

MIDDLETOWN PLANNING COMMISSION

Middletown Municipal Center
31 West Main Street
Middletown, MD 21769

AGENDA
Monday, September 17, 2018
7:00 p.m.

- I. **Public Comment**
- II. Minutes of August 2018 Planning Commission workshop **Approval**
Minutes of August 2018 Planning Commission meeting **Approval**
- III. **Plan Review**
Richland Driving Range Structure Improvement Plans **Review/Approval**
- IV. **Zoning**
Blighted property ordinance **Review/Discussion**
- V. **Miscellaneous**
- 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

August 15, 2018

The regular workshop of the Middletown Planning Commission took place on Wednesday, August 15, 2018 at 7:00 p.m. at the Middletown Municipal Center, 31 West Main Street, Middletown, MD 21769. Those present (quorum) were Commission Members Rich Gallagher (Vice-Chairman), Bob Miller, Tom Catania (Ex-Officio) and Lisa Newell, Temporary Alternate. Others present in official capacity: Cindy Unangst (Staff Planner). Other applicants present: Patricia Neumark, Veronica Kosch, and Brian Riesett (St. Thomas More Academy).

AUGUST MONTHLY PLANNING COMMISSION WORKSHOP:

PLAN REVIEW –

St. Thomas More Academy Site Plan Revision – Cindy went over her staff report. There was discussion about the siting of the proposed classroom structures, and agreement that they could be moved closer to the lot line (6-feet) rather than the proposed 10-feet. The applicant stated that fifteen students would be going back and forth between the two buildings, rather than there being 15 students in each building at the same time. There was also discussion about the location of the dumpsters and their need to be screened.

Cross Stone Commons Black Hog architectural design - Cindy showed the commission members the proposed rendering of the Black Hog restaurant which is different in design from the Building #4 rendering which was approved by the Planning Commission back on March 19, 2018. The members present all liked the proposed rendering. Commission member Gallagher stated that he felt the different side lights for the Black Hog restaurant were attractive, and all the side lights for the building should be the same.

ZONING –

Blighted property ordinance – Cindy had additional information to share including an ordinance that was considered by the Town back in 2007, and a comparison of blighted property ordinances that was done in Connecticut. She suggested that like the municipal blight ordinances in Connecticut, we come up with provisions such as a purpose, scope, property owner duties, complaints and enforcement, administrative procedures, and remediation measures. The commission members indicated agreement with that, and instructed her to move forward with doing that.

Workshop adjourned at 8:00pm.

Respectfully submitted,

Cynthia K. Unangst, AICP
Middletown Staff Planner

MIDDLETOWN PLANNING COMMISSION
31 West Main Street
Middletown, Maryland

Regular Meeting

August 20, 2018

The regular meeting of the Middletown Planning Commission took place on Monday, August 20, 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 Rich Gallagher, Bob Miller, David Lake, and Dixie Eichelberger (Alternate). Others present in official capacity: Cindy Unangst (Staff Planner) and Annette Alberghini (Recording Secretary). Others present: Patricia Neuman (Dean of Academics, St. Thomas Moore Academy), Veronica Kosch (Director, St. Thomas More Academy) and Brian Riesett (Board Member, St. Thomas More Academy).

AUGUST MONTHLY PLANNING COMMISSION MEETING:

I. PUBLIC COMMENT – None

II. Regular Workshop Minutes of July 11, 2018 – Approved as amended via recommendations from Commission Member Lake.

Regular Meeting Minutes of July 16, 2018 – Approved as amended via recommendations from Commission Member Lake.

III. PLAN REVIEW

St. Thomas More Academy Site Plan Revision – (Patricia Neuman (Dean of Academics, St. Thomas Moore Academy), Veronica Kosch (Director, St. Thomas More Academy) and Brian Riesett (Board Member, St. Thomas More Academy) were present.) This is a proposed amendment to the site plan to add two temporary classroom structures to the school property located at 103 Prospect. The main building is currently being used as a private school with 85 students and 15 staff. The proposed temporary use is for each of two temporary 20 x 20 modular buildings to be classrooms with 15 students and 1 teacher from 8:00am-3:15pm Monday thru Friday. The fifteen students will walk back and forth between the two buildings to attend various subject classes. The applicant has stated that the temporary use of the classroom buildings would most likely be for five or six years. Their intent is to purchase both the school building at 103 Prospect Street (which is going thru the approval process at the state level currently), and the library building after the new library is built on East Green Street. The Planning Commission was provided a site plan that shows the proposed location of the temporary structures. The revised site plan shows the temporary classrooms to be located ten feet from the northern side lot line which is adjacent to the Middletown Library property. The applicant would like to place the classrooms six feet from the side lot line, if allowed. Placing the temporary classrooms closer to the lot line would provide more of the rear yard to be used for other purposes. There is no change in the required number of parking spaces. The applicant would need to go to the County for a building permit. The applicant provided a photo of a similar temporary building currently in use at a school in Pennsylvania. The Staff Planner suggested that the site plan be revisited after five years to ascertain that the temporary classrooms don't become permanent without proper approval from the Planning Commission.

- **Dumpsters** - Although the site plan shows a dumpster area adjacent to the proposed classroom buildings, the dumpster area is actually located on the northern side of the building on the grass adjacent to the parking lot which is library property. They need to be moved onto the parking lot to be on the school property.
- **Screening** - It was noted at the Planning Commission workshop that the dumpsters should be screened from adjoining properties. The temporary buildings would be screened as well. Screening will have to be provided to screen between the existing building and the temporary buildings and dumpsters, and along the lot line with the Library.
- **Purchase of the Library Building** – Questions were raised regarding the availability of the current library building being available for purchase in 5 years. There is no information that a new library will be built by that time.
- **Frederick County Life Safety Office** – Will have to review and approve the proposed use of the two temporary structures.
- **Update to the Site Plan** – The Site Plan should be updated to show the following:
 - Identify the distance of the spacing between the two temporary buildings as 3 feet.
 - Identify the distance from the main building to the nearest classroom building.
 - Identify the distance from the main building to the raised curbing in the parking lot.
 - Identify the distance from the raised curbing in the parking lot to the wall of the nearest temporary structure.
 - Identify the turning radius still gives access in to the overflow parking lot.

Action: Commission member Gallagher motioned to conditionally approve the St. Thomas More Academy Concept Site Plan conditional upon the temporary structures being located 6 feet from the property line, review and approval from Frederick County including the Office of Life Safety, and the Site Plan being updated as follows: to identify the distance of the spacing between the two temporary buildings as 3 feet, identify the distance from the main building to the first building, identify the distance from the main building to the curbing in the parking lot, identify the distance from the curbing in the parking lot to the wall of the first temporary structure, and identify that the turning radius still gives access in to the overflow parking lot. This concept site plan will be valid for 5 years and then subject to review by the Planning Commission. Seconded by commission member Dixie Eichelberger. Motion carried (4-0).

Cross Stone Commons Black Hog Architectural Design – (no one present for this item). The architectural review for this entire building (Building #4) was approved March 19, 2018. What is before the Planning Commission for review and approval tonight is the proposed architectural review specific to one tenant in that building – Black Hog BBQ. The Staff Planner reviewed the architectural renderings provided by the developer. It is noted that the awnings, color scheme and lighting are different from what was approved for the rest of the building. Questions were raised as to what the newly proposed light fixtures were and whether the new lighting meets the outdoor lighting standard in the Town Code. The type of wood to be used as shown in the architectural rendering could not be identified.

Action: Commission member Lake motioned to conditionally approve the Cross Stone Commons Black Hog Architectural Design, conditional upon the new lights meeting the outdoor lighting standard within the Town Code, and that the applicant identify all the materials to be used on the exterior of this specific tenant’s business. Seconded by commission member Miller. Motion carried (4-0).

IV. ZONING

Blighted Property Ordinance – The Staff Planner will develop a draft ordinance that includes specific provisions concerning purpose, scope, definitions, property owner duties, complaints and enforcement,

administrative procedures and remediation measures. This will include the Mt. Airy definition of blighted structures. This draft should be ready for the September Planning Commission meeting.

Dumpster in Parking Lot in Front of Fratelli's Restaurant (Cross Stone Commons) – It as noted that there is a dumpster in front of Fratelli's Italian Restaurant. It looks as if it is there to collect excess building materials in the construction of the interior of the restaurant. The Staff Planner will review for any further action.

Small Temporary Signs at Various Corners in Middletown – It was noted that small signs are appearing at various intersections within town. These types of signs tend to “pop up” throughout the year. They are against Town Code. The Staff Planner will review for further action.

Signs at Middletown Valley Bank (Safeway Location) – The Middletown Valley Bank has a new sign out front of its property. It was questioned as to whether this was approved. The previous sign was approved by the previous Zoning Administrator. The Staff Planner will review for any further action.

Signs Hanging From Light Poles at CVS (Cross Stone Commons) – It was stated that there are signs advertising flu shots hanging from the light poles at the CVS. These are against Town Code. The Staff Planner will follow up with CVS.

V. MISCELLANEOUS

Franklin Commons – The Staff Planner emailed the developer concerning the impending expiration of the approved Site Plans (expire 9/21/18). The email included the definition for “Start of Construction” as defined in the Town Code.

VI. ADDITIONAL PUBLIC COMMENT – None.

Meeting adjourned at 7:59pm.

Respectfully submitted,

Annette Alberghini
Recording Secretary

Middletown Planning Office

MEMORANDUM

Date: 9/12/2018

Hansen# 18756

To: Middletown Planning Commission

From: Cynthia K. Unangst, Middletown Staff Planner

RE: **RICHLAND DRIVING RANGE IMPROVEMENT PLAN**

Tax Map Parcel #03-164004

Applicant: Fan Yang, General Manager, Richland Golf Course

Jian Jun Sun, Studio SKG

Property Owner: Richland Development LLC

Plan Dated: August 15, 2018

Date Received: August 28, 2018; revised lighting plan received September 12, 2018

GENERAL INFORMATION

Proposal: Driving range structure to house golf carts, pro shop, small bar, bathrooms/locker rooms, offices and covered, heated driving range stalls

Location: 50 Glenbrook Drive

Zoning: GC General Commercial. This district permits commercial recreation, retail sales, restaurants, and office and business services.

OS Open Space. This district permits golf courses and those accessory uses commonly associated with them.

Present Use: Driving range

COMMENTS

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

1. **Previous review** – The Planning Commission reviewed the Revised Richland Driving Range Structure Site Plan on January 15, 2018. The minutes from that meeting are provided here for your consideration:

Revised Richland Driving Range Site Plan – (Jian Jun Sun (architect, Studio SKG), present). The Planning Commission reviewed and conditionally approved the Richland Driving Range Structure Site Plan in June 2016. Revised Site Plans were brought before the Planning Commission tonight for review. This is for a now proposed one-story accessory building to be used for offices, a pro shop, a small bar area, bathrooms/locker rooms, golf cart storage and heated driving range stalls. The concept plan had indicated a small café which is now included in the revised Site Plan as a small bar. The proposed 17,678 square foot building would meet the parcel lot requirements.

- **Changes to Site Plan** – This revised site plan proposal shows the building to be a one-story structure (previously two-stories with a basement) with a gross building area of 17,678 square feet (previously 15,280 square feet). The proposed building will be 220 feet long and almost 93 feet wide (previously 190 feet by 62 feet). A crosswalk and pathway are now shown from the proposed lower parking lot to an existing cart way that leads to the current driving range across Glenbrook Drive. The hours of operation have been changed to a 7:00am starting time. It should be noted that town staff questions the hours shown for banquets as many events such as wedding receptions often continue past the 9:00pm time indicated on the Facility Operations Study (Sheet G-04).
- **Parking Requirements** – According to the Municipal Code, the revised site plan would now require 108 parking spaces (7 for the pro shop, 6 for the bar, 2 for the offices, 58 for the recreational establishment aspect of the facility, 17 for the cart storage area and 18 for general commercial). The Planning Commission waived 47 parking spaces for the previously approved plan. This revised site plan is asking for a waiver of 42 spaces (17 cart storage, 25 maintenance garage). The total number of required parking spaces for the entire Richland Golf Club is 252, with a waiver of 42 spaces. The Burgess and Commissioners have given approval to allow Richland Golf Club permission to use the Town parking lot adjacent to the maintenance facility for parking for the proposed driving range structure, provided that the parking lot is paved, striped and maintained by the Richland Golf Club.
- **Walkway from Lower Parking Lot to Driving Range** – The revised plan shows a revised pathway from the lower town-owned parking lot to the existing pathway on the golf course to the driving range. This shows the proposed pathway to be at a much gentler slope than the previous plan.
- **Items to Review at Improvement Plan Review** – The following items will be reviewed during the Improvement Plan review: The applicant is asked to provide a photometric plan that shows the foot-candle measurements within the area to be developed. The landscape plan will need to be updated to include the types of proposed shrubs for approval, and Frederick County will review the stormwater management plan.
- **Town Engineer Comments** – The Town Engineer has provided his comments to the Planning Commission for informational purposes, and to the applicant to address.

The applicant was reminded that if any new use(s) within the existing clubhouse have a change in intensity and/or would require a change in off-street parking requirements, it must come before the Planning Commission for review and approval.

Action: Commission Member Lake motioned to conditionally approve the Richland Golf Club Driving Range Revised Site Plan conditional upon addressing comments from both the Staff Planner and Town Engineer reports and the Planning Commission waiving 42 parking spaces. Seconded by Commission Member Gallagher. Motion carried (4-0).

2. **Use** – The proposed one-story accessory building would be used for offices, a pro shop, a small bar area, bathrooms/locker rooms, golf cart storage and heated driving range stalls. There has again been a change made to the plans which is a small 558 square-foot basement garage area to be used for equipment storage for the driving range.
3. **Changes to plans** – The improvement plan proposal shows a gross building area of 18,630 square feet. Previously, the square footage was shown as 17,678 square feet. Adding the proposed basement garage of 558 square feet to the previous square footage does not add up to 18,630 square-feet which is now shown. The applicant should explain

that discrepancy. The building still shows the dimensions to be 220 feet long and 93 feet in width. In addition to the crosswalk and pathway from the proposed lower parking lot to an existing cart way that leads to the current driving range across Glenbrook Drive, there is a proposed asphalt cart path leading to the proposed basement garage from the existing cart path. The project area looks to have decreased due to less grading needed and the placement of the micro-bioretenment facilities and the pathways. Due to the proposed addition of the basement garage, the site plan should be modified to show the changes before the submittal of the signature set for signature by the staff planner.

4. **Lot requirements and building regulations**– The proposed 18,630 square foot building would meet the parcel lot requirements. All sheets should be reviewed and refined by the applicant before submission for signature to ensure that the correct dimensions are shown on all sets of plans (site, improvement and building permit project set) and are consistent.
5. **Parking requirements** – The Planning Commission waived 42 parking spaces (17 cart storage, 25 maintenance garage) as part of the conditionally approved site plan. The bottom line is a required parking number of 252 total spaces for the golf course, clubhouse, maintenance garage, and driving range structure, with a waiver of 42 spaces. 255 parking spaces were shown on the site plan.

The Burgess and Commissioners have given approval to allow Richland Golf Club permission to use the Town parking lot adjacent to the maintenance facility for parking for the proposed driving range structure provided that the parking lot is paved and striped. The applicant should include the paving detail on the improvement plans for review. Also included should be appropriate signage for the crosswalk across Glenbrook Drive.

6. **Stormwater management approval by Frederick County** – The stormwater management plan has been sent to Frederick County for review and approval.
7. **Lighting plan** – A revised Photometric/Lighting Plan has been submitted which shows the foot-candles for the nine proposed pole lights and the eight-proposed wall-mounted lights. The height of the poles has been added to the plan showing the pole lights at 10-feet and the wall-mounted lights at 8-feet. Per Section 17.32.245, the light poles 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. The foot-candles were also revised to include the measurements for the wall-mounted lights. The most significant change is to the foot-candle measurements at the front entrance to the building.

Given that the driving range stalls are open to the outdoors, staff would like the improvement plans to reflect, on Cover Sheet G-01 under the Site Plan Notes, that all lighting in the stalls will be turned off when the facility closes at 9:00pm.

8. **Landscape plan** – The revised landscape plan (Sheet L1) has been reviewed and all proposed tree and shrub species and numbers are agreeable to the Staff Planner.

9. **Signage** – Any signage is to be presented to the town zoning administrator for approval before being installed.
10. **Water and Sewer requirements** – The parcel has existing water and sewer in the existing clubhouse/restaurant building.
11. **Pro shop relocation – change of use** – It would be helpful to the Planning Commission and the applicant if the change of use within the existing clubhouse is reviewed by the Planning Commission at the same time as the Site Plan for the proposed driving range structure. If the pro shop and offices are relocating from the existing building to a new building, the applicant will need to submit a change of use permit application for whatever use will be occupying the space currently used for the pro shop and offices. If the new use(s) is a change in intensity and/or would require a change in off-street parking requirements, it (they) would need to be reviewed and approved by the Planning Commission.
12. **Improvement plan expiration** – Approval of an improvement plan shall expire three years from the date on which the Planning Commission approves the improvement plan unless construction has begun as defined by “start of construction” per Section 16.12.060 of the Municipal Code.
13. **Review by Town Engineer, Bruce Carbaugh** – The plans have been provided to the town engineer for review.
14. **County review** – The improvement plan has been routed and reviewed by these County agencies.
 - Office of Life Safety – hold - 8/29/2018
 - Development Review, Engineering – hold - 8/23/2018

The plans will need to be routed thru the Town of Middletown to the Soil Conservation District for review and approval; review fee of \$100 payable to Frederick Soil Conservation District.

RECOMMENDATION

Staff recommends the following revisions to the plans for conditional approval:

- 1) **All plan sheets should show the correct square-footage for the building, including site plan sheets which should also show the proposed basement garage area.**
- 2) **All sheets should be reviewed and refined by the applicant before submission of plans for signature to ensure that the correct dimensions are shown on all sheets of plans (site, improvement and building permit project set) and are consistent.**
- 3) **If possible, the lighting plan should show the foot-candle measurements for the driving range stall lighting.**
- 4) **The town parking lot adjacent to the maintenance facility should be shown on the improvement plans, including the paving details. Also included should be appropriate signage for the crosswalk across Glenbrook Drive.**

- 5) The proposed structure should be given an appropriate unique street address or designation in compliance with the Frederick County addressing regulations.**
- 6) Any comments by the Town Engineer should be addressed and needed revisions made.**
- 7) All Frederick County agency comments should be addressed and needed revisions made.**
- 8) Applicant should ensure that the Soil Conservation District has the needed plans for review and approval.**

This review will be included in the Middletown Planning Commission materials for the September 17, 2018 public meeting. The applicant is encouraged to attend this meeting and the workshop on the Wednesday prior to the meeting which will be September 12, 2018.

cc: Fan Yang, Owner
Jian Jun Sun, applicant

Title 8 – HEALTH AND SAFETY ~~or Title 15 BUILDINGS AND CONSTRUCTION~~

Chapter 8.24 - Blight Ordinance

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Purpose – The Burgess and Commissioners find that it would be in the best interests of the Town of Middletown, in order to protect the public health, safety and welfare of residents and property, and to preserve property values, to adopt an ordinance to enforce regulations for the prevention and remediation of blighted properties within the Town.

Scope – ~~Applies to any building, structure, or any parcel of land.~~ Applies to any building or structure, or part thereof. Excludes blighted premises for which a site plan or zoning certificate application for improvements to the premises is pending (for 90 ~~(or 120)~~ days from date of application submittal).

~~Or – Applies to any building or structure, or part thereof.~~

Definition – Blighted Structure (or Premises) is any dwelling, garage, or outbuilding, or any shop, store, office building, warehouse, or any other structure or part of a structure, to include private driveways and parking lots thereto, which:

- 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 Middletown; or
- C. Is not structurally sound, weathertight, waterproof or vermin proof; or
- D. Is not covered by a water-resistant paint or other permanent waterproof covering so as to protect said structure from the adverse effects of the elements or from physical deterioration; or
- E. Contains one of 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.

Duty of Owner or Occupant – No owner, agent, tenant or person in control of real property (hereinafter collectively and/or singularly referred to as the “owner”) located in the Town of

Middletown shall allow, maintain or cause to be maintained any blighted structures (or premises).

Complaints and enforcement – The Town of Middletown through its designated enforcement officer shall serve written notice to the owner, which may be any of the individuals described above, where the violation(s) occurred. The notice may be hand delivered or mailed by certified mail, return receipt requested, to the last known address of the owner, agent, tenant and/or person in control of real property.

Such notice shall state the violation(s) and the conditions evidencing such violation(s), and require abatement of such violation(s) within 30 calendar days. If the owner, agent, tenant and/or person responsible fails to correct the violation(s), the Town of Middletown may issue an enforcement citation as specified in this chapter.

Designated enforcement officer – The Zoning Administrator or Town Administer and/or other individuals designated by the Burgess and Commissioners are charged with enforcement of this chapter. Such designated enforcement officer is hereby authorized to take such enforcement actions as are specified in this chapter.

Entry, inspection and remediation – If the designated enforcement officer reasonably believes that blight exists on a property, he or she is authorized to enter the property during reasonable hours for the purpose of inspection and remediation of any blighted condition, provided such person shall not be authorized to enter any dwelling or structure on the property.

Penalties for offenses – Violations of the provisions of this chapter shall be punishable by a fine of \$100 for each day a violation exists and continues.

Enforcement citation – If any violation remains unabated after 10 days, any sheriff deputy, the Zoning Administrator, Town Administrator or other person authorized by the Burgess and Commissioners is hereby authorized to issue a citation to the violator in accordance with this chapter. In addition thereto, the Zoning Administrator, Town Administrator or other authorized person, is authorized to initiate legal proceedings in the District Court of Maryland for Frederick County for the immediate correction of the violation(s), collection of any penalties, and the recovery of all costs including costs of remedial action(s) authorized by the court and reasonable attorney's fees incurred by the town to enforce this article. All fines, court costs, costs of remedial action, and attorney's fees, as ordered by the court, shall constitute a lien on the subject premises, provided the owner of said premises has been notified of the violations as herein provided and was made party to the enforcement proceedings. Any such lien shall be recorded on the Frederick County Land Records.

Appeals – The owner of the property shall have the right to appear before the Board of Appeals at a time and place specified in the notice to show cause why he should not comply with the requirements of the notice. If such right hereby provided for shall be exercised by the owner, the

Commented [CU1]: 10 days from when? When does the clock start?

Board of Appeals may, after affording the owner an opportunity to be heard, either affirm, set aside or modify the original notice and order.

Remediation incentives – As an incentive toward the full remediation of property designated as blighted, a purchaser or a prospective purchaser of such blighted property may make application to the Town of Middletown for a waiver of fines and release of lien imposed in accordance with the provisions of this section. Said application shall specify the time frame of the sale and the proposed remediation. The applicant, once approved for this waiver, shall agree to execute an agreement which shall specify the time frame for remediation (which remediation shall occur within six (6) months of closing of title), the specific improvements to be made, that the applicant shall maintain the property as owner occupied for a term of at least three (3) years from the date of remediation approval and that the applicant understands that such waiver or release shall only occur upon full remediation and approval of same by the Zoning Administrator or Town Administrator.

Commented [CU2]: Too restrictive? Commercial property as well? Can time frame be appealed?

Special assessments – The Burgess and Commissioners may appoint six taxpayers of the town to a special assessment committee to determine the following:

1. The fiscal effect of a special assessment on the revenue of the town;
2. Identification of properties that may be subject to special assessment;
3. The amount of property tax generated by said properties and the cost to the town of enforcement of such properties, including costs for police and fire personnel;
4. Recommendations with respect to the form and extent of any assessment; and
5. The standards for imposition of the assessment.

In determining the standards, the committee must consider the number of outstanding health and housing and safety violations for the property, the number of times personnel have had to inspect the property and the cost to the town to enforce code compliance on the property.

The committee shall prepare a report to the Burgess and Commissioners within sixty (60) days of its appointment. Once the report has been submitted for review, the Burgess and Commissioners shall determine whether to authorize the establishment of a new ordinance for the issuance of special assessments to property owners based on the cost to the town of violation inspections and enforcement, the cost to provide notice to the property owners to cure blight, health or safety code violations.

Hardship waivers – ~~Special consideration shall be given to individuals that are elderly or disabled if such individual cannot maintain a reasonable level of upkeep of the owner-occupied residence because the individual is elderly or disabled, as defined under this chapter, and no capable household member resides in the residence. In such cases, the designated enforcement officer shall give such elderly or disabled individual reasonably adequate time to correct the violation(s). Where the owner of any blighted premises is found to be a low-income individual under this chapter, the designated enforcement officer shall give special consideration to the person by providing reasonably adequate time to correct the cited violation(s).~~

~~Disabled individual definition—In the case of an owner-occupied residence, an individual who has a disability meeting the definitions for a mental or physical disability, as defined under the Americans With Disabilities Act of 1990, and does not have other household members capable of providing the necessary maintenance.~~

~~Low-income individual definition—In the case of an owner-occupied residence, an individual, or where more than one person resides on the premises, a family unit, that has an income below the highest level of income established by the State of Maryland's Elderly Tax Relief Program.~~

OR—Special consideration may be given to those who require it in order to correct a violation of this article. Specifically, the enforcement officer may grant a property owner additional time to correct a violation where the owner establishes good cause. As used in this section, “good cause” includes, but is not limited to, an elderly individual who is unable to personally correct a problem due to age, a disabled individual or other individual who is unable to personally correct a problem due to a medical condition, or an individual who earns a low income and is unable to correct a problem due to cost. In determining whether good cause exists, the enforcement officer shall consider whether other occupants of a property are able to assist in correcting the problem in a timely fashion and whether the severity of the problem is such that additional time is not warranted.

DRAFT

Chapter 8.12 - WEEDS AND GRASS

Sections:

8.12.010 - Definition.

As used in this chapter:

"Weeds and grass" means all bushes, hedges, shrubs, trees, grasses, poison oak, poison ivy or any other noncultivated vegetation which attains a noxious or dangerous condition upon overgrowth or accumulation so as to constitute a condition detrimental to public health or safety. A generalized overgrowth of grasses, poison oak, poison ivy, or other noncultivated vegetation exceeding a height of eight (8) inches is presumptively a nuisance and dangerous condition. A generalized overgrowth of bushes, hedges, shrubs and trees extending into the vertical plane of any public way or abutting premises is presumptively a nuisance and dangerous condition. Not included within this definition are flowers, garden vegetables, compost piles or any plant necessary for soil stabilization purposes.

(Ord. No. 09-03-01, § I, 3-9-2009; prior code § 3-1101)

8.12.020 - Overgrowth prohibited.

It is unlawful to maintain an overgrowth of weeds or grass on any lot or upon any space between the curb and sidewalk or upon any space between the sidewalk and the lot line.

(Prior code § 3-1102)

8.12.030 - Notice to abate.

If any person shall fail to abate any condition made unlawful by this chapter, after having received the town's notice to abate, within five (5) days of the date of notice or within some other reasonable time as may be specified in such notice, the condition may be abated by the town at the expense of the property owner, such expense to be chargeable as a lien against the property and collectible as tax moneys.

(Ord. No. 09-03-01, § I, 3-9-2009; prior code § 3-1103)

8.12.040 - Municipal infractions.

12.04.040 - Sidewalk maintenance and repair.

- A. The owner of any parcel of land which abuts, adjoins or is adjacent to a sidewalk shall be responsible for repairing and maintaining that sidewalk and shall replace or repair any such sidewalk which is determined to constitute a hazardous condition as hereinafter defined.
- B. A hazardous condition shall be considered to exist when any of the following conditions exist in any portion of the sidewalk:
 - 1. A vertical crack or a horizontal crack or separation of one inch or greater.
 - 2. The presence of a tilt in the sidewalk, whether caused by settlement, upheaval or other condition, which creates a differentiation in height of two inches or greater in any four foot or less length or width of the sidewalk.
 - 3. Any hole which is greater than three inches in diameter as measured from its widest point.
 - 4. The presence of spalled or pitted areas where in a six by six inch area the condition of spalling or pitting exhibits a depth of one inch or greater in any section of sidewalk.
 - 5. Any other condition of the sidewalk which is determined by the town administrator, after due inspection and observation, to constitute a hazard to public health, safety and welfare.
- C. Upon determining that a hazardous condition exists on a sidewalk, the town administrator or his or her designee shall provide notice of such hazardous condition to the owner of the property which abuts, adjoins or is adjacent to that sidewalk. The notice shall identify the location and nature of the hazardous condition, shall advise the owner of the requirement to repair or replace the sidewalk so as to abate the condition, and shall order the owner to abate the condition within a reasonable time, not to be less than fourteen (14) days from the date of the notice and order. The notice and order shall also advise the owner of the right to request an appearance before the burgess and commissioners to contest the order of abatement.
- D. The notice and order shall be given by either (1) personal delivery to the owner of the property, or (2) by leaving the notice with a person of suitable age and discretion at the owner's residence, office or place of business, or (3) by certified or registered mail addressed to the last known address of the owner of the property.

If the owner of the property is unknown or the owner's whereabouts cannot be determined after reasonable efforts, then the notice and order may be given by posting the notice and order on the property in a conspicuous location. Notice to any one owner of the property shall be adequate and shall be considered notice to all owners of the property.

- E. Upon receiving a notice and order to repair or replace a hazardous sidewalk, the owner may request an opportunity to appear before the burgess and commissioners and be heard regarding the order and necessity to abate the condition. Such request must be presented to the town administrator no later than ten (10) days from the date of the notice. The burgess and commissioners, after any such appearance, may reverse, affirm or modify the order to abate the condition.
- F. If the property owner fails to timely request an appearance before the burgess and commissioners and fails to abate the hazardous condition within the time period stated in the notice and order, or if the property owner fails to abate the hazardous condition within the time period established by the burgess and commissioners after the appearance by the owner, then the town may make the required repairs or replace the sidewalk as necessary, and the owner(s) of the property shall be jointly and severally liable for the cost of doing so. The cost of the repair or replacement shall constitute a lien on the property and may be collected in the same manner as taxes on the property.
- G. All repairs, maintenance and replacement of sidewalks performed by the property owner or his or her agents, employees or contractors shall be performed in accordance with the standards for such work as set forth in the town of Middetown Design Manual. Any such work not performed in accordance with such standards shall be considered as the equivalent of a failure to perform the required repairs, maintenance or replacement.
- H. In the event that the condition of the sidewalk constitutes an emergency and an immediate threat to the health, safety and welfare of the public, then the town may make such required repairs or maintenance without notice to the property owner or an opportunity to appear before the burgess and commissioners, and the property owner(s) shall remain jointly and severally liable for the costs of such

repairs or maintenance as above; provided, however, that the town shall only undertake such repairs or maintenance as shall be immediately necessary to alleviate the emergency situation.

(Ord. 04-08-01 § 1, 2004; Ord. 01-04-01 (part), 2001)

Town of Middletown Planning Department

To: Burgess & Commissioners and Middletown Planning Commission

From: Cindy Unangst, Staff Planner

Date: 9/4/2018

RE: Monthly Planning Update - September

Major Subdivisions:

Middletown Glen - Preliminary plans signed – May 29, 2013
Improvement plans conditionally approved – October 16, 2013
FRO planting at Remsburg 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 #4 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 - Improvement Plans approved – Sept. 21, 2015 (Plans expire 9/21/2018)
Improvement Plan mylars signed – January 4, 2016
Resubmitted site plan conditionally approved – May 21, 2018
BOA approved height variance request – July 12, 2018
Next step – submittal of PWAs for approval and apply for building and grading permits

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 reviewed by PC – May 21, 2018
Next step – BOA review/approval of special exception for shopping center use

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

Improvement plans (Phase III) conditionally approved by PC – June 19, 2017 (Expires 6/29/20)

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

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

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

Improvement Plans submitted for review – August 28, 2018

Next step – approval of improvement plans by Planning Commission

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

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

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

Annexations:

A.C. Jets Property- PC approval of annexation petition of 35.96 acres – December 21, 2009

Public hearing date - Monday, October 11, 2010

Annexation petition denied by Town Board – October 11, 2010

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

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

Public Hearing - April 5, 2018

Town Board passed annexation resolution – April 9, 2018

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

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 – September 19, 2018

Next Joint town board/planning commission workshop – November 5, 2018