

MIDDLETOWN PLANNING COMMISSION

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

Agenda for the November 18, 2019 Meeting
7:00 p.m.

- I. **Public Comment**
- II. **Minutes of October 2019 Planning Commission workshop** **Approval**
Minutes of October 2019 Planning Commission meeting **Approval**
- III. **Plan Review**
Hollow Creek Professional Center Revised Preliminary Forest Plan **Review/Approval**
- IV. **Zoning**
Accessory structures regulations **Review**
Outdoor lighting regulations – Dark Sky policy **Review**
- V. **Miscellaneous**
PC Rules of Procedure **Review/Approval**
 - **Public hearing process**
 - **Red-line review policy****January meeting date change due to MLK Holiday** **Review**
- 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 12:00pm on the Monday two weeks prior to the monthly meeting held on the third Monday of each month. All plans being submitted for review must be folded, and an electronic plan is required as well.**

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

MIDDLETOWN PLANNING COMMISSION
31 West Main Street
Middletown, Maryland

Workshop

October 16, 2019

The regular workshop of the Middletown Planning Commission took place on Wednesday, October 16, 2019 at 7:00 p.m. at the Middletown Municipal Center, 31 West Main Street, Middletown, MD 21769. Those present (quorum) were Commission Chairman Mark Carney, Commission Members Bob Miller, Dixie Eichelberger, Alternate, and Eric Ware, Temporary Alternate. Others present in official capacity: Cindy Unangst (Staff Planner). Applicants present: Mark Lancaster, David Lingg, Joe Caloggero.

OCTOBER MONTHLY PLANNING COMMISSION WORKSHOP:

PLAN REVIEW –

Hollow Creek Professional Center Revised Site Plan – The traffic engineer from The Traffic Group, Joe Caloggero, discussed updates to the traffic impact analysis and clarified some of the information in the report that the commission members had questions on. David Lingg went through all the revisions from the previous plan submission. Topics of discussion included: red-line changes to the existing shopping center, pedestrian access, changes to the office building, loading and service areas, landscaping, truck movements, signage, and lighting changes.

ZONING – none

MISCELLANEOUS –

There was some discussion about amending the PC Rules of Procedure to add a public hearing process, a dark sky policy and a red-line review policy. This item will be added to the Monday meeting agenda.

Workshop adjourned at 8:45pm.

Respectfully submitted,

Cynthia K. Unangst, AICP
Middletown Staff Planner

MIDDLETOWN PLANNING COMMISSION
31 West Main Street
Middletown, Maryland

Regular Meeting

October 21, 2019

The regular meeting of the Middletown Planning Commission took place on Monday, October 21, 2019 at 7:00 p.m. at the Middletown Municipal Center, 31 West Main Street, Middletown, MD 21769. Those present (quorum) were Commission Chairman Mark Carney, Commission members Rich Gallagher, Bob Miller, Dixie Eichelberger and Eric Ware. Others present in official capacity: Cindy Unangst (Staff Planner) and Annette Alberghini (Recording Secretary). Others present: David Lingg (Lingg Property Consulting), Mark Lancaster (Lancaster Craftsman Builders), Mark Crissman (Daft McCune Walker) and Joe Colagerro (The Traffic Group).

OCTOBER MONTHLY PLANNING COMMISSION MEETING:

- I. PUBLIC COMMENT – None.**
- II. Regular Workshop Minutes of September 11, 2019 – Approved as submitted.**
Regular Meeting Minutes of September 16, 2019 – Approved as submitted.

III. PLAN REVIEW

Hollow Creek Professional Center Revised Site Plan – (David Lingg (Lingg Property Consulting), Mark Lancaster (Lancaster Craftsman Builders), Mark Crissman (Daft McCune Walker) and Joe Caloggero (The Traffic Group) present). This is for the proposed property development with 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. 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.

Previously the site plan showed 50,640 square feet ± of commercial space in three separate buildings in addition to 2± acres reserved for future development. The revised plan shows 47,970 square feet of commercial space in three separate buildings. The site plan continues to show two one-story retail pads and one three-story office building. The proposed ancillary restaurant/retail use has been increased to 2,600 square feet (from 2,000 sf) to now be located on the western side of the 1st floor of the office building. An outdoor seating area of 1,000 square feet will be a covered area. The proposed office square footage decreased from 39,440 square feet to 36,170 square feet. The total area of building footprint decreased from 10% to 9% of the total net area of the site (does not include area reserved for future development); the total area of paving also decreased, while the total area of hardscape/green space increased a percentage.

The prior site plan showed 212 parking spaces, while the revised plan shows 205 parking spaces which still includes 8 handicapped spaces. Two additional parking spaces were added to the BB&T southern parking lot, while other areas of the proposed development had spaces deleted. There were also changes made to the loading spaces/areas. The drop-off area in front of the office building was increased to 14-foot wide from 12-foot wide. Setbacks for the office building were increased from 51-feet on the eastern side to 54-feet, and from 67-feet on the

western side to 97-feet (an increase in green space). Additionally, there is a proposed variable width, revertible grading easement from the adjoiner to the east (A.C. Jets).

The applicant has proposed some new sidewalks on the Town Center Plaza property as shown on Sheet 3, both west and north of the BB&T bank and east of the Safeway food store. At both of those locations, crosswalks have been added to connect them to the new development.

Most of the proposed light poles on the eastern side of the property have been moved a few feet to the west on the parking islands so that the footcandle measurements at the property line are not greater than 0.5 at the property line. One set of pole lights on the western side of the property to the north of the proposed office building has also been moved a few feet to the east to avoid footcandle measurements above 0.5 at the property line. A pole light to the west of proposed pad #1 has been changed to a single head instead of a double-headed light.

The developer reviewed the revised site plan. The following points were discussed.:

- **Easements** – The proposed changes include reconfiguring and widening the drive aisle north of the BB&T bank pad, relocating parking spaces within the shopping center property, and relocating some of the displaced parking spaces onto the Hollow Creek Professional Center property which will be accessed via a “blanket parking, ingress/egress, and pedestrian easement.” A copy of that easement to be executed by and between both property owners will need to be submitted to the Planning Commission before final approval of the plans. Other easement copies between both property owners that must be provided to the Planning Commission prior to final approval include a signage easement and a shared dumpster location easement. AC Jets granted a revertible grading easement along the eastern side of the property. A copy of this easement must be submitted the Planning Commission.
- **Parking** – The developer reviewed the revised parking for the site. The proposed site development will have 205 spaces. ARRO reported that with the location of the shared dumpster, one parking space would not be usable. The Planning Commission would have to accept the number of spaces to be 204. It was recommended that the developer include calculations for possible restaurant parking for the 2-pad site on its notes on Sheet 1. Current calculations show retail parking requirements only.
- **Signage** – The developer has proposed retaining wall signage at the front of the property. This would require Planning Commission approval. Directional signage proposed would need Zoning Administrator approval.
- **Frederick County Stormwater Management Concept Plan Approval** – The plan has been submitted to Frederick County. Awaiting approval.
- **Traffic Study** – The Traffic Group reviewed the results of the traffic study with the revised site plan modifications. The results have been sent to SHA. SHA has suggested that they would only allow a Right-In Only site access from USA140. If that is approved the developer can further modify its site plan to allow easier large truck access to the site. This change would have to come before the Planning Commission for approval. SHA has to approve an access permit to the site.
- **Architectural Review** – Planning Commission needs to approve the Architectural Review
- **Preliminary Forest Conservation Plan Approval** – The plan has been submitted to the Town. Planning Commission will review in November.
- **Town Engineer Review and Approval** – The Revised Site Plan has been given to the Town Engineer for review. Awaiting any comments and approval.

Action: Commission Member Gallagher motioned to conditionally approve the Hollow Creek Professional Center Revised Site Plan, conditional upon approval of an access permit from SHA, approval of the stormwater management concept plan by Frederick County, submittal of appropriate documents and easements by the owner of the shopping center and the BB&T bank agreeing to proposed changes to the existing drive aisles, parking and islands in the shopping center, as well as the sign and dumpster locations, submittal of the appropriate documents and easement for the revertible grading easement from AC Jets; review and approval of the Preliminary Forest

Conservation Plan by the Planning Commission, architectural review of both the buildings and retaining wall signage approval by the Planning Commission, modification to General Note #5 for possible restaurant use on the pad sites, acceptance of 204 parking spaces by the Planning Commission instead of the 205 proposed. Seconded by Commission Member Eichelberger.

Commission member Gallagher motioned to modify his original motion to also include the additional condition of addressing of any comments from the Town Engineer. Seconded by Commission Member Eichelberger. Motion carried (5-0).

IV. ZONING – None

V. MISCELLANEOUS –

Planning Commission Rules of Procedure – The Staff Planner was asked to provide draft language to add to the Planning Commission Rules of Procedure addressing the public hearing process, red-line review policy and dark sky policy. The Planning Commission would review for approval.

- **Public Hearing Process** – The following would be added to Section 6.1: If the Planning Commission determines that the size, scope and or impact of site or subdivision plans, including phased plans, requires it, an advertised public hearing can be scheduled. In those cases, notification will be sent to residents per the Site Plan Policy of the Town Board, and properly noticed.
- **Red-line Review Policy** – Section 8.2 would be added to the policy and state: Upon approval of a site plan by the Commission, a statement will be added to the site plan approval letter to the applicant stating that no Use & Occupancy permit shall be granted until all conditions of approval are completed. The applicant shall appear before the Planning Commission at a scheduled meeting ahead of the anticipated opening date of the business to review for compliance with the approved plans.
- **Dark Sky Policy** – It was determined that rather than being placed within the Planning Commission Rules of Procedure that this policy should be added to the Town Code as an addition to the Outdoor Lighting Standards. This would require a text amendment change. This item will be added to the November 2019 Planning Commission agenda. The Staff Planner will develop draft language for the Planning Commission to review prior to sending to the Town Board for approval.

VII. ADDITIONAL PUBLIC COMMENT - None

Meeting adjourned at 8:35pm.

Respectfully submitted,

Annette Alberghini
Recording Secretary

Middletown Planning Office

MEMORANDUM

Date: 11/14/2019

Hansen# n/a

To: Middletown Planning Commission

From: Cynthia K. Unangst, Middletown Staff Planner

RE: **HOLLOW CREEK PROFESSIONAL CENTER REVISED PRELIMINARY FOREST CONSERVATION PLAN**

Tax Map Parcel #03-140989

Applicant: David Lingg, Lingg Property Consulting

Property Owner: Mark Lancaster Properties, LLC

Plan Dated: August 1, 2019; revised October 15, 2019

Date Received: October 21, 2019

GENERAL INFORMATION

Proposal: the purpose of the preliminary forest conservation plan is to allow for the owner to construct commercial buildings and associated parking and roads

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

Zoning: GC

Present Use: vacant

COMMENTS

The following issues should be considered in your review of this Revised Preliminary Forest Conservation Plan:

1. **Preliminary Forest Conservation Plan submittals** – According to Section 16.40.031.B.2.b of the Middletown Municipal Code, a preliminary forest conservation plan (FCP) shall be submitted for the planning commission's approval along with application for final site plan approval according to regular planning deadlines for site plan submissions. Once the preliminary FCP or final site plan is approved by the planning commission, applicants should proceed with final FCP in conjunction with engineering improvement plans.
2. **Preliminary forest conservation plan requirements** – According to Section 16.40.034 of the Middletown Municipal Code, the requirements for a preliminary forest conservation plan are as follows:

16.40.034 Preliminary forest conservation plan.

- A. A preliminary forest conservation plan shall:
1. Be submitted as required by [Section 16.40.031](#)(B) of this chapter;
 2. Include the approved forest stand delineation for the site;
 3. Include a table that lists the proposed values of the following, in square feet:
 - a. Net tract area,
 - b. Area of forest conservation required, and
 - c. Area of forest conservation that the applicant proposed to provide, including both on-site and off-site areas.
 4. Include a clear graphic indication of the forest conservation provided on the site drawn to scale, showing areas where retention of existing forest or afforestation or reforestation is proposed;
 5. Include an explanation of how the provisions of [Section 16.40.033](#) of this chapter have been met;
 6. In the case of afforestation or reforestation, include a proposed afforestation or reforestation plan;
 7. Include a proposed construction timetable showing the sequence of forest conservation procedures;
 8. Show the proposed limits of disturbance;
 9. Show proposed stockpile areas;
 10. Incorporate a proposed two-year maintenance agreement that shows how areas designated for afforestation or reforestation will be maintained to ensure protection and satisfactory establishment;
 11. Include information required in the Forest Conservation Technical Manual; and
 12. Include other information the appropriate approving authority determines is necessary to implement this chapter.
- B. The review of the preliminary forest conservation plan shall be concurrent with the review of the site plan or preliminary plan of subdivision for planning commission approval and with initial plan submission to the DOC, if appropriate.
- C. During the different stages of the review process, the preliminary forest conservation plan may be modified provided the approving authority approves of the changes.

The Forest Stand Delineation was approved by the Planning Commission on April 18, 2018. The Town's regulations call for the net tract area and area of forest conservation to be indicated in square feet; the plan only shows the areas in terms of acreage. The revised plan shows minor changes in the net tract area (from 6.6 acres to 6.47 acres), the disturbed area (from 5.25 acres to 5.36 acres), and the off-site afforestation needed (from 0.99 acres to 0.97 acres). The proposed mitigation provided is specified to be off-site plantings of 0.97 acres on a parcel of land owned by the town along Alternate 40-A just west of Knoll Side Lane.

3. **Summary of PFCP narrative** – There is one specimen tree near the eastern property line which is a 58" multi-trunked northern catalpa in fair condition. The tree is proposed to be removed. One other tree of note is a 24" dbh (diameter base height) pin oak at the rear of the Safeway store near the property line. That tree is in an area of future development and

when that development occurs, the tree will be removed. Portions of the site have been maintained as mowed grass, or are covered in grasses and invasive multiflora rose and raspberry, along with other vines and invasives.

4. **Priority tree** – According to Section 16.40.041.B(3) of the Municipal Code, trees having a diameter measured at four and one-half (4.5) feet above the ground of thirty (30) inches or more shall be considered priority for retention and protection, and they should be left in an undisturbed condition unless the applicant has demonstrated, to the satisfaction of the approving authority, that the applicant qualifies for a modification under Section 16.40.023. It has been determined that the 58" northern catalpa is incorrectly labeled due to the fact that it is multi-trunked. The tree has three trunks measuring 14", 26", and 28" at 4.5' dbh, and therefore does not qualify as a tree to be considered priority for retention. As a conservative measure, the applicant has requested a modification from the requirement to retain the tree. The modification request is attached to this staff report.



5. **FRO calculations** – The square-footage of the easements deducted from the gross tract area to determine the net tract area used for determining the afforestation threshold should be included on the plan, as well as the square footage of the off-site afforestation needed. Section 16.40.042 (Afforestation and afforestation threshold) should be referenced in the calculations instead of the Frederick County reference.
6. **Review by Maryland Department of Natural Resources** – The plan has been provided to the Maryland Department of Natural Resources for review, but no comments have been received to date.

RECOMMENDATION

Staff recommends that the Planning Commission conditionally approve the revised Preliminary Forest Conservation Plan for this property conditional on the square footage and correct references being shown on the plan.

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

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



October 14, 2019

Town of Middletown Planning Commission
Middletown Municipal Center
31 West Main Street
Middletown, MD 21769
Attn: Cindy Unangst

Re: Hollow Creek Professional Center
Request to remove Existing Catalpa Tree

Dear Cindy:

This letter shall serve as our request for a modification to remove the Northern Catalpa tree currently existing in the NE quadrant of the Mark Lancaster Properties, LLC property located along U.S. 40 (Alt.)/Old National Pike (East Main Street). The tree in question is not located along the perimeter of the property, but rather, it is located approximately 60' inside the eastern property line and approximately 230' inside the northern property line, placing the tree well within the property limits.

The existing Northern Catalpa tree is a multi-trunked (3 trunked) tree with the three trunks measuring 14", 26", & 28" at 4.5' dbh. (The current Site Plan incorrectly labels the tree as a 58" diameter tree.)

Section 16.40.041.B(3) of the Town of Middletown Municipal Code, defines "Priority Trees" as trees having a diameter measured at four and one-half (4.5) feet above the ground of thirty (30) inches or more. Technically, based on the existing measurements, the tree does not meet the exact criteria to be defined as a "Priority Tree". However, it was decided to provide this letter requesting the modification, as a conservative measure.

Catalpa speciosa or the Northern Catalpa Tree is typically a tree of limited landscape value due to coarseness of branching and foliage, is susceptible to leaf spots, mildew, twig blight, and the catalpa midge. Northern Catalpa trees are quite brittle and frequently shear in even moderate winds and storms. The native habitat for the Northern Catalpa Tree is southern Illinois and Indiana to western Tennessee and northern Arkansas (Source: Michael A. Dirr; *The Manual of Woody Landscape Plants*).

The existing Catalpa tree in question exhibits signs of shear in its crown where it appears to have sustained damage from storms or high winds. The lower branches of this particular tree are also dead or dying. While not invasive, the Catalpa tree is also of limited value from a wildlife habitat perspective, and is not a good food source for wildlife.

Also, the tree exists on a higher elevation of the property, and since all of the previously existing understory and surrounding plant material was removed, the tree's environment has changed. The tree will be even more exposed to prevailing winds, and therefore more susceptible to experience wind shear and damage.

The root system of the North Catalpa tree is shallow and spreading. In its existing location, when taking into consideration the current plan for development of the property in question, the root system of this existing Northern Catalpa tree most likely will be severely compromised. The canopy of this existing tree is rather narrow, however it may still have a critical root zone in excess of 50'-75'. Therefore, the majority of these shallow roots will be severed during the construction operations. (The proposed grading in this area anticipates lowering the site by approximately 4' and the proposed building foundation is within 10'-15' of the base of the tree). It is our professional opinion that the tree would not survive these construction operations, nor the change in the proposed immediate environment, if left intact.

Therefore, for all of these reasons stated above, with this letter and on behalf of the applicant, Mark Lancaster Properties, LLC, we respectfully request the modification approval to remove the Northern Catalpa tree in question.

Please let me know if you need anything further at this time. If you have any questions, please feel free to contact me at 301-644-2121.

Sincerely,

Lingg Property Consulting



David A. Lingg RLA
President

encl.

cc: Mr. Mark Lancaster (via email only)
Mr. Mark Crissman, Daft-McCune-Walker, Inc. (via email only)

CURRENT REGULATIONS:

17.32.170 - Modifications to yard requirements.

- A. Allowable Projections of Structure into Yard and Other Modifications to Yard Requirements. Architectural features of buildings such as window sills, cornices, roof overhangs, and unenclosed porches that do not have a roof may project into the required yard not more than six feet but may not be closer than six feet to a lot line. Open fire escapes, fireproof outside stairways, chimneys and flues may project into the required yard not more than six feet. Unenclosed ground floor terraces or unenclosed patios may extend into any yard area but may not be closer than six feet to a lot line.
- B. Side Yards Not Required for Second-Story Residential Uses in Nonresidential Structures. Side yards shall not be required for residential dwellings erected above commercial structures.
- C. Allowable Projections of Business Structures into Yards. Signs, awnings, canopies, marquees as attached to and part of a building may project into the front yard in the commercial districts only.
- D. **Allowable Projections of Accessory Buildings into Yards.** One-story accessory buildings with a maximum height of twenty-five (25) feet may project into yards provided that: (1) the building does not occupy more than thirty (30) percent of the rear yard; (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 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; (5) any accessory structure greater than twenty (20) feet in height must provide an additional one foot of setback for each one foot of additional height; (6) all accessory structures defined as sheds must be located to the rear of the principal structure.
- E. Allowable Projections of Fences into Yards. Except as may be authorized by special exception, fences may be constructed in or project into yards providing that: (1) no fence or uniform (hedgerow) planting more than three feet high shall be located within thirty (30) feet of a street intersection or driveway entrance; (2) no fence more than three feet high may be located closer to the front of the lot than the principal building; and (3) no fence more than six feet high shall be allowed on any other part of the lot except that fences no more than six feet high shall be allowed in any yard areas in the commercial and industrial districts. Fences in excess of six feet in height in commercial and industrial districts and for nonconforming businesses may be approved by the planning commission subject to review of the fence material during site plan review. Fences shall not be constructed in a manner which would create unmaintainable areas or hazardous conditions.
- F. Allowable Projections of Freestanding Signs into Yards. Freestanding signs (not attached to a building) as permitted in the particular district may project into the front yard.
- G. Yard Requirements for Corner Lots. There shall be a front yard setback for each street frontage and the remaining yard setbacks shall be considered side yards.

PROPOSED: Allowable Projections of Accessory Buildings into Yards. The following regulations apply to any accessory building, use or structure within the Town.

Location. All accessory buildings and structures shall be located behind the front building line of the principal building.

Easements. 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.

Height. One-story or 10 feet in height, or a maximum of 15 feet with roof. Accessory structures may not exceed the height of any principal building.

Size. Accessory buildings or structures may project into yards 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 floors of the accessory structure shall not exceed the above grade finished square foot size of primary 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

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

No accessory structure may be used for living quarters. 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.

Accessory Structure Regulations

Structures

- **Accessory structure:** A subordinate structure, which is located on the same lot as the principle building and serves a purpose customarily incidental to the principle building. No accessory structures will be permitted in designated floodplain areas. (§1-19-11.100).
- **Accessory Structures include:** garages, tool sheds, storage buildings, barns, signs, or similar structures. (§1-19-4.300).

Location

(§1-19-4.300.1)

- (A) No accessory building will be erected within the required front yard, except as provided in §1-19-8.250.1. No accessory structure will be erected within 6 feet of any lot lines or within 6 feet of any building on the lot, except as provided in §1-19-8.250.1.
- (B) No accessory structure, wind energy system, solar array or associated structure, will be erected within the required front yard setback, except as provided in §1-19-8.250.1.
- (C) Accessory structures shall be located on the same parcel as the principal permitted use or structure.
- (D) Accessory structures on residential properties see also §1-19-8.240(B).

Accessory Structure on Residential Properties

(B) An accessory structure shall be limited in size when located on a residential **zoned** property to the following: (§1-19-4.300.2) The total square footage of all floors of the accessory structure shall not exceed that of the dwelling.

- (1) The total square footage of all floors of the accessory structure shall not exceed that of the dwelling;
- (2) Except as provided in subsection (B)(3) below, the footprint of an accessory structure may not exceed the greater of:
 - (a) One-half of the footprint of the principal dwelling; or
 - (b) Six hundred square feet
- (3) One (1) accessory structure located on a Residential-1 (R-1) zoned property may exceed the footprint limits of subsection (B)(2) above, provided that the footprint of that accessory structure does not exceed 2000 square feet, and provided that the lot size equals or exceeds 20,000 square feet.
- (4) The square footage allowed for business purposes in an accessory structure shall be 600 square feet.
- (5) Accessory structures shall not exceed 70% of the maximum height allowed for the principal permitted use, except as otherwise provided within this chapter.

For More Information

To determine if your lot is residential zoned or to determine your required front yard, please contact the Zoning Office at:

30 N. Market St.

17.32.245 - Outdoor lighting standards.

- A. The purpose of this section is to establish outdoor lighting standards that reduce the impacts of glare and spillover of light onto adjacent properties or into the sky, to protect against glare onto public rights-of-way that can impair vision of motorists, pedestrians, and bicyclists, to promote safety and security, and to encourage energy conservation.
- B. General Lighting Requirements. Exterior lighting shall comply with the following requirements and contain the following information with regard to outdoor lighting:
1. Pole and Stand-alone Lighting.
 - a. All street lighting shall comply with the Street Lighting Design Manual regulations.
 - b. All other lights, light fixtures, light poles and other structures holding or supporting lighting fixtures shall be located at least ten (10) feet from the closest exterior property line.
 - c. All stand-alone light poles or other structures holding or supporting lighting fixtures which are located between ten (10) feet and twenty-five (25) feet of the closest exterior property line shall not exceed a maximum height of fifteen (15) feet which height shall include any base, wall pedestal, platform or other supporting building or structure. All other stand-alone light poles or other structures holding or supporting lighting fixtures shall not exceed a maximum height of twenty (20) feet which height shall include any base, wall pedestal, platform or other supporting building or structure.
 2. Wall-mounted Lighting.
 - a. Any lighting which is mounted or secured to a wall of a building, including wall-packs, shall not be located more than twenty-five (25) feet above the surface of the ground directly below it. All such lighting shall be located, aimed and shielded, so as to reflect light downward, below the horizontal and so that the light from such fixture is not directed toward adjacent streets, roads or adjacent properties.
 - b. Wall-mounted light fixtures which are positioned and aimed to direct lighting in an upward direction on the façade of a building are not permitted. Fixtures designed and located so as to direct lighting in a downward direction down the building surface are preferred.
 3. Landscape and Architectural Lighting. Lighting which is used to illuminate flags, statues, signs or other objects mounted on a pole, pedestal or platform, and spotlighting or floodlighting used for architectural or landscaping purposes shall consist of full cut-off or directionally shielded lighting fixtures that are aimed and controlled so that the directed light shall be substantially confined to the object intended to be illuminated. Directional control shields may be required in order to limit the amount of light shining outside the intended direction and in particular to shield and protect motorists and pedestrians from the glare of such lighting.
 4. Exterior lighting fixtures shall include full cutoff features and shall be directed downward on site, so that the light does not create excessive glare on adjacent properties. Light trespass from originating property shall not exceed 0.5 footcandle measured on a vertical plane five (5) feet above grade at the property line.
- C. Site Plan Submissions.
1. The planning commission may require a lighting plan on any site plan submission required by Section 17.32.230 which site plan shall include:
 - a. The specific location, height and type of illuminating devices, fixtures, lamps, or any other light sources;
 - b. A full description of each light source, fixtures, lamps, and other devices, to include catalog cuts by manufacturers and diagrams, where appropriate;

- c. Photometric data, such as that furnished by manufacturers, or similar information demonstrating the angle of cutoff and/or light emissions;
 - d. Analysis and luminance level diagrams showing that the proposed installation conforms to the lighting level standards of this section;
 - e. Tests, reviewed by a lighting engineer, indicating that the lighting plan is sufficient to meet IESNA recommendations, i.e., not to exceed IESNA recommendations, may be required by the planning commission; and
 - f. Computer-generated, point-by-point lighting calculations on a scaled site plan with a ten-foot by ten-foot grid of footcandle readings indicating initial horizontal footcandles at grade, and initial vertical footcandles five (5) feet above grade at the property line.
2. If the planning commission is unable to determine that the lighting plan complies with this section, the planning commission may require the plan to be submitted to a lighting engineer or recognized testing laboratory for review. The report of such engineer or laboratory shall be submitted to the planning commission and the applicant shall bear the cost of the review and report.
 3. The site plan requirements may be modified by the planning commission if it is determined that the general intent of this section can be realized without providing all the information outlined above in subsection C.1.
- D. Alterations after Site Plan Approval. No alteration or change in the approved site plan lighting plan may be made unless approved by the planning commission in accordance with this section, provided, however, that the zoning administrator may approve the replacement of a failed, broken or damaged lamp, light, fixture or supporting structure if such replacement will be in accordance with the requirements of this section.
- E. Pre-existing Lighting. Exterior lighting, including fixtures, lamps, lights, poles and supporting structures, existing on property subject to this section on the date of the enactment of this ordinance shall be permitted to remain. No changes or alterations or additions to such existing exterior lighting may be made without a zoning certificate being submitted to and approved by the zoning administrator in accordance with the requirements of this section. The zoning administrator may approve the replacement of a failed, broken or damaged lamp, light, fixture or supporting structure if such replacement will be substantially similar to the lighting to be replaced.
- F. Exemptions. The following shall be exempt from the provisions of this section:
1. All vehicle lighting, emergency traffic lighting, and traffic control lighting;
 2. All athletic events and stadium use on Frederick County Public School properties;
 3. For lighting which is reasonably related to sports, amusements, entertainment events or other public gatherings operating as part of an athletic contest, carnival, fairground activity, parade or public celebration:
 - a. If a permit has been issued for such event, until 12:00 midnight;
 - b. If no permit has been issued to authorize such event, until 10:00 p.m.
 4. Temporary lighting which is typically and traditionally used for the celebration or recognition of a holiday and which is installed and removed within a reasonable period of time prior to and after the holiday.
 5. Lighting required in order to address an emergency, including lighting required for emergency street, utility or construction repairs if such lighting is discontinued immediately upon abatement of the emergency.

Scottsdale, AZ: Exterior and Site Lighting Design Guidelines

PURPOSE:

Encourage quality site lighting design while providing a sense of safety and security by reducing excessive light levels, light trespass, and glare.

DESIGN PRINCIPLES:

- The use of lighting should be integrally designed as part of the built environment and should reflect a balance for the lighting needs with the contextual ambient light level and surrounding nighttime characteristics of our community. In conjunction with the Zoning Ordinance, recommended light level guidelines and uniformity ratios established by the Illumination Engineering Society of North America (IESNA), in the IESNA Lighting Handbook (current edition), should be considered when determining appropriate lighting design solutions.
- Lighting designs should be designed to minimize glare and light trespass; to implement energy conservation, and to maintain dark skies. The lighting designers should consider utilizing pre-curfew and post-curfew lighting designs with automatic control systems to eliminate excessive light during inactive hours of site and building operation.
- Full cut-off fixtures, mounting heights, and shielding should be utilized to effectively control glare and light trespass.
- Any exterior lighting designs shall take into account all exterior lighting sources.
- Architectural lighting if proposed shall be included with the DRB application. Architectural lighting if proposed should only be utilized to illuminate special features. Lighting of expansive wall planes, towers, and roofs or the use of architectural lighting that results in "hot spots" should be avoided.
- Landscape lighting if proposed shall be included with the DRB application. Landscape lighting should only be utilized to accent

landscaping, be point away from the property line, and fixtures shall contain extension shields in minimize glare and light source visibility.

Illuminance Recommendations

Ambient Light Level *	Recommended Maintained Footcandles (based on IESNA RP-20-98) (horizontal fc measured at grade)	
	Average	Maximum
E-1 – Intrinsically Dark Areas	1	4
E-2 – Estate/Rural Areas	1.5	6
E-3 – Suburban Areas	2	8
E-4 – Urban/Pedestrian Activity Areas	2.5	10

Light Trespass Limitations

Ambient Light Level *	Recommended Footcandles (IESNA RP-33-99) (vertical fc measured 6' above grade at property line)
E-1 – Intrinsically Dark Areas	0.1
E-2 – Estate/Rural Areas	0.3
E-3 – Suburban Areas	0.8
E-4 – Urban/Pedestrian Activity Areas	1.5

* Refer to [Design Standards and Policies Manual](#) for general Environmental Zone Locations (E-#). These locations are a guide, but are not conclusive and are subject to the approval of the [Development Review Board](#).

SUBMITTAL REQUIREMENTS:

Exterior Lighting

All exterior fixture lighting manufacture cut sheets (to be provided on 24"x36" paper). Each cut sheet shall clearly identify the light fixture manufacture number utilized, the plan cross-reference identification, and be legible. (State law prohibits Mercury Vapor lighting.)

- Plan identification symbol or abbreviation
- Fixture graphic
- Fixture type
- Fixture add-ons if utilize
- Lamp type utilized
- All photometric data
- Candela distribution curve

PHOTOMETRICS

1. Photometrics plans shall be provided for the entire site addressing Zoning Ordinance, ZN, UP, DRB, Design Guidelines, and the Staff Policy for Site Lighting. Additional information may be required by staff after they have evaluated the design.
2. There is a minimum of two photometric studies required for each project. They are (1) the horizontal illuminance on the site, and (2) the vertical light trespass around the perimeter of the site. Each plan requires the following information:
 - a. A point-by-point foot-candle reading. The horizontal photometric plan grid points, utilizing distinctive grip point symbols (example: *), shall have a maximum spacing of 10'-0" between each point across the entire site, and 10'-0" past the property line. The vertical photometric plan grid point shall be provided only along the property line with a maximum spacing of 10'-0" between each point.
 - b. A foot-candle reading shall also be provided under at least one of each light fixture type.
 - c. The plan shall include the lighting templates generated by the lighting design software program to calculate the foot-candle readings. The template shall be for the fixture and lamp specified on the plans. The plan's fixture type identification shall match the cut sheets, electrical site plans, and the lighting schedule. This information shall be provided in a summary table.

- d. The plan shall identify the initial maximum, minimum, and average illuminance on the horizontal photometric plan and vertical photometric plan.
 - e. The plan shall identify the total maintained maintenance (light loss) factor utilized.
3. The total maintained light loss factor for all horizontal photometric analysis shall not be below 0.70. Plans shall only include one horizontal reading across the entire site. Only the building footprint shall be masked out from the reading. (Acceptable additional horizontal reading grids may be: gas station canopies, ATM drive-thrus, walk-up ATMs, and parking garage entries/exits. When separate grids are utilized on the same plan, a separate grid symbol (example: %) must be utilized, and a separate maintained maximum, minimum, average illuminance shall be provided for the grid.)
4. The Light Trespass plan (vertical illuminance) shall provide point-by-point foot-candle readings 6'-0" above grade along the entire property line, with the reader at 90-degrees nadir and aimed perpendicular into the site. All light trespass plan readings shall be based on the initial illuminance, 1.00.
5. The horizontal illuminance photometric plan, and the vertical light trespass plan may be combined into one sheet if the readings utilize distinctive symbols, a separate summary table for all fixtures utilized, and separate total light loss factors utilized.
6. The Photometrics plan shall provide a lighting fixture summary table that presents the following information:
 - a. Plan identification symbol or abbreviation
 - b. Fixture type (include the manufacture product identification catalog number)
 - c. Lamp type (include the manufacture product identification catalog number and wattage)
 - d. Lamp Lumens
 - e. Lamp degree Kelvin
 - f. Fixture lens height above lowest adjacent finished grade
 - g. Total Light loss factor utilized.

International Dark-Sky Association: Outdoor Lighting Basics

Modern society requires outdoor lighting for a variety of needs, including safety and commerce. IDA recognizes this but advocates that any required lighting be used wisely. To minimize the harmful effects of light pollution, lighting should

- Only be on when needed
- Only light the area that needs it
- Be no brighter than necessary
- Minimize blue light emissions
- Be fully shielded (pointing downward)

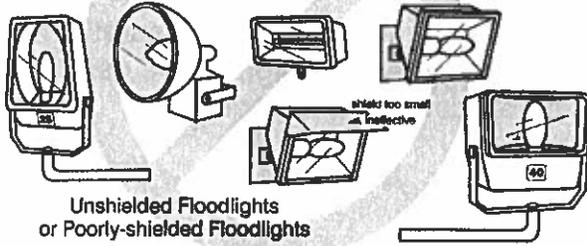
The illustration below provides an easy visual guide to understand the differences between unacceptable, unshielded light fixtures and those fully shielded fixtures that minimize skyglow, glare and light trespass.

[Glossary of Lighting Terms](#)

Examples of Acceptable / Unacceptable Lighting Fixtures

Unacceptable / Discouraged

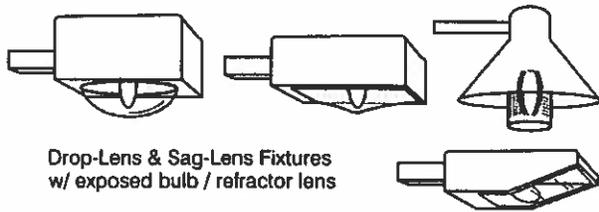
Fixtures that produce glare and light trespass



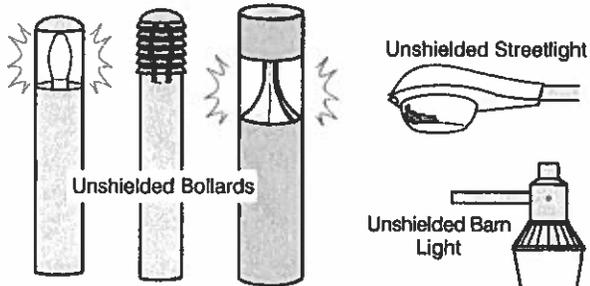
Unshielded Floodlights or Poorly-shielded Floodlights



Unshielded Wallpacks & Unshielded or Poorly-shielded Wall Mount Fixtures



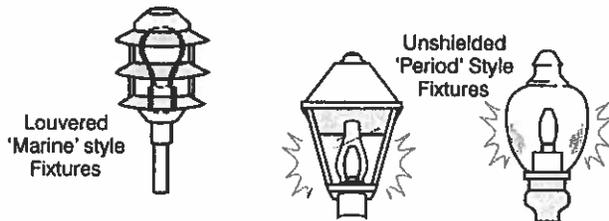
Drop-Lens & Sag-Lens Fixtures w/ exposed bulb / refractor lens



Unshielded Bollards

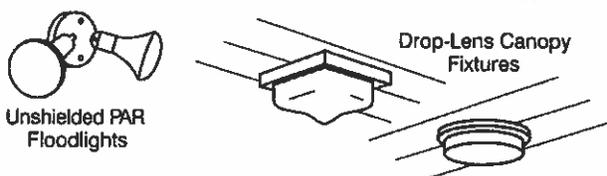
Unshielded Streetlight

Unshielded Barn Light



Louvered 'Marine' style Fixtures

Unshielded 'Period' Style Fixtures

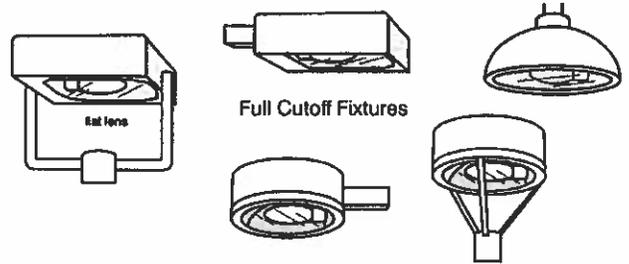


Unshielded PAR Floodlights

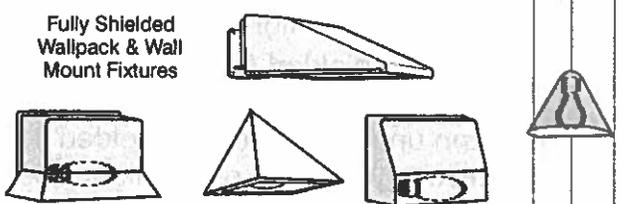
Drop-Lens Canopy Fixtures

Acceptable

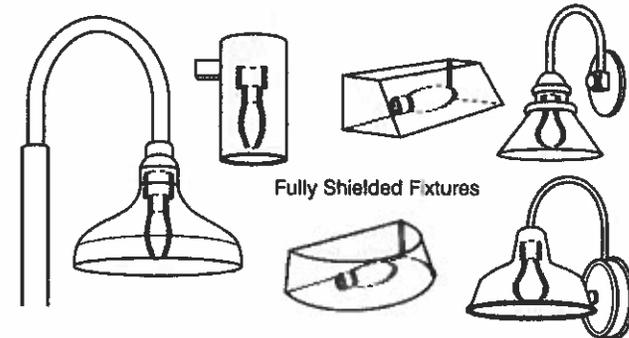
Fixtures that shield the light source to minimize glare and light trespass and to facilitate better vision at night



Full Cutoff Fixtures



Fully Shielded Wallpack & Wall Mount Fixtures

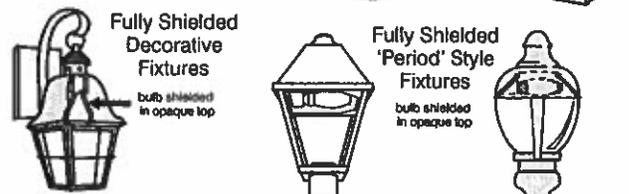


Fully Shielded Fixtures

Full Cutoff Streetlight

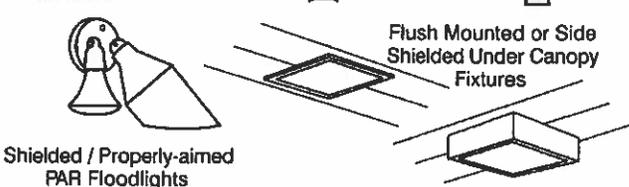
Fully Shielded Barn Light

Fully Shielded Walkway Bollards



Fully Shielded Decorative Fixtures

Fully Shielded 'Period' Style Fixtures



Shielded / Properly-aimed PAR Floodlights

Flush Mounted or Side Shielded Under Canopy Fixtures

Types of Light

Most people are familiar with incandescent or compact fluorescent bulbs for indoor lighting, but outdoor lighting usually makes use of different, more industrial, sources of light. Common light sources include low-pressure sodium ("LPS"), high-pressure sodium ("HPS"), metal halide and light emitting diodes ("LEDs").

LPS is very energy efficient but emits only a narrow spectrum of pumpkin-colored light that some find to be undesirable. Yet, LPS is an excellent choice for lighting near astronomical observatories and in some environmentally sensitive areas.

HPS is commonly used for street lighting in many cities. Although it still emits an orange-colored light, its coloring is more "true to life" than that of LPS.

In areas where it's necessary to use white light, two common choices are metal halide and LEDs. One of the advantages of LED lighting is that it can be dimmed. Thus, instead of always lighting an empty street or parking lot at full brightness, LEDs can be turned down, or even off, when they aren't needed and then brought back to full brightness as necessary. This feature both saves on energy and reduces light pollution during the night.

Because of their reported long life and energy efficiency, LEDs are rapidly coming into widespread use, replacing the existing lighting in many cities. However, there are important issues to consider when making such a conversion. See our [LED Practical Guide](#) for more information.

Color Matters

As the illustration above, it is crucial to have fully shielded lighting, but we now know that the color of light is also very important. Both LED and metal halide fixtures contain large amounts of blue light in their spectrum. Because blue light brightens the night sky more than any other color of light, it's important to minimize the amount emitted. Exposure to blue light at night has also been shown to harm [human health](#) and [endanger wildlife](#). [IDA recommends](#) using lighting that has a color temperature of no more than 3000 Kelvins.

Lighting with lower color temperatures has less blue in its spectrum and is referred to as being "warm." Higher color temperature sources of light are rich in blue light. IDA recommends that only warm light sources be used for outdoor lighting. This includes LPS, HPS and low-color-temperature LEDs. In some areas, the white light of even a low-color-temperature LED can be a threat to the local nighttime environment. In those cases, LPS or narrow-spectrum LEDs are preferred choices.

Finding What You Need

IDA doesn't sell dark sky friendly lighting, but our [Fixture Seal of Approval program](#) makes it easy for you to find the right products. The FSA program certifies dark sky friendly outdoor lighting – these are fixtures that are fully shielded and have low color temperature. [Search our database](#) and then check with your local retailer.

RULES OF PROCEDURE

of the

MIDDLETOWN PLANNING COMMISSION

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

FOREWORD

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

OBJECTIVE

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

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

SECTION 1 – DEFINITION

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

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

SECTION 2 – OFFICERS AND COMMITTEES

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

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

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

SECTION 3 – MEETINGS

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

SECTION 4 – VOTING

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

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

SECTION 5 – CONDUCT OF COMMISSION MEMBERS

- 5.1 Speaking for the Commission – A member will not appear to speak for the Commission except as authorized by the Commission. This includes any public or private statement concerning Commission affairs.
- 5.2 Ethics Ordinance – Commission members are subject to and must comply with the Town's Ethics Ordinance (Ethics Ordinance 2014 14-05-02) and any other applicable ordinances.
- 5.3 Conduct at meetings – Members shall conduct themselves at Commission meetings in a fair, understanding and courteous manner. They shall be considerate

of all individuals, attitudes and differences of opinion involved in official Commission business. It is the presiding officer's responsibility to manage the meetings in a manner that is consistent with these rules of conduct.

- 5.4 Being recognized – Commission members shall only speak after being recognized by the chair. Any member may raise “point of order” if they feel that the item being discussed is inconsistent with the agenda item being discussed or is otherwise not in conformance with the conduct of the Commission’s business at hand. It is the presiding officer’s responsibility to rule as to whether the “point of order” is valid.
- 5.5 Ex-parte communications – Commission members shall refrain from ex-parte communication (meaning communication that occurs outside a formal Planning Commission meeting) regarding matters that will likely come before the Commission for decision. It is important to maintain the impartiality and integrity of the Planning Commission. It is also important that Planning Commission decisions be based solely on information presented in public documents and during open and public meetings. Receiving communication outside Planning Commission meetings denies participants the opportunity to respond to all information upon which Commission members may base their decisions.

SECTION 6 – MEETING PROCEDURES

- 6.1 All agenda items that require an advertised public hearing shall be preceded by notices as prescribed by law in Maryland Code Article 66B and the Middletown Municipal Code. **If justified by the Planning Commission based on the size, scope and/or impact of a proposed development, an advertised public hearing may be held for site or subdivision plans, including phased plans, that come before the Commission. In those cases, notification will be sent to residents per the Site Plan Policy of the Town Board, and properly noticed.**
- 6.2 Commission meetings shall be public meetings and subject to the Maryland Open Meetings Act (Annotated Code of Maryland - Maryland State Government – Title 10. Governmental Procedures Subtitle 5. Meetings). (<http://michie.lexisnexis.com/maryland/lpext.dll?f=templates&fn=main-h.htm&cp=>) Any person is entitled to appear and be heard by the Commission before it reaches a decision on any matter. Except as otherwise permitted by the Maryland Open Meetings Act, voting shall be held during a public meeting and the Commission shall keep an open record of its resolutions, proceedings and actions which shall be available for public inspection during business hours. Nothing contained herein shall be construed to prevent the Commission from holding closed sessions for discussion of those items as permitted under the Maryland Open Meetings Act.

Summary of MD Open Meetings Act: The Act is based on the General Assembly’s policy determination in favor of open decision-making by

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

- 6.3 Recording of Proceedings – It shall be the duty of the Administrative Specialist or Administrative Assistant, assisted by the Commission’s staff, to keep a true and accurate record of all proceedings at all meetings and public hearings. A video or audio recording may be accepted as the official record. Minutes shall be prepared, distributed to the individual members, and if approved by the Commission, placed in a record book or file. The Administrative Specialist or Administrative Assistant shall sign the minutes, resolutions, and other official documents, as adopted or approved.
- 6.4 Anyone may appear in his/her own behalf or be represented by an agent or attorney at a Commission meeting. In the absence of any appearance by or on behalf of the Applicant the Commission will proceed to dispose of the matter on record before it or the Commission may by consensus postpone indefinitely the item and it will only be rescheduled upon proper request by the Applicant.
- 6.5 The ordinary order of hearing and time limits for testimony (EXCEPT AS PROVIDED IN SECTION 6.6) shall be as follows:
Staff Report & Recommendation
The Applicant or the Applicant’s Agent or Attorney (15 minutes)
Public Comment (5 minutes per individual or 10 minutes per organization)
Applicant’s Rebuttal (5 minutes);
It is the presiding officer’s responsibility to notify the speaker of their time limit prior to the testimony and to notify them when their time has expired.
- Additional time for any speaker to address pertinent issues or make a public presentation may be requested in writing at least 7 days (one week) in advance of the meeting. Decisions on whether to grant the additional time shall be made by the Chairman or in their unavailability, by the Vice-Chairman. The additional time granted shall be defined at the time of approval and must be contained in the approved agenda.
- 6.6 Special Rezoning Meetings – In order to efficiently review rezoning cases in accordance with Sections 17.08.090 and 17.08.100 of the Zoning Ordinance, the following special meeting procedures shall apply.

- A. As required in the Zoning Ordinance a public hearing shall be held on rezoning applications. All review of rezoning cases shall take place in a public meeting or workshop. The order of the Agenda of cases shall be determined prior to the meeting by the Staff Planner.
- B. Applicant testimony, the staff report, and reviewing agency comments will be presented to the Planning Commission at the Public Hearing held for this purpose.
- C. Public testimony will be permitted in connection with review of rezoning applications during public hearings held for this purpose. The date and time of these hearings will be advertised no less than 14 days in advance of the hearings. The ordinary order of hearing and time limits for testimony shall be as follows:

Staff report & Recommendation

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

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

Applicant's Rebuttal (5 minutes)

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

SECTION 7 – PROCEDURE IN BRINGING MATTERS BEFORE THE COMMISSION

- 7.1 The agenda shall be prepared by the staff who will consult with the Chairman on such matters of the agenda as may be appropriate. Members of the Commission who wish to add to the agenda shall first notify the Chairman of their request at least 7 days prior to the meeting.

- 7.2 Miscellaneous requests and petitions shall, from time to time, come before the Commission, either upon the initiation of an individual or agency or by reference from the governing body. In all cases, the Commission shall be guided by the principles set forth in the “Comprehensive Plan”; the “Subdivision Regulations”; the “Zoning Ordinance”; and rules, regulations and ordinances of the Town. All such matters shall be handled with as much dispatch as possible.
- 7.3 Any agenda item continued by the Commission shall not be rescheduled for 60 days unless otherwise provided by a majority vote of the Commission, or otherwise provided by law.

SECTION 8 – FINAL DISPOSITION OF COMMISSION MATTERS

- 8.1 The disposition of all formal petitions and requests before the Commission requiring further action by the Burgess & Commissioners shall be in the form of a letter of recommendation to the Burgess & Commissioners. In all matters, the Applicant shall be notified by letter of the action taken by the Commission.
- 8.2 Upon approval of a site plan by the Commission, a statement will be added to the site plan approval letter to the applicant stating that no Use & Occupancy permit shall be granted until all conditions of approval are completed. The applicant shall appear before the Commission at a regularly-scheduled meeting **at least 30 days** ahead of the anticipated opening date of the business to review for compliance with the approved plans, and shall notify the Staff Planner at least **10 30** days ahead of the anticipated opening date to check the property for compliance.

SECTION 9 – DELEGATION OF AUTHORITY

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

SECTION 10 – COMMISSION – STAFF RELATIONSHIPS

- 10.1 The Staff Planner or his/her designees is the normal contact for all routine communications between Commission members and the staff. The Staff Planner is also the normal contact for preliminary/final plats and site plan agenda items. Commission members take no part in the daily routine or administration of regulations and research of matters of fact, although they do participate in field trips and discussions pertaining to the more significant matters to be considered at

Commission meetings. Issues of conflict in this realm can be raised to the Commission or Chairman for direction.

- 10.2 Matters of policy and important changes in the administration of the Commission's affairs are developed by the Staff Planner on behalf of the Commission and presented for resolution to members at regular meetings.

SECTION 11 – AMENDMENTS

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

The foregoing is a true and correct copy of the Rules of Procedure of the Middletown Planning Commission as amended on the 20th day of June 2016.

ATTEST:

Mark Carney, Chairman

Date

APPENDIX A

ANNOTATED CODE OF MARYLAND LAND USE ARTICLE

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

Possible joint meeting dates
 TB workshop + meeting dates

2020 Calendar

January

Su	Mo	Tu	We	Th	Fr	Sa
			1	2	3	4
5	6	7	8	9	10	11
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February

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March

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April

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June

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July

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August

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September

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October

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November

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29	30					

December

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26	27	28	29	30	31	

Holidays and common observances

- 1 Jan. New Year's Day
- 20 Jan. Birthday of Martin Luther King, Jr.
- 17 Feb. Washington's Birthday (Presidents' Day)
- 12 Apr. Easter
- 25 May Memorial Day
- 4 July Independence Day
- 7 Sept. Labor Day
- 12 Oct. Columbus Day
- 11 Nov. Veterans Day
- 26 Nov. Thanksgiving Day
- 25 Dec. Christmas

Cindy's recommendation
 for joint meeting dates:
 January 6th
 April 6th - election day
 July 6th
 October 5th

Town of Middletown Planning Department

To: Burgess & Commissioners and Middletown Planning Commission

From: Cindy Unangst, Staff Planner

Date: 11/4/2019

RE: Monthly Planning Update – November

Site Plans, Plats and Minor Subdivisions:

Caroline's View/Horman Apartments- Site Plan approved – April 21, 2008 (no sunset provisions prior to November 14, 2010)

Improvement Plans conditionally approved – May 17, 2010 (no sunset provisions prior to 11/10)

Revised Improvement Plan mylars signed – July 21, 2017

Next step – submittal of PWAs for approval and apply for building and grading permits

Cross Stone Commons – Revised Site Plan conditionally approved – October 20, 2014

Improvement Plan mylars signed – November 6, 2015

Revised Forest Conservation Plan approved – January 21, 2019

Next step – submittal of architectural renderings for building #2 for review/approval

Dowd Property – Forest Stand Delineation approved – April 16, 2018

Special Exception materials submitted for self-storage use – December 21, 2018

Revised Site plan conditionally approved by PC – October 21, 2019

Revised Preliminary Forest Conservation Plan submitted for review – October 21, 2019

Next step – approval of PFCP; PC review/recommendation and BOA review/approval of special exception for self- storage use;

Franklin Commons -

Resubmitted site plan conditionally approved – May 21, 2018 (Plans expire May 21, 2021)

BOA approved height variance request – July 12, 2018 (BOA approval expires July 12, 2019)

Improvement plans conditionally re-approved – March 18, 2019 (Plans expire March 18, 2022)

Next step – submittal of letter of credit and signing of PWA's

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

Forest Conservation Plan approved – October 20, 2008

Architectural plans approved by PC – March 16, 2015

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

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

Middletown Water Storage Tank – Site Plan approved by PC – March 18, 2019 (Plans expire 3/18/22)

Final Forest Conservation Plan conditionally approved by PC – June 17, 2019

Improvement Plans conditionally approved – July 15, 2019 (Plans expire 7/15/22)

Miller (Ingalls) – Revised Concept Plan reviewed by PC – September 16, 2013
Improvement plans (Phase III) conditionally approved by PC – June 19, 2017 (Expires 6/19/20)
Phase III Revised Site plan approved by PC – June 17, 2019
Phase III Redline Site & Improvement Plans conditionally approved – Sept. 16, 2019
Next step – submittal of Phase IV site plan for review and approval

Richland Driving Range – Concept plan reviewed by PC – January 18, 2016
Revised Site Plan conditionally approved – January 15, 2018 (Plans expire January 15, 2021)
Improvement Plans reviewed and tabled by PC – September 17, 2018
Next step – 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
(Planning Commission reviewed plans as courtesy to Town Board. No expiration date of approval due to type of plans – i.e., no structures, etc. – just changes to roadways, sidewalks.)

St. Thomas More Academy Site Plan revision – conditionally approved August 20, 2018 (Expires August 20, 2021)

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 – PC approval of consistency with zoning/comp plan – February 20, 2017
Public Hearing - April 5, 2018
Town Board passed annexation resolution – April 9, 2018

Text Amendments: Accessory structures

Residential parking requirements for townhouses and apartments

Reports: 2018 Annual Planning Report approved by Planning Commission – May 20, 2019

Grants: MEA Smart Energy Communities grant application – \$25,000 award granted – solar panels installed on food bank building September 19, 2019

Meetings: Next Middletown Green Team Meeting – November 19, 2019

Next Joint town board/planning commission workshop – January 6, 2020 (?)