduced some draft changes to the Town Code as recommended by the town Zoning Administrator, Ron Forrester. They are being forwarded to the Planning Commission for your review and recommendation. Recommendation from the Planning Commission is required due to the location of these proposed changes in the Zoning Section of the Middletown Municipal Code Book.

Title 17 - ZONING

Chapter 17.32 - DESIGN STANDARDS GENERALLY

Sections:

17.32.045 - Storage and disposal containers.

- A. Except as otherwise provided in this section, storage and disposal containers are prohibited in the Town of Middletown, and no person who owns, leases, occupies or has charge of any premises or property, in whole or in part, shall place, keep or maintain a storage or disposal container on the premises or property. For purposes of this section, "Disposal Container" means a large capacity container such as a dumpster, a bagster bag (dumpster in a bag), or similar large object which is used to hold trash, waste or debris.
- B. In a commercial or industrial zone, and upon application to and approval by the zoning administrator for a zoning certificate, storage and disposal containers may be placed, kept or maintained on premises or property for a period of no more than six consecutive months. The zoning administrator may, upon application, extend the six-month period of time for another six month or less. ~~The storage or disposal container shall be used in accordance with the conditions placed upon it by the zoning administrator. The storage or disposal container may be approved by the zoning administrator only if (1) the storage or disposal container is situated on the property in compliance with setback requirements as established for buildings in the district, (2) its placement and use satisfies all other zoning requirements, and (3) the storage or disposal container is either situated in the rear yard of the property or is screened in a manner approved by the zoning administrator so as to visually limit as much as reasonably practicable the appearance and presence of the storage or disposal container. No storage or disposal container may exceed a height of twelve (12) feet or a width of eight feet. Storage and disposal containers may not be stacked on top of each other.~~
- C. The zoning administrator may, upon application, approve the placing, keeping or maintaining of a storage or disposal container on property or premises in any zone if the storage or disposal container is to be used for and in connection with a construction, reconstruction or renovation project on the property or premises. The storage or disposal container shall be used in accordance with the conditions placed upon it by the zoning administrator. ~~Any storage or disposal container used in connection with such an approval~~ All approved storage or disposal containers shall be removed from the property or premises immediately upon the completion of the project or at such time as provided in the zoning administrator's approval letter.
- D. ~~Any storage or disposal container which is located or situated on any property or premises on the effective date of the ordinance codified in this chapter shall be permitted to continue to remain in the same location on the property or premises for a period of three years from the effective date of the ordinance codified in this chapter. Thereafter, such storage container or disposal shall be removed or otherwise conform to the requirements of this section, and the failure to do so shall constitute a violation of this section. In town commercial (TC) and general commercial (GC) districts, businesses are permitted to permanently place a trash disposal container on their property provided it is enclosed by a fence or other structure approved by the zoning administrator that effectively screens the trash disposal container from adjoining and adjacent properties. A zoning certificate / building permit is required before the container is permanently placed on a GC or TC commercial zoned property. The trash disposal container's placement on the property should minimize its impact on customer / employee parking, and pedestrian and vehicular traffic flow on the property and to meet other placement and zoning requirements as determined by the zoning administrator.~~

Commented [Z1]: This set of requirements is overly restrictive and is not feasible for many properties in Middletown. Storage and trash containers aren't permanently situated on a commercial or residential properties so they shouldn't need to meet any other zoning requirements to include screening, setbacks distances, etc. The ZA recommends that paragraph B be modified as shown in the line-in/line-out markup.

Commented [Z2]: Commercial businesses should be permitted to permanently place a trash disposal container on their property provided it is screened from adjoining properties and located in such a manner as to have a minimum impact of parking, vehicular and pedestrian traffic. The location of a trash disposal container and enclosure may be denoted on an approved site plan or may be determined through mutual agreement between commercial property owner and the zoning administrator in coordination with the town administrator and staff planner.

Middletown Planning Office

MEMORANDUM

Date: 5/8/2018

To: Middletown Planning Commission

From: Cynthia K. Unangst, Middletown Staff Planner

RE: DEMOLITION SITE PLAN REVISIONS TEXT AMENDMENT

On Monday, March 26th, the Town Board introduced some draft changes to the Town Code as recommended by the town Zoning Administrator, Ron Forrester. They are being forwarded to the Planning Commission for your review and recommendation. Recommendation from the Planning Commission is required due to the location of these proposed changes in the Zoning Section of the Middletown Municipal Code Book.

Attached are two possibilities for changes to Section 17.32.160 – the proposed changes as recommended by Ron Forrester, and proposed changes as recommended by the Staff Planner in relation to discussions with the Town Board and the Planning Commission. Also attached is a memo from the Main Street Manager, Becky Axilbund, and a list of all demolitions reviewed and approved since 2007.

RON FORRESTER DRAFT VERSION

17.32.160 - Demolition ~~site~~ plan—Required in all districts.

A. In all districts, a proposal and permit application for the demolition of any building or structure, as defined in Section 17.04.030, shall ~~require site plan~~ be submitted to and approved by the Town of Middletown ~~Planning Commission Zoning Administrator~~ prior to the issuance of a town permit for said demolition. ~~The applicant must also get their demolition plan reviewed and approved by the Frederick County Department of Permits and Inspections and a permit issued before beginning their demolition activities.~~ The demolition ~~site~~ plan shall show:

1. The dimensions and boundaries of the property and the location of all improvements thereon;
2. The location of the building or structure proposed to be demolished;
3. The location of all adjacent properties and structures (to include fences and accessory structures);
4. The proposed date and time of demolition, the anticipated length of time for demolition, and the proposed manner or type of demolition to be used;
5. The identity of the person(s) or entity that will perform the demolition and information confirming the experience and professional credentials of such person(s) or entity;
6. Information describing any type of explosive or incendiary device proposed to be used in performing the demolition;
7. A safety plan that outlines the plan of safety precautions to be taken for the demolition ~~to in order to ensure the safety and protection~~ protect the safety of persons and surrounding properties;
8. The location of all existing public utilities on the property and in the area and confirmation of a plan for the discontinuance of utility service to the structure or building proposed to be demolished prior to the proposed demolition taking place;
9. Assurances that the proposed demolition will be in compliance with all federal, state and local laws, ordinances and regulations including, but not limited to, any and all laws and regulations governing "Hazardous Materials" and the disturbance and/or removal of "Hazardous Materials" from the property; and
10. A proposal and plan for any grading, seeding, sodding, or post demolition restoration of the demolition site.

Upon ~~any approval of the demolition site plan approval granted by the planning commission and~~ upon the issuance of a demolition permit (zoning certificate) by the Town of Middletown zoning administrator, all such demolitions and post demolition restoration shall be completed within ninety (90) days of issuance of a demolition permit unless otherwise approved by the ~~Middletown Planning Commission zoning administrator~~.

For purposes of this section, fences of any type shall not be considered a "structure" and shall, therefore, be exempt from this requirement.

- B. All ~~site~~ plans for demolition shall be submitted to the zoning administrator a minimum of thirty (30) days prior to ~~the a regularly scheduled planning commission meeting proposed demolition~~. ~~The planning commission zoning administrator may, after coordinating with other town staff members, may require bonds or guarantees to ensure restoration of the site.~~
- C. Notices. ~~In addition to~~ The property owner will post ~~posting~~ a public notice of demolition sign on the property that advertises ~~advising of~~ the proposed demolition. ~~Additionally,~~ an applicant seeking to demolish a building or structure hereunder shall be required to give written notice thereof to all adjacent and contiguous property owners not more than ten (10) days after submitting their demolition permit application and the demolition site plan to the Town of Middletown Planning Commission zoning administrator, advising these property owners of the date, time and manner of the proposed demolition.

A record of such notice shall be made to the ~~planning-commission~~ zoning administrator. Adjacent property owners will contact the zoning administrator if they have questions and/or concerns with the proposed demolition project.

- D. Responsibility for Damages and Indemnification. An applicant who demolishes any building or structure in the Town of Middletown shall repair and restore, at its sole cost and expense, any adjacent, contiguous, nearby or other property or structure which is damaged, in whole or in part, by the demolition performed on their property. An applicant who demolishes any building or structure in the Town of Middletown shall be liable for any personal injury, property damage, or business interruption caused by or arising from, in whole or in part, the demolition, including by or from the release of any particulate matter and other hazardous material.

(Ord. No. 15-06-02, § II, 6-8-2015; Ord. 07-09-01 § 2, 2007)

DRAFT

STAFF PLANNER DRAFT VERSION

17.32.160 - Demolition site plan—Required in all districts.

- A. In all districts, a proposal and permit application for the demolition of any building or structure, as defined in Section 17.04.030, shall require site plan approval by the Town of Middletown Planning Commission prior to the issuance of a permit for said demolition. The demolition site plan shall show:
1. The dimensions and boundaries of the property and the location of all improvements thereon;
 2. The location of the building or structure proposed to be demolished;
 3. The location of all adjacent properties and structures (to include fences and accessory structures);
 4. The proposed date and time of demolition, the anticipated length of time for demolition, and the proposed manner or type of demolition to be used;
 5. The identity of the person(s) or entity that will perform the demolition and information confirming the experience and professional credentials of such person(s) or entity;
 6. Information describing any type of explosive or incendiary device proposed to be used in performing the demolition;
 7. A safety plan that outlines the plan of safety precautions to be taken for the demolition in order to ensure protect the safety and protection of persons and surrounding properties;
 8. The location of all existing public utilities on the property and in the area and confirmation of a plan for the discontinuance of utility service to the structure or building proposed to be demolished prior to the proposed demolition taking place;
 9. Assurances that the proposed demolition will be in compliance with all federal, state and local laws, ordinances and regulations including, but not limited to, any and all laws and regulations governing "Hazardous Materials" and the disturbance and/or removal of "Hazardous Materials" from the property; and
 10. A proposal and plan for any grading, seeding, sodding, or post demolition restoration of the demolition site.

Upon any demolition site plan approval granted by the planning commission and upon the issuance of a demolition permit (zoning certificate) by the Town of Middletown, all such demolitions and post demolition restoration shall be completed within ninety (90) days of issuance of a demolition permit unless otherwise approved by the Middletown Planning Commission.

For purposes of this section, fences of any type shall not be considered a "structure" and shall, therefore, be exempt from this requirement. Any structures that are under 500 square feet, and are not considered a contributing resource to the Middletown Historic District, shall only require review and approval by the zoning administrator.

- B. All site plans for demolition shall be submitted a minimum of thirty (30) days prior to a regularly scheduled planning commission meeting. The planning commission may require bonds or guarantees to ensure restoration of the site. All plans for demolition of structures less than 500 square feet shall be submitted to the zoning administrator a minimum of thirty (30) days prior to the proposed demolition.
- C. Notices. In addition to posting a public notice sign on the property advising of the proposed demolition, an applicant seeking to demolish a building or structure hereunder shall be required to give written notice thereof to all adjacent and contiguous property owners not more than ten (10) days after submitting the demolition permit application and the demolition site plan to the Town of Middletown Planning Commission, advising of the date, time and manner of the proposed demolition.

A record of such notice shall be made to the planning commission, or to the zoning administrator for proposed demolitions of less than 500 square feet.

- D. Responsibility for Damages and Indemnification. An applicant who demolishes any building or structure in the Town of Middletown shall repair and restore, at its sole cost and expense, any adjacent, contiguous, nearby or other property or structure which is damaged, in whole or in part, by the demolition performed on their property. An applicant who demolishes any building or structure in the Town of Middletown shall be liable for any personal injury, property damage, or business interruption caused by or arising from, in whole or in part, the demolition, including by or from the release of any particulate matter and other hazardous material.

(Ord. No. 15-06-02, § II, 6-8-2015; Ord. 07-09-01 § 2, 2007)

DRAFT



TO: The Burgess and Commissioners
FROM: Becky Axilbund, Main Street Manager
RE: Change in Demolition Ordinance 17.32.160
DATE: April 9, 2018

Introduction:

Main Street Middletown, MD Inc is aware of proposed changes to the Middletown Municipal Code, specifically 17.32.160 Demolition Plan.

Issue:

The proposed wording allows for demolition permits to be reviewed by the Zoning Administrator only with no language that would require the Zoning Administrator to research if a structure is a Contributing resource to the Middletown Historic District. It also does not allow for any public input or review by the Planning Commission.

Background:

The Middletown Historic District was listed in the National Register of Historic Places in 2003.

Listing a property or a district in the National Register of Historic Places is a process. Determining if a property is Contributing to the district is not a decision made on a whim. It is a well thought-out, studied, and analyzed process.

First, to complete work under the federal Historic Preservation Act, architectural historians must meet certain professional qualifications to insure they have the experience and knowledge necessary to make these assessments.

Second, when completing a National Register of Historic Places registration form, each building in the district is documented. Documentation includes a written description of the property, a brief historical overview of the individual property, location keyed to a map, and photographs. Properties are listed as either Contributing or Non-Contributing Resources. Contributing Resources are buildings that articulate that they are at least 50-years or older, retain most (but not necessarily all) of their historic building materials, and their setting is intact (they have not been moved, or overwhelmed by new construction). The National Register Registration Form, along with property descriptions, histories, maps, and photographs are reviewed at the state and federal level before a district is listed.

While listing is honorary, there can be significant economic benefits to commercial property owners that are Contributing resources to the Historic District through rehabilitation tax credits. In addition, Contributing resources in the Main Street District are also eligible to apply for Main Street's Façade Improvement Program, which reimburses property owners for exterior rehabilitation work. In short, these resources are considered at a state and federal level important to protect and preserve – so much so – that there are financial incentives to do so.

Recommendation:

Main Street Middletown advocates for public input and continued review by the Planning Commission when there is an application for the demolition of a Contributing resource.

Main Street Middletown works to promote the unique assets of the Main Street District – that includes the businesses and the buildings. Any tourist coming into Middletown is transported back in time with our Main Street that is full of historic buildings and a great history to match! The demolition of a building in a small historic district can have devastating impacts to the visual appeal and quality of the district.

Main Street Middletown also respectfully requests the Burgess and Commissioners to continue notification of when demolition permits are applied for so that we may have the opportunity to document the resource.

Demolition site plans reviewed since 2007

November 2007	384 sq. ft. shed	S. Jefferson Street
April 2009	7,600 sq. ft. warehouse	Boileau Drive
June 2009	200 sq. ft. garage	Prospect Street
July 2010	720 sq. ft. deck	Gray Fox Court
March 2011	834 sq. ft. shed	East Main Street
November 2011	300 sq. ft. shed	East Main Street
January 2012	rear of comm. bldg.	East Main Street
May 2013	960 sq. ft. in-ground pool	Broad Street
August 2013	655 sq. ft. shed	East Green Street
	580 sq. ft. garage	
November 2014	540 sq. ft. house	S. Jefferson Street
	80 sq. ft. shed, 81 sq. ft. shed	
January 2015	400 sq. ft. carport	East Main Street
March 2015	140 sq. ft. sunroom	Lombardy Court
September 2015	420 sq. ft. rear porch/shed	S. Jefferson Street
April 2016	168 sq. ft. addition	Jesserong Drive
April 2016	96 sq. ft. shed	Prospect Street
July 2016	2-story 1,700 sq. ft. house	West Green Street
October 2016	780 sq. ft. garage	West Green Street
December 2016	4,446 sq. ft. pavilion	Fireman's Way
January 2017	1 ½ story 666 sq. ft. house	S. Jefferson Street
March 2017	460 sq. ft. garage	Prospect Street
July 2017	87 sq. ft. shed	West Main Street
August 2017	back of retail building	East Main Street
September 2017	240 sq. ft. shed	East Main Street
February 2018	333 sq. ft. shed	S. Jefferson Street
March 2018	240 sq. ft. deck	Mariam Pass

MEMORANDUM

Date: 4/27/2018

To: Burgess and Commissioners, Middletown
From: Cynthia K. Unangst, Middletown Staff Planner
RE: Blighted Property regulation examples

In researching how other municipalities deal with blighted properties, there appears to be several different ways that they go about doing this. Below are examples of regulations used by various municipalities.

Seat Pleasant, MD

Under Chapter 67 – Buildings, Unfit; Property Maintenance – of their Municipal Code, they have designated a Code Official that serves at the pleasure of the City Council and who enforces the Minimum Livability Code, and inspects properties as to whether they are fit for human habitation and occupancy, among other things. A relatively new City Code mandates that all vacant structures and lots be registered and partnered with a Vacant Building or Lot Plan. The vacant lot filing fee is \$75 and registration fees start at \$300.

Mount Airy, MD

Under Chapter 85, Property Maintenance, they have definitions of blighted structure and vacant building. A Health Officer may be appointed by the Mayor who shall enforce the provisions of the health ordinances of the Town; if no such appointment is made, the Mayor shall act as the Health Officer. Under this chapter, there are provisions that dwellings, commercial and industrial structures, yards and lots must be kept clean, and if the owner fails to comply, there are remedies in place to address such situations.

Annapolis, MD

Under Chapter 17.40 – Residential Property Maintenance Code, they have a section on vacant structures which requires the structure and/or property to be kept in a clean, safe, secure and sanitary condition. The Director of Planning and Zoning may make inspections of premises to determine whether the conditions comply with this chapter. There are also procedures and requirements for the condemnation and placarding of unfit dwellings, as well as the subsequent demolition of dwellings unfit for human habitation.

Washington, DC

DC has Vacant and Blighted tax classifications. Essentially, your property taxes go up to 5% of the assessed value per year for vacant buildings, and 10% per year for blighted buildings. Officials there have stated that it's been incredibly helpful in urging long-time speculators to either sell their buildings or at least convert them into a productive use while they wait.

Burkittsville, MD

Burkittsville has a Demolition by Neglect ordinance, as well as a Code section entitled "Private Responsibilities." This section states that the owner must maintain the structure and its exit ways in a

safe and sanitary condition at all times; the exterior of any dwelling unit and its appurtenances shall be maintained in a safe and sanitary condition in accordance with the relevant provisions of the Code of the Town of Burkittsville and with the provisions of Article II and Article III of the Code of Frederick County, MD entitled “Unsafe Buildings” and “Minimum Livability Code” respectively. To enforce the provisions of this section, the Mayor and Council designate the Environmental Management Administrator/Zoning Administrator to investigate violations or complaints. The Demolition by Neglect ordinance was derived to safeguard the historical and cultural heritage of Burkittsville’s Historic Village District.

Centreville, MD

Chapter 31 – Buildings, Dangerous, includes definitions of defects which shall deem buildings or structures as “dangerous buildings,” and has standards for repair or demolition to be followed if determined to be a dangerous building by the Building Inspector. The chapter also includes the duties of the building inspector, duties of the town council, and violations and penalties.

Chapter 85. Property Maintenance

§ 85-1. Definitions.

[Amended 10-7-2013 by Ord. No. 2013-13]

For the purposes of this chapter, the following terms shall have the meanings indicated:

BLIGHTED STRUCTURE

Any dwelling, garage, or outbuilding, or any factory, shop, store, office building, warehouse, or any other structure or part of a structure, to include private driveways and parking lots thereto, which:

[Amended 3-7-2016 by Ord. No. 2016-3]

- A. Because of fire, wind, other natural disaster, vandalism or physical deterioration is no longer habitable as a dwelling, is no longer useful for the purpose for which it was originally intended, or, as respects private driveways and parking lots, has been allowed to deteriorate to the point where deep and numerous potholes, cracks and voids in paving have developed which pose a risk of injury or of property damage and to the point that commercial business operating in such structures or on surrounding properties has been or is likely to be adversely affected; or
- B. Is partially completed and which is not presently being constructed under an existing, valid building permit issued by or under the authority of the Town of Mount Airy; or
- C. Is not structurally sound, weathertight, waterproof or verminproof; or
- D. Is not covered by a water-resistant paint or other waterproof covering so as to protect said structure from the adverse effects of the elements or from physical deterioration; or
- E. Contains one or more exterior openings for a period of 60 days or more not covered by a functional door or unbroken glazed window or which is not in the case of a vacant building neatly boarded up and protected against the elements and from vandals and rodents and other animals.

BUILDING MATERIAL

Any lumber, bricks, concrete, cinder blocks, plumbing materials, electrical wiring or equipment, heating ducts or equipment, shingles, mortar, cement, nails, screws, or other material commonly used in the construction or repair of any buildings or structures.

DWELLING

Any house or building or portion thereof which is occupied in whole or in part as a home, residence or sleeping place of one or more human beings, either permanently or transiently.

DWELLING UNIT

A room or group of rooms intended to be occupied by one family or household as their home and where they sleep.

HABITABLE ROOM

A room which is designed or may be used for living, sleeping, eating or cooking. Storerooms, bathrooms, toilets, closets, halls or spaces in attics or basements are not habitable rooms except as permitted in § 85-15, entitled "Basement dwelling units."

JUNK

Town of Middletown Planning Department

To: Burgess & Commissioners and Middletown Planning Commission

From: Cindy Unangst, Staff Planner

Date: 5/10/2018

RE: Monthly Planning Update - May

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:

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 #5 approved – March 19, 2018
Next step – submit architectural renderings for building #2 for review/approval

Fire Station – BOA approved height variance request - October 20, 2016
Revised Site Plan conditionally approved – October 17, 2016 (Plans expire 10/17/19)
Improvement Plans conditionally approved – December 19, 2016 (Plans expire 12/19/19)
Improvement Plan mylars signed – May 30, 2017

Franklin Commons - Site Plan conditionally approved – January 19, 2015 (Plans expired 1/19/2018)
FRO plan conditionally approved – January 19, 2015
Improvement Plans conditionally approved – Sept. 21, 2015 (Plans expire 9/21/2018)
Improvement Plan mylars signed – January 4, 2016
Resubmittal of site plan for review/approval – May 7, 2018

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

Dowd Property – Forest Stand Delineation approved – April 16, 2018
Concept plan submitted for review – May 7, 2018

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 hearing for variance requests (approval received) – March 29, 2016 (**Expired 3/29/17**)

SWM plans submitted to SCD and Frederick County – December 5, 2016

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

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

Site plan conditionally approved by PC – July 20, 2015 (Plans expire July 20, 2018)

Improvement plans conditionally approved by PC – June 19, 2017 (Plans expire June 29, 2020)

Improvement plan mylars signed – January 2, 2018

Grading and SWM permits approved – March 26, 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)

Next step – submittal of improvement plans for review and approval

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

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 scheduled for April 5, 2018

Passed annexation resolution – April 9, 2018

45-day wait period for petition to annexation referendum – thru May 23, 2018

Text Amendments: Request to add “microbrewery” as a permitted use in the TC District

Request by ZA to make changes to Demolition ordinance & Storage Container regulations

Reports: 2017 Annual Planning Report – approved by PC – April 16, 2018

2017 Annual FRO Report – submitted to MD DNR – March 7, 2018

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

Meetings: Next Middletown Green Team Meeting – May 16, 2018

Next Joint town board/planning commission workshop – August 6, 2018