

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

**Regular Meeting**

**November 18, 2019**

The regular meeting of the Middletown Planning Commission took place on Monday, November 18, 2019 at 7:00 p.m. at the Middletown Municipal Center, 31 West Main Street, Middletown, MD 21769. Those present (quorum) were Commission Chairman Mark Carney, Commission members Rich Gallagher, Bob Miller, David Lake, Dixie Eichelberger and Eric Ware (Temp Alternate). Others present in official capacity: Cindy Unangst (Staff Planner) and Annette Alberghini (Recording Secretary). Others present: Mark Crissman (Daft McCune Walker).

**NOVEMBER MONTHLY PLANNING COMMISSION MEETING:**

**I. PUBLIC COMMENT** – None.

**II. Regular Workshop Minutes of October 16, 2019** – Approved as submitted.

**Regular Meeting Minutes of October 21, 2019** – Approved as submitted.

**III. PLAN REVIEW**

**Hollow Creek Professional Center Revised Preliminary Forest Plan** – (Mark Crissman (Daft McCune Walker) present). The purpose of the preliminary forest conservation plan is to allow for the owner to construct commercial buildings and associated parking and roads. The area is zoned GC General Commercial and is currently a vacant lot. There is one specimen tree near the eastern property line which is a 58" multi-trunked northern catalpa in fair condition. It has been determined that this tree 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 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. The plan has been provided to the Maryland Department of Natural Resources for review, but no comments have been received to date. The Staff Planner reviewed her staff report with the following recommendations.

- **Minor Changes** - 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.
- **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) of the Town Code should be referenced in the calculations instead of the Frederick County reference.

**Action:** Commission Member Gallagher motioned to conditionally approve the Hollow Creek Professional Center Revised Preliminary Forest Plan, conditional upon the developer meeting the recommendations of the Staff Planner, and acknowledging that the 58” multi-trunked northern catalpa does not qualify as a tree to be considered priority for retention. Seconded by Commission Member Eichelberger. Motion carried (5-0).

The Staff Planner informed the Planning Commission of the following updates regarding the Hollow Creek Professional Center Revised Site Plan:

- **Stormwater Management Concept Plan** – Frederick County approved the stormwater management concept plan for the site.
- **Site Access** – The Staff Planner received a letter from SHA supporting the Right-In only access, but not the Right-Out. SHA also concurs with the findings of the traffic study and will not require any additional traffic analyses. An access permit will be required from SHA and will be requested once the Right-In only access and associated deceleration lane are designed as part of the Improvement Plans for the project.
- **Town Engineer Comments** – The Town Engineer recommends the following:
  - **Water and Sewer Review** – A monitoring manhole shall be provided for the site. Details of valve locations will be addressed in the Improvement Plans.
  - **Truck Circulation Plan** – Truck turning tracks appear to be acceptable. Future movements into the storage area should not be impaired by this layout. The existing WB-50 / WB-40 movements to the existing shopping center appear to be accommodated.

The Planning Commission requested that the developer review the current intersection/access into the Safeway shopping center. Even though the traffic study results indicated that that intersection operates acceptably and will continue to operate acceptably once the Hollow Creek Professional Center is completed, they would like the developer and the Safeway property owner to review and identify potential issues with the current intersection and ways to improve it for the betterment of both properties.

#### IV. ZONING

**Accessory Structures Regulations** – The Planning Commission reviewed the proposed text amendment to the Town Code regarding accessory structures. Following are the change recommendations to that proposed text amendment:

- **Height** – Under the section on Height, remove “or 10 feet in height” it is not necessary.
- **Chart** – Under Zone, change “R-3” to “R-3 & TC”
- **Accessory Structures as Living Quarters** – In the final paragraph of the proposed text amendment remove “living quarters” and insert “for living, sleeping or other occupancy”. This is similar to what is currently in the Town Code regarding residing in a recreational vehicle.
- **Enforcement** – The Planning Commission recognizes that there will be challenges with enforcement of this proposed code that would need to be addressed.

The Staff Planner will make the changes as recommended and forward the proposed text amendment to the Town Board.

**Outdoor Lighting Regulations – Dark Sky Policy** – The Staff Planner reviewed policies that other cities and states are using. These have useful information and examples to use when developing the town’s policy. The Town Code addresses commercial lighting but not residential. The Planning Commission likes the chart of examples of acceptable and unacceptable lighting fixtures that was included in the packet. They recommend adding it to the town’s Design Manual. When developing the policy, with support from the Middletown Sustainability Committee, it was recommended to determine how to incorporate the proposed streetlight program and how to encourage residential change.

The Planning Commission requested that the Dark Sky Policy be added as an agenda item to the next Joint Town Board / Planning Commission meeting in January 2020.

**V. MISCELLANEOUS –**

**Planning Commission Rules of Procedure** – The Staff Planner incorporated the recommended changes from the November workshop into the Rules of Procedure for the Planning Commission to review. Following are the further changes recommended by the Planning Commission this evening:

- **Public Hearing Process – Section 6.1:** Remove “If justified by”, after “impact of a proposed development” add “may hold”, and after “an advertised public hearing” remove “may be held”. Section 6.1 would then state: The Planning Commission, based on the size, scope and/or impact of a proposed development, may hold an advertised public hearing 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 Pan Policy of the Town Board, and properly noticed.
- **Red-line Review Policy – Section 8.2:** Based upon workshop discussion, this new section would 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 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 days ahead of the anticipated opening date to check the property for compliance.

**Action:** Commission Member Gallagher motioned to approve the revised Planning Commission Rules of Procedure as discussed. Seconded by Commission Member Miller. Motion carried (5-0).

**January Meeting Date Change Due to MLK Holiday** – On March 11, 2019 the Burgess and Commissioners approved the addition of three additional holidays for town employees: Martin Luther King Day, Veteran’s Day and Christmas Eve. Since the MLK holiday is every third Monday in January it conflicts with the regularly scheduled January Planning Commission meeting. The Planning Commission decided that from now on the January Planning Commission meeting will be held the Tuesday immediately following the MLK holiday. It was also noted that Veterans Day 2020 conflicts with the scheduled November Planning Commission workshop. The Planning Commission will address that schedule conflict when that date draws closer. It was suggested that the Town utilize the Town website and other social media to notify residents of the January Planning Commission Meeting date change.

**New Town Businesses and Small Advertising Signs** – The Planning Commission recognizes that when a new business opens in town that small temporary signs can be placed out front of the business to advertise that the business is open in order to generate customers. The Commission recommends that a proposed text amendment be developed to address this and include length of time that these temporary small signs could be displayed. It was also recommended that this text amendment address the tall thin banner flags that businesses use to advertise.

The Planning Commission requested that this be added as an agenda item to the next Joint Town Board / Planning Commission meeting in January 2020.

**VII. ADDITIONAL PUBLIC COMMENT - None**

Meeting adjourned at 8:01pm.

Respectfully submitted,

Annette Alberghini  
Recording Secretary