

COPY
Paul Dial

RESOLUTION NO. 13-01

A RESOLUTION INITIATED BY THE BURGESS AND COMMISSIONERS OF THE TOWN OF MIDDLETOWN TO CHANGE THE BOUNDARIES OF THE TOWN OF MIDDLETOWN, MARYLAND BY THE ANNEXATION INTO THE CORPORATE LIMITS OF THE TOWN OF 79.011 ACRES OF REAL PROPERTY, MORE OR LESS.

WHEREAS, the Burgess and Board of Commissioners desire to have certain property owned by Frederick County, Maryland hereinafter described annexed into and made a part of the Town of Middletown, Maryland; and

WHEREAS, the property to be annexed consists of 79.011 acres of real property, more or less, (hereinafter referred to as "the Property"), and the Property is more fully described on the metes and bounds description prepared by Harris, Smariga and Associates, Inc. dated March 20, 2013 which is attached hereto and incorporated by reference herein as Exhibit "A"; and

WHEREAS, the Property is owned entirely by the Board of County Commissioners of Frederick County and the Board of County Commissioners is therefore the owner of over 25% of the assessed valuation of the Property to be annexed, and there are no persons residing in or on the Property to be annexed; and

WHEREAS, the Board of County Commissioners has consented to the annexation of the Property into the corporate limits of the Town of Middletown; and

WHEREFORE, the Property is adjacent to and contiguous with the existing corporate limits of the Town of Middletown and its annexation will not create any unincorporated area completely surrounded by land now located or to be located within the corporate limits of Middletown.

NOW, THEREFORE, BE IT ENACTED AND RESOLVED by the Burgess and Commissioners of Middletown as follows:

SECTION I: The boundaries of the Town of Middletown, Maryland are extended and enlarged by adding to the Town of Middletown and making a part thereof all that real property consisting of 79.011 acres, more or less, which is described on the metes and bounds description entitled "Description of Farm Lot No.1" prepared by Harris, Smariga & Associates, Inc. and dated March 20, 2013 which description is attached hereto and incorporated by reference herein as Exhibit "A".

SECTION II: Except as otherwise provided herein, the Property and any persons now or in the future residing thereon, if any, shall be subject to the provisions of the Charter of the Town of Middletown and all ordinances and regulations enacted pursuant thereto.

SECTION III: The Property shall be annexed into the corporate limits of the Town of Middletown on the following conditions:

A. The Town of Middletown shall pay all of the expenses and costs incurred for the annexation of the Property.

B. Except as hereinafter provided, the Property shall be classified in the "Open Space" zoning classification pursuant to Title 17 of the Middletown Municipal Code which provides for uses which are substantially similar to and not more restrictive than the zoning for the Property under Frederick County law.

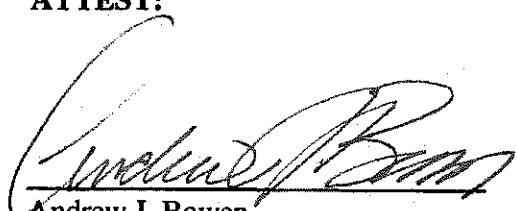
C. An Annexation Agreement dated August 8, 2013 was entered into by and between the Burgess and Commissioners of Middletown, Maryland and the Board of County Commissioners of Frederick County, and said Annexation Agreement is attached to this Resolution as Exhibit "B". The Annexation Agreement, and all of the terms and conditions thereof, are incorporated by reference herein and are made a part of this Resolution as though fully set forth herein.

SECTION IV: The Corporate Boundaries of the Town of Middletown, as established by Article II, Section 201 of the Town Charter (as amended), are hereby amended to add thereto the Property annexed by this Resolution.

SECTION V: This Resolution shall become effective on the forty-fifth (45th) day following its enactment, unless a Petition for Referendum, in proper form and in conformity with the requirements of Article 23A, Section 19 of the Annotated Code of Maryland, is submitted to the Burgess of the Town of Middletown.

PASSED AND ENACTED this 9th day of December, 2013 by the Burgess and Commissioners of the Town of Middletown by a vote of 6 **FOR**, 0 **AGAINST** and 0 **ABSTAINING** and 0 **ABSENT**.

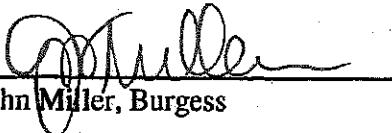
ATTEST:



Andrew J. Bowen,
Town Administrator

**BURGESS AND COMMISSIONERS
OF MIDDLETOWN**

By:

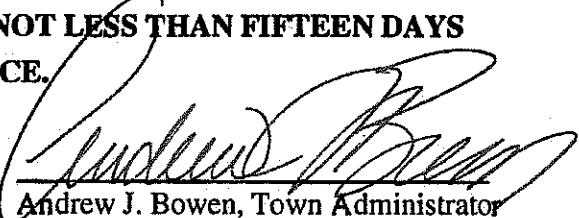


John Miller, Burgess

I HEREBY CERTIFY THAT A PUBLIC HEARING WAS HELD ON THIS RESOLUTION NO. 13-01 ON THE 5th DAY OF December, 2013. I FURTHER CERTIFY THAT NOTICE OF THE TIME, DATE, PLACE AND PURPOSE OF THE PUBLIC HEARING WAS PUBLISHED IN THE VALLEY CITIZEN NEWSPAPER ON THE FOLLOWING DATES:

October 24, 2013;
October 31, 2013;
November 7, 2013;
November 14, 2013.

THE PUBLIC HEARING WAS HELD NOT LESS THAN FIFTEEN DAYS
AFTER THE LAST PUBLICATION OF NOTICE.



Andrew J. Bowen, Town Administrator

Date: December 10, 2013

ANNEXATION AGREEMENT

THIS ANNEXATION AGREEMENT made this 8th day of August, 2013 by and between the Burgess and Commissioners of Middletown (hereinafter referred to as "the Town") and the Board of County Commissioners of Frederick County, Maryland (hereinafter referred to as "the County").

WHEREAS, the County is the owner of a parcel of land more fully described on the metes and bounds description attached hereto and incorporated by reference herein as "Exhibit A" (hereinafter "the Property") which adjoins the corporate boundaries of the Town of Middletown, Maryland; and

WHEREAS, the Property is used primarily as a recreational park and is commonly referred to as "the Middletown Community Park"; and

WHEREAS, the Town desires to include the Property within the corporate limits of the Town of Middletown upon certain conditions; and

WHEREAS, the County is willing to have the Property annexed into and made a part of the Town of Middletown provided that certain conditions are agreed to relative to the annexation of the Property into the Town of Middletown; and

WHEREAS, the parties have reached an agreement concerning the terms and conditions of the annexation and they enter into this Annexation Agreement with the intent to be bound accordingly.

NOW, THEREFORE, in consideration of the mutual obligations, benefits and promises contained herein, the sufficiency of which is acknowledged by all parties hereto, the Town and the County hereby agree as follows:

1. This Annexation Agreement is expressly contingent on the enactment of a Resolution (hereinafter "the Annexation Resolution") by the Town annexing the Property into the Town of Middletown and upon the Annexation Resolution becoming effective either after the passage of the statutorily-required time period or, if the Annexation Resolution is petitioned to Referendum, then upon approval of the Annexation Resolution after the Referendum. The Annexation Resolution shall specifically incorporate this Annexation Agreement into the Annexation Resolution. In the event that the Annexation Resolution is not enacted or, if enacted, fails to become final and effective, then this Annexation Agreement shall be deemed void *ab initio*, and shall be of no force and effect as if it had never been executed.
2. The execution of this Annexation Agreement neither implies nor guarantees either legislative or voter approval or passage of the Annexation Resolution. This Annexation Agreement shall not be deemed to inhibit or affect the ability of the Town or its officials from properly performing their legislative functions, including but not limited to the rejection of and decision to deny approval of the Annexation Resolution.
3. The Property to be bound by this Annexation Agreement is that property which is described in the attached "Exhibit A". The Property shall be classified and zoned within the "Open Space" zoning district pursuant to Middletown Municipal Code, Chapter 17.28.
4. Future improvements proposed for the Property by the County pursuant to the County's adopted Park Master Plan (adopted in 1983/Revised in 1995 and 2009) shall be exempt

from the Town's planning review and approval process. Any future development of the Property and the Middletown Community Park situated thereon shall be consistent with the County's adopted Park Master Plan *as amended*; provided, however, that the Town will be consulted and will have the opportunity to provide material input as to any proposed use of the property which deviates substantially from the Park Master Plan then in effect.. The County has previously approved a skating facility for the Property which facility is not currently depicted on the Park Master Plan, and the County shall determine the precise location and parameters of this facility at a later date.

5. The Property shall be exempt from all municipal *ad valorem* real estate taxes.

6. The Property and the Middletown Community Park facilities situated thereon shall continue to be owned by the County and maintained by the applicable County division or agency, currently the Frederick County Division of Parks and Recreation. Maintenance shall conform to the appropriate County policies, standards, rules and regulations. The County and the Frederick County Division of Parks and Recreation shall be responsible for the operation of the Middletown Community Park facilities, including but not limited to security, the rental of the shelter(s) and ball field(s), and park programming. The County shall indemnify and hold Town harmless for any personal injury and/or property damage caused by, arising from or related to the duties and obligations to be undertaken by the County under this paragraph.

7. The Town shall be responsible for the costs of the Annexation of the Property, including but not limited to the costs of obtaining a survey of the Property, advertising and notice publication expenses, and recording costs.

8. This Annexation Agreement shall be incorporated into the Annexation Resolution, and the Annexation Resolution and this Agreement shall be recorded among the Land Records of Frederick County, Maryland.

9. This Agreement constitutes the entire understanding and agreement among and between the parties and supersedes all prior discussions, understandings, agreements and negotiations between the parties. This Agreement may be modified or amended only by a written instrument duly executed by the parties hereto.

10. This Agreement shall be governed by, construed, interpreted and enforced in accordance with the laws of the State of Maryland. This Agreement may be executed in as many counterparts as may be required, and each such counterpart shall be deemed to be an original.

WITNESS the hands and seals of the parties hereto by their respective duly authorized representatives.

ATTEST:



Andrew J. Bowen, Town Administrator

BURGESS AND COMMISSIONERS
OF MIDDLETOWN

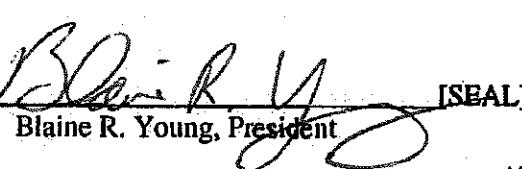
By: 
John D. Miller, Burgess [SEAL]

ATTEST:



Lori L. Depies, County Manager

BOARD OF COUNTY COMMISSIONERS
OF FREDERICK COUNTY, MARYLAND

By: 
Blaine R. Young, President [SEAL]

MJC 7/13/15

Exhibit A



Harris, Smariga & Associates, Inc.

Planners/Engineers/Surveyors
125 S. Carroll Street, Suite 100/Frederick, MD 21701
301-662-4488/FAX 301-662-4906

March 20, 2013
HSA Job No. 2382
Page 1 of 1

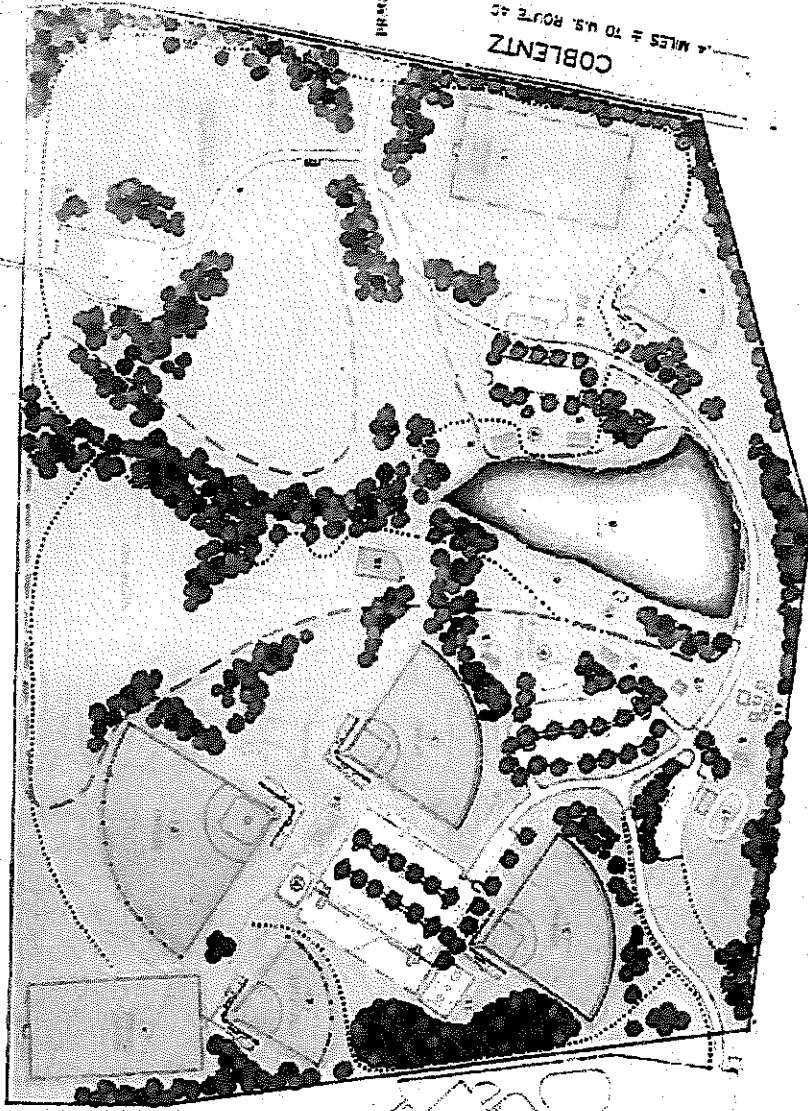
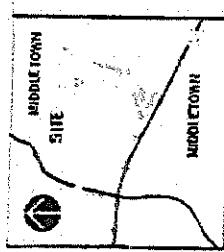
Description of *Farm Lot No.1*

Beginning at a point in Coblenz Road which is the Northeast corner of Farm Lot No.1 as shown on a plat of subdivision entitled "Boundary Survey Farmland, Farm Lot No.1, Gaver Farm Lot", as recorded among the Land Records of Frederick County, Maryland in Plat Book 23 at Page 170. Thence running with and in said roadway the following two (2) courses and distances,

S. 09° 18' 00" W.	195.00'	to a point, thence
S. 22° 39' 06" W.	1262.25'	to a point, thence leaving said roadway and continuing with said Farm Lot No.1 outline the following five (5) courses and distances
S. 86° 33' 43" W.	899.81'	to a point, thence
N. 71° 26' 17" W.	1078.59'	to a Stone Found, thence
N. 04° 35' 08" E.	1262.82'	to a point, thence
N. 12° 54' 23" E.	320.92'	to a point, thence
S. 77° 28' 01" E.	2320.98'	to the Point of Beginning.

The area of land contained by the foregoing amounts to 3,441,740 Square Feet or 79.011 acres more or less.

A skate spot was approved by the BOCC in 2009, with a location to be determined at a later date. It is also referred to in the Middletown Community Park Annexation Agreement.

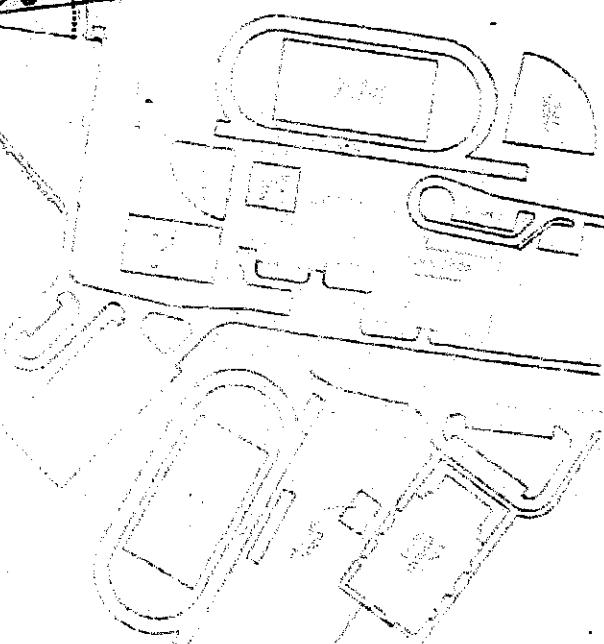
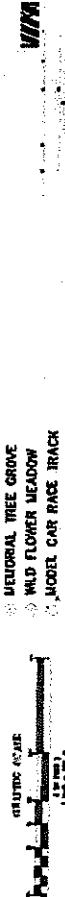


MIDDLETON & ABBEY

**FRIDOMICK COUNTY BUREAU OF
PARKS AND RECREATION**



FACILITY LISTED



June 10, 2013

MIDDLETOWN ANNEXATION

Annexation Plan

Petitioner: Town of Middletown

Request: Annexation of 79 acres of park land to be zoned OS.

Location: West side of Coblenz Road, and east of Middletown High School.

Land Use & Zoning: The subject property is a developed community park owned and maintained by Frederick County. The property is currently zoned OS-Open Space under the Frederick County jurisdiction. County A-Agricultural zoning adjoins this property to the north. Middletown R-20 Residential zoning are to the east and the south and Middletown OS - Open Space is to the west for the school complex.

Land use adjoining the subject property is a combination of agricultural, residential, and institutional. A large agricultural tract remains to the north. Single-family homes adjoin the property to the east and south, and the remainder of the property adjoins institutional property owned by the Frederick County Board of Education.

The Annexation Agreement under item #3 requests the zoning upon annexation to remain OS Open Space. This request is consistent with the *Frederick County's Future – A Comprehensive Plan for Frederick County, Maryland* (Adopted April 2010) classification as outlined on the 2010 Adopted Countywide Middletown/Fountaindale Land Use Plan which indicates Open Space land use where the OS zoning is proposed.

Comprehensive Plan: The *Frederick County's Future – A Comprehensive Plan for Frederick County, Maryland* (Frederick County Comprehensive Plan) designates this property as Public Parks/Open Space. The *Middletown Comprehensive Plan*, adopted March 2010, designates the property as Public Parks/Open Space as well. *Middletown Comprehensive Plan* maps show a stream running north to south through the property, and the transportation maps show county roadway running west to east thru the property. The proposed annexation is within the projected annexation limits established by the adopted Frederick County Comprehensive Plan and the Middletown Comprehensive Plan.

Streets & Roads:

The subject property totals approximately 1,450 ft. of frontage on Coblenz Road, which is a 22ft. wide bituminous concrete County road with no curb and gutter. The Middletown Comprehensive Plan designates Coblenz Road as a county road. Improvements to this property with access to this road would require approval from appropriate agencies. There is currently access to this parcel via a county roadway running east to west through the property from Coblenz Road to the Middletown High School parking lot. The Middletown Comprehensive Plan shows a designated minor arterial road running east/west to the north of the property.

Community Facilities

Schools:

The subject property is located in the Middletown Primary, Middletown Elementary, Middletown Middle and Middletown High School districts. The projected enrollment of each school for September 2013 is 88%, 76%, 86%, and 98% respectively.

The current/proposed zoning of OS Open Space would not bring any new housing into the Town.

Water/Sewer:

The subject property is already served by Middletown water and sewer systems. According to the Water & Sewer Plan map in the current Middletown Comprehensive Plan, the property is classified as a W-1 and S-1 denoting that the property is connected to the town systems. The Frederick County Water and Sewerage Plan dated November 17, 2011 show the property classified as S-1, W-1 as well, indicating existing connections to the town's system.

Fire Service:

This property would continue to be served by the Middletown Fire and Ambulance service located less than 1 mile southwest of the site.

Police Service:

Police service would continue to be provided by the Frederick County Sheriff's Department. Due to continued growth, the Town now has three deputies as well as additional resource deputies at Middletown's High School and Middle School.

Solid Waste Disposal: The Town of Middletown contracts with a private hauler for trash service for residential and some smaller commercial customers. Larger commercial customers contract independently with a private hauler.

The Annexation Agreement under item #6 states that the property and the facilities at the County Park shall continue to be owned by the County and maintained by the applicable County division or agency which would include solid waste disposal.

Electric: Allegheny Power currently provides service to the area.

Parks: The subject property is the County Park which serves the Middletown Valley. Additional park facilities are further south and west in Town.

Staff Comments: As stated in connection with other annexations, the staff is of the opinion that any future development in and around existing municipalities should first be considered for annexation. This is stated County and State policy. This proposal is within a logical area for annexation into the Town limits. In addition, this property already has public water and sewer from Middletown.

Recommendations:

1. Staff would support that the proposed use and zoning designation for the annexation request does meet State Smart Growth guidelines in that there will be no increase in density due to the property being a park facility and zoned Open Space, and would not jeopardize future State funding for infrastructure improvements.
2. Staff would also note that the County Park is within the Middletown Growth Area and thus the annexation of the Park is logical.
3. As noted in the Annexation Agreement (#4), future improvements for the Park by the County pursuant to the County's adopted Park Master Plan shall be exempt from the Town's planning review and approval process. Any future development of the Property shall be consistent with the County's adopted Park Master Plan provided however that the Town will be consulted and will have the opportunity to provide material input as to any proposed use of the property which deviates substantially from the Park Master Plan then in effect.
4. Also as noted in the Annexation Agreement (#6), the Property and facilities shall continue to be owned by the County and maintained by the applicable County division or agency, which currently is the Frederick County Division of Parks and Recreation.

Memorandum

To: Middletown Burgess and Commissioners

From: Cindy Unangst, Staff Planner and the Middletown Planning Commission

Date: September 17, 2013

RE: MIDDLETOWN COUNTY PARK- RECOMMENDATION

After review of the proposed annexation of the 79-acre Middletown County Park, the Planning Commission recommended approval of the annexation at their meeting held on Monday, September 16, 2013. Staff notes below information that was included in the materials submitted to the Planning Commission:

I. Findings of fact

- A. Property DOES adjoin existing corporate boundary
- B. Property DOES NOT create an enclave of any unincorporated area
- C. Property DOES NOT exceed 1.5% of the present corporate area
- D. Request for zoning of OS IS consistent with the Frederick County Comprehensive Plan and the 2010 Middletown Comprehensive Plan

II. Recommendation – Planning Commission voted to accept the proposed annexation.



Maryland Department of Planning

Sustainable Attainable

October 10, 2013

- BURGESS
- COMMISSIONERS
- ADMINISTRATOR
- PLANNING & ZONING

Cynthia K. Unangst, AICP
Middletown Municipal Center
31 West Main Street
Middletown, MD 21769

RECEIVED

OCT 10 2013

2013 MIDDLETOWN, MD

Re: Middletown County Park Annexation

Dear Ms. Unangst:

Thank you for providing the Maryland Department of Planning (MDP) with information pertaining to the Middletown County Park Annexation. We have reviewed your submission and offer the following comments.

As you are aware, Article 23A, as amended by House Bill 1141, specifies that the new municipal zoning proposed for annexed lands cannot be substantially different than the existing County zoning, without the express consent of the Board of County Commissioners. The property's current zoning of OP (Open Space) and the proposed Municipal Zoning (upon annexation) of OP (Open Space) are similar. Therefore, a waiver from the County Commissioners for the desired Municipal Zoning classification is not required.

This annexation is consistent with state planning policy. As part of the criteria the MDP uses in evaluating the consistency of an annexation with State and Local planning policies is whether or not a proposed annexation is consistent with the Local Comprehensive Plans. The Middletown County Park Annexation proposal is comprised of one parcel totaling 79 acres. The parcel is identified within the 2010 Middletown Comprehensive Plan as being within the town's Municipal Growth Area. The property is also located within a Certified Heritage Area.

Additionally, land annexed into the City does not automatically become a Priority Funding Area. However, the Finance and Procurement Article §5-7B-02 offers the opportunity for land annexed into Frederick to become a Priority Funding Area. We recommend that the City look at this annexation and all future annexations in the context of the Finance and Procurement Article §5-7B-02 to determine eligibility for State funding of growth related projects.

If you desire further assistance please contact me at (410) 767-4553, or our regional planner, David Cotton, at (301) 777-2161.

Martin O'Malley, Governor
Anthony G. Brown, Lt. Governor

Richard Eberhart Hall, AICP, Secretary
Matthew J. Power, Deputy Secretary



NOTICE OF PUBLIC HEARING TOWN OF MIDDLETOWN

Notice is hereby given that the Burgess and Commissioners of Middletown will hold a Public Hearing on **Thursday, December 5, 2013** beginning at the hour of **7:00 P.M.**, at the **Middletown Municipal Center, 31 West Main Street, Middletown, MD** on the annexation of one parcel of land (Middletown County Park) consisting of $79\pm$ acres, located on the west side of Coblenz Road and on the east side of Middletown High School.

The subject property is owned by the Board of County Commissioners of Frederick County. The parcel to be annexed, shown on the 2010 Adopted Countywide Middletown/Fountaindale Land Use Map, is zoned Open Space. The proposed Middletown zoning classification, following annexation, would remain as OS Open Space. The existing site is a developed regional county park.

Further information on the proposed annexation is available at the Middletown Municipal Center for any citizens wishing to receive a copy for review.

All citizens wishing to be heard will be recognized at this hearing. Any person desiring a stenographic transcript shall be responsible for supplying a competent stenographer.

Individuals requiring special accommodations are requested to contact Andrew Bowen, Town of Middletown, at (301) 371-6171, at least 48 hours prior to the Public Hearing.