

**Worcester County Planning Commission
Meeting Minutes**

Meeting Date: March 1, 2018

Time: 1:00 P.M.

Location: Worcester County Government Office Building, Room 1102

Attendance:

Planning Commission

Mike Diffendal, Chair

Jay Knerr, Vice Chair

Marlene Ott

Betty Smith

Jerry Barbierrri

Rick Wells

Brooks Clayville

Staff

Maureen Howarth, County Attorney

Ed Tudor, Director, DDRP

Phyllis Wimbrow, Deputy Director, DDRP

Jennifer Keener, Zoning Administrator

I. Call to Order

II. Administrative Matters

A. Review and approval of minutes, February 1, 2018 — As the first item of business, the Planning Commission reviewed the minutes of the February 1, 2018 meeting. Following the discussion it was moved by Mr. Barbierrri, seconded by Ms. Ott and carried unanimously to approve the minutes as submitted.

B. Board of Zoning Appeals agenda, March 8, 2018 — As the next item of business, the Planning Commission reviewed the agenda for the Board of Zoning Appeals meeting scheduled for March 8, 2018. Mrs. Keener was present for the review to answer questions and address concerns of the Planning Commission. No comments were forwarded to the Board.

III. §ZS 1-325 Site Plan Review – Gibbons Solar Project

As the next item of business, the Planning Commission reviewed the Gibbons Solar Project, a proposed large solar energy system consisting of 2.496 MW (DC), Tax Map 56, Parcel 9, Tax District 2, A-1 Agricultural District, located at 5844 Worcester Highway, north of Timmons Road. Patrick Cummings, Advantage Engineers, and Kelsey Crane, Forefront Power, were present for the review. Ms. Crane explained the project design. Mr. Cummings provided engineering information relative to stormwater management and sediment erosion control design.

Following the discussion, a motion was made by Mr. Knerr, seconded by Mr. Clayville, and carried unanimously to approve the site plan subject to the following conditions:

1. The Planning Commission granted a waiver to Consideration No. 1.

IV. Map Amendment – Case No. 399

As the next item of business, the Planning Commission reviewed a map amendment request to rezone 7.87 acres of land on Tax Map 21, Parcel 219 and part of Parcels 148, 149 and 259 from E-1 Estate District and A-2 Agricultural District to C-2 General Commercial District. Mr. Mark

Cropper, Esquire presented the request. Mr. Hugh Cropper, IV, Esquire and Betty Tustin, The Traffic Group, were present on behalf of the applicants. Mr. Mark Cropper noted that he is representing five different property owners. While this particular case was filed by Mr. Hugh Cropper, Mr. Mark Cropper presented the case, with Mr. Hugh Cropper and Ms. Tustin providing testimony. Submitted as Applicant's Exhibit No. 1 was a copy of Tax Map 21. Labeled/highlighted in bright pink are the five subject properties. Mr. Mark Cropper noted that relative to this particular case, they are withdrawing the request to rezone the parcels along Griffin Road, and the request shall only include Parcel 219, consisting of 1.07 acres.

Submitted as Applicant's Exhibit No. 2 (for Case No. 415) was a survey plat for Robert Nock. Mr. Mark Cropper stated that they are only seeking to rezone the portions of the property that are currently zoned E-1 Estate District and are identified as Limited Development Area (LDA); none of the RP Resource Protection District zoned lands and none of the Resource Conservation Area (RCA) designated lands would be included.

Mr. Mark Cropper stated that he intended to do one presentation for the first case (Case No. 399), then will ask the Planning Commission to adopt the findings for each subsequent case.

Mr. Mark Cropper asked Mr. Hugh Cropper about his background relative to his involvement with the Comprehensive Plan and the associated Land Use Map. Submitted as Applicant's Exhibit No. 3 was a copy of the Worcester County Planning Commission work session minutes dated November 13, 2008 that outlined how the Planning Commission would evaluate the E-1 Estate District properties, and how that district was intended to be phased out during the next Comprehensive Rezoning (in 2009). Submitted as Applicant's Exhibit No. 4 was a copy of the Worcester County Commissioners' open session meeting minutes dated October 20, 2009. The Commissioners had reviewed information on the E-1 Estate District and its elimination at that time. Submitted as Applicant's Exhibit No. 5 was a copy of the Worcester County Commissioners' open session meeting minutes dated November 3, 2009, which referenced the elimination of the E-1 Estate District. Mr. Mark Cropper noted that relative to the subject properties, former Commissioner Busick brought up discussion of these parcels. He stated that at the time, the Planning Commission and staff recommended that they be zoned R-1 Rural Residential District and the Worcester County Commissioners chose not to accept that recommendation. Submitted as Applicant's Exhibit No. 6 were pages 20 and 26 of the Comprehensive Plan, which stated that the estate land use category and associated zoning district shall be eliminated. Mr. Cropper therefore concluded that estate zoning is therefore inconsistent with the intent of the Comprehensive Plan.

Submitted as Applicant's Exhibit No. 7 were the findings of fact of Rezoning Case No. 392, which was reviewed in 2012. Hugh Cropper, IV was the attorney on the rezoning of the Silver Fox, LLC, and Burbage Melson properties. Mr. Mark Cropper stated that he was successful in rezoning the A-1 Agricultural District lands to C-2 General Commercial District. On page 1 of the Findings of Fact, Mr. Hugh Cropper read the definition of the neighborhood as defined by the applicant – to the north by MD Route 90 (Ocean City Expressway); to the east by the Isle of Wight Bay and Herring Creek; to the south by US Route 50 (Ocean Gateway) but noted to include the developments known as Ocean Landings I and II; on the west to include those properties of McAllister Road and Griffin Road. While the Planning Commission did not agree

with the inclusion of the commercial properties on the south side of US Route 50, they found the other boundaries sufficient for the definition of the neighborhood. Mr. Mark Cropper noted that the Worcester County Commissioners also found that Planning Commission's definition of the neighborhood was acceptable. Mr. Mark Cropper pointed out that on page 4 of the Findings of Fact as adopted by the Worcester County Commissioners, they found that there was a substantial change in the character of the neighborhood. After the Worcester County Commissioners approved that rezoning, the case was appealed to the Circuit Court by Macky Stansell, a protestant, and then further appealed to the Maryland Court of Special Appeals. Submitted as Applicant's Exhibit No. 8 was the unrecorded decision of the Court of Special Appeals. Mr. Stansell challenged the definition of the neighborhood and whether the changes that were identified in the Findings were planned for. Mr. Mark Cropper stated that the Circuit Court agreed with the definition of the neighborhood, but decided that the casino was a planned for change. The Court of Special Appeals overturned the Circuit Court decision, and found that the changes were unplanned for changes. Mr. Mark Cropper stated that it was not only the casino, but other changes included the receipt of growth allocation for Marvin Steen's project Triple Crown Estates, and others as well. Mr. Mark Cropper said that all of the reasons that were set forth in the Findings of Fact for Rezoning Case No. 392 warranted the rezoning of those properties to C-2 General Commercial District. He stated that once that occurred, that action in and of itself constituted a change in the character of the neighborhood.

Submitted as Applicant's Exhibit No. 9 were the Findings of Fact on the adjoining property to Silver Fox/ Burbage Melson (Rezoning Case No. 396) which was also rezoned to C-2 General Commercial District. Mr. Hugh Cropper argued in that case that the neighborhood was the same as in Case No. 392 (Silver Fox), just as is being currently argued in these cases. Mr. Mark Cropper asked Mr. Hugh Cropper what other factors besides the allowance for video lottery terminals further amplified the intensity of use of the property. Mr. Hugh Cropper said by the time of the review of Case No. 396, the Ocean Downs Casino was in the process of doubling the size of the building and in order to add table games. He stated that the casino is the biggest commercial use in Worcester County. Mr. Hugh Cropper noted that there was a water and sewer plan amendment, and a sewer service area expansion to include this property within the Ocean Pines service area via a pipe bored under Turville Creek. He noted that the County is in the process of connecting other properties in the area that have failing septic systems. Mr. Hugh Cropper also recognized the Triple Crown Estates development, as it was not a planned for change without the approval of growth allocation.

Mr. Mark Cropper stated that there is no substantial change in the population of the area of the currently requested rezoning, and Mr. Hugh Cropper added that he would say no change in population at all. Mr. Hugh Cropper stated that there are no adverse impacts to existing or proposed development or to environmental conditions, and the request is consistent with the Comprehensive Plan; in fact the existing estate zoning is contrary to the Comprehensive Plan. Mr. Hugh Cropper stated that the Estate District should be eliminated and the properties rezoned to C-2 General Commercial District because that zoning is more consistent with the intent of the Comprehensive Plan. Mr. Hugh Cropper pointed out that under the Comprehensive Plan, the properties are shown in the agricultural land use category, but he noted that the casino is also in the agricultural land use category. He stated that the Land Use Map is a broad brush planning tool, and not a specific parcel designation. Mr. Hugh Cropper concurred with Mr. Mark Cropper

that of the five properties that are the subject of review, the Planted Pleasures property (Case No. 402) has had a commercial use for an extended amount of time.

Submitted as Applicant's Exhibit No. 10 were the Findings of Fact for Rezoning Case No. 403 (Nichols Neff/ former Pine Shore North). This map amendment was approved on the basis of a mistake in the original zoning, not a change in the character of the neighborhood. However, in the Commissioners' findings, there is a reiteration of the exhibits that were introduced in this case thus far. Based on those same facts as presented, the Nichols Neff property was rezoned from E-1 Estate District to R-1 Rural Residential District. Mr. Mark Cropper stated that the Findings of Fact stated that the E-1 District was inappropriately applied to this property. The findings also stated that there was an oversupply of residentially zoned lands, which Mr. Mark Cropper claimed was equally applicable to this case.

Mr. Mark Cropper introduced Ms. Tustin, her background and qualifications. She has testified before many boards as an expert witness, and will be providing testimony on all five rezoning cases before the Planning Commission today. Relative to Rezoning Cases No. 392 and 396, she is aware that at the time of those amendments, there were no road improvements completed to MD Route 589 (Racetrack Road) in front of the applicable properties, nor have there been any required since the amendments were approved. Mr. Mark Cropper stated that the road layout is significantly different today in the segment of MD Route 589 near the properties currently under consideration, since there have been many road improvements since 2009 as a result of the casino expansion. Ms. Tustin outlined the changes in MD Route 589 (Racetrack Road) since 2009. She noted that the casino was required to install a signalized intersection, provide an additional through lane on MD Route 589 (Racetrack Road), and in the southbound direction, there was an additional through lane, as well as acceleration and deceleration lanes provided. Mr. Mark Cropper said that the road conditions are such that McAllister Road could theoretically be utilized as a service road should the Worcester County Commissioners ultimately look favorably upon the requests. The applicants would then provide any road improvements that were necessary, and there would be limited access to MD Route 589 (Racetrack Road). Mr. Mark Cropper noted that these road improvements were unique, because there were no such improvements on MD Route 589 (Racetrack Road) until you reach Cathell Road, which isn't truly a service road.

Mr. Mark Cropper and Ms. Tustin also worked together on a formerly proposed Lidl grocery store on the south side of US Route 50 (Ocean Gateway). They had met with and processed a request for an at-grade crossover at MD Route 589 (Racetrack Road) to create a connection between MD Route 589 (Racetrack Road) and the County's service road (Samuel Bowen Boulevard). At that time, they learned about additional road improvements that were planned, approved, and now funded. Submitted as Applicant's Exhibit No.11 were draft plans provided by the State Highway Administration (SHA) for those road improvements. Ms. Tustin stated that the SHA will be going to bid in the fall (September 2018) to construct an additional turn lane from eastbound US Route 50 onto MD Route 589, and also constructing the additional northbound through lane up through the casino property. Ms. Tustin noted that the plans were accurate as of the time at which she obtained them, but may have changed since then. She concurred with Mr. Mark Cropper that the road improvements which are reflected in Applicant's Exhibit No. 11 and the McAllister Road service road proposal could facilitate the commercial

use of these properties. She noted that further road improvements may be required depending on potential uses of the properties.

Mr. Hugh Cropper noted that the land use designation in the Land Use Plan is a mistake, but that this rezoning is consistent with a rezoning to a commercial zoning district. Mr. Hugh Cropper also said that the Comprehensive Plan discusses the creation of jobs and economic development, and that this is the best use of the properties.

Mr. Diffendal stated that he had a hard time following the traffic information and asked if there was a traffic study that had been done for these rezoning applications. Mr. Mark Cropper stated that it had not been done mainly because of the cost, the obvious road improvements on MD Route 589 (Racetrack Road), and the fact that they don't know what the uses of the properties could be to know how to determine what road improvements could be necessary. He said that they will not know what is required until they know what uses could be supported on these properties. Mr. Mark Cropper stated that the main issue is the limitation of sewer. Even if these properties are rezoned, he does not know the extent that any use could be maximized on these properties because they are limited to on-site septic systems right now.

Mr. Diffendal asked how the Planning Commission was to ascertain how to ensure a level of service C as called for in the Comprehensive Plan. Ms. Tustin stated that SHA will be widening MD Route 589 to a total of four full through lanes, which is moving towards their goal of four lane highway all along MD Route 589. As development does occur within the corridor between the casino and Manklin Creek Road, SHA will most likely require developers to add a lane and other improvements along MD Route 589. Mr. Mark Cropper said that should the Planning Commission and Worcester County Commissioners look favorably upon these requests, there may be proposed uses such as mini storage on one of the properties that is an extremely low impact use, doesn't require sewer, and it would not be reasonable for the owner to pay for a traffic study for it. Mr. Hugh Cropper said that this exact issue was raised in Case No. 396. The property owners were inheriting the property and had very little money. He rezoned 11.5 acres from A-1 Agricultural District to C-2 General Commercial District without a traffic study, much less a traffic expert as a witness. In that case, Mr. Hugh Cropper said that MD Route 589 is impacted, but given the adjacent properties of Silver Fox (Rezoning Case No. 392) and the casino, it would not have a disproportionate impact and will be dealt with at the site plan review stage. Mr. Hugh Cropper also said that there is even less than eleven acres within the total five case request before the Planning Commission currently, and that the parcels are not adjacent to each other. He claimed that will not create more traffic than the eleven contiguous acres as part of Rezoning Case No. 396.

Mr. Knerr asked whether there was a dedicated left turn lane onto McAllister Road from MD Route 589 (it was later confirmed by one of the owners that this lane does exist). Ms Tustin said that as each parcel was developed, access and traffic patterns would be evaluated at that stage. If the Worcester County Commissioners approved the other two rezoning cases without any known road improvements in the pipeline, then these properties are much better situated because of the road improvements that exist and are planned. Mr. Knerr said that there isn't a significant change in the population, but asked whether the Triple Crown Estates development would play a factor in that determination? Mr. Mark Cropper stated that Triple Crown Estates was a planned

for change, it was not yet built and is only comprised of 60 units, which is barely a drop in the bucket for population. Mr. Knerr said that they have to still consider those affects under the Planning Commission's review. Ms. Tustin said that when they do a traffic study, they would include the projects that have development approvals and that including Triple Crown Estates would not change what her testimony was today. Mr. Knerr noted that they have to find a balance between the zoning, and that there is a lot of existing commercial space in the area. Mr. Hugh Cropper asked whether Mr. Knerr was familiar with the Silver Fox project. It is planned to be a medical campus for Atlantic General Hospital, and they claimed to be pretty far along in the site plan development process. He noted that the area was severely underserved for medical and behavioral health services. Mr. Mark Cropper said that even though it is outside of the neighborhood that has been mentioned and previously accepted, the Palmer Gillis property (Peninsula Regional Medical Center) will be built out and completely developed with medical offices in the near future. His point was that those currently commercially vacant properties are being developed or about to be developed, regardless of the other commercially zoned land in the area. Atlantic General Hospital studies indicate that even with the Peninsula Regional Medical Center, the area will still be underserved for the residents of Ocean Pines. Mr. Mark Cropper said that relative to Ocean Landings II, those properties are zoned C-3 Highway Commercial District, which allows big box development, and is the most intense zoning we have. Mr. Mark Cropper identified the commercial areas which bound these properties, including what they have defined as the quasi-commercial zoning of the casino. Mr. Mark Cropper stated that when the Worcester County Commissioners adopted the Comprehensive Rezoning Map, they should have zoned these properties C-2 General Commercial District. He said that despite the fact that we are late in doing it now, we need to get rid of the E-1 Estate District. He noted that R-1 Rural Residential District is just another residential zone, and if the testimonial is that E-1 Estate District is incompatible, Mr. Mark Cropper felt that R-1 Rural Residential District is equally incompatible. Mr. Hugh Cropper supported that statement. Mr. Mark Cropper noted that these parcels are small, on average one acre or less, and not suited for agricultural activities. Mr. Tudor said that just because something is rezoned to any given zoning district, whether it be A-1 Agricultural District or R-1 Rural Residential District, it doesn't mean that agriculture is the only use for the property. For example, those zoning districts allow a daycare center.

Ms. Ott asked how many of the properties that surround the subject properties are currently zoned E-1 Estate District, and are proposed to remain E-1 Estate District as a result of this request? Mr. Mark Cropper stated that there are approximately thirteen properties in total that are currently E-1 Estate District. Of those, only five are being requested for commercial zoning. He stated that if these amendments were approved, those around and in-between the subject properties would maintain the E-1 Estate District designation. Mr. Diffendal questioned whether the county should be looking at this as a sectional rezoning. Staff noted that it is certainly a recommendation that the Planning Commission can make to the Worcester County Commissioners.

Mr. Tudor said that relative to the traffic study, the Planning Commission can certainly require one to be conducted as part of this review. He mentioned the other uses that are allowed in the E-1 Estate District, such as some quasi-commercial uses (daycare center). While the E-1 Estate District may not be appropriate, that doesn't mean that the C-2 General Commercial District is appropriate. He recalled very well the day that the Worcester County Commissioners looked at

the MD Route 589 corridor during the Comprehensive Rezoning process, and what was not articulated in the minutes were Commissioners Busick's statement that they should keep everything along MD Route 589 as it was currently zoned due to the lack of road improvements on MD Route 589. Mr. Tudor stated that these properties were very closely evaluated at the time of the Comprehensive Rezoning, and the Worcester County Commissioners chose to keep them zoned as E-1 Estate District. Mr. Mark Cropper asked Mr. Hugh Cropper whether he had an opinion on the marketability of the properties under E-1 zoned versus C-2 zoning. Mr. Hugh Cropper stated that there is always a higher and better value for commercial.

Mr. Mark Cropper brought forward two property owners that are part of two of the other four cases. Mr. Machen is part of Case No. 400; Mr. Mark Cropper had filed on his behalf. Mr. Mark Cropper asked him whether based on the testimony provided by Mr. Hugh Cropper and Ms. Tustin, he still supported the requested rezoning of his property. He concurred with all of the testimony provided, and confirmed that there is a left turn lane onto McAllister Road heading northbound on MD Route 589. He stated that he has tried to market his property for an extended period of time as it is currently zoned, and has not received any interest. He said that that the highest and best use of the property is as commercial, not residential or estate zoning. Mr. Diffendal asked if he resided on the property. Mr. Machen confirmed that he does.

Mr. Kevin Evans is the property owner for Case No. 402, which was known as Planted Pleasures. Mr. Mark Cropper had represented Mr. Evans and a few other neighbors during the Comprehensive Rezoning. Mr. Evans had attended several meetings with Mr. Mark Cropper, and confirmed that it was his impression that the E-1 District was to be eliminated, that the properties in his area were going to be rezoned commercial. Their recollections were that the decision was going to be to rezone the lands C-2 General Commercial District, but a final decision was made not to touch any of the E-1 district lands at all. For economic reasons, Mr. Evans confirmed that the use of the property as a garden center had ceased, and he has tried to sell the property for years. Given the current zoning and the location across from the casino, he claims that they cannot market the property. He noted that there is a high volume of traffic predominantly due to the casino that no other properties in the area experience. The casino serves alcohol until 4:00 A.M., there is constant noise at all hours, and the police conduct sobriety checks regularly. Should the Worcester County Commissioners look favorably on this request, Mr. Evans understood that he may have certain limitations and restrictions based upon whatever use may be proposed on the property, and he also has some Critical Area issues to deal with; however he said that it does not change his opinion that it should be rezoned to C-2 General Commercial District. Mr Evans also added that McAllister Road terminates at the edge of his property. He claimed to have talked with SHA regarding removal of the guardrail to create access via McAllister Road as a service road.

Mr. Mark Cropper noted that for the record, Mr. Nock could not be present for the Planning Commission's review of Case No. 415, but that he is authorized to speak on Mr. Nock's behalf. Mr. Nock is in favor of the requested change to C-2 General Commercial District.

In his closing statement, Mr. Mark Cropper reiterated that there has been a change in the character of the neighborhood, and that the neighborhood has already been clearly defined by the Planning Commission and Worcester County Commissioners. These properties are within that

neighborhood, and those boards have already found that there are changes. It was a mistake, and evidence has been submitted relative to the inconsistency with the Comprehensive Plan, Case No. 403 (Nichols Neff), and that the current action is a furtherance of the goals of the Comprehensive Plan. Mr. Mark Cropper stated that he could not understate the importance of zoning these properties as residential between all commercial zoning (except to the west), and that these properties are more negatively impacted than any others. Mr. Mark Cropper said that if the Planning Commission and Worcester County Commissioners reinforced the impacts that the casino had for the other two cases further north, then how could they not argue that those directly across the street are not impacted? Finally, he noted that there are road improvements on MD Route 589 that are provided in front of the subject properties that are found nowhere else along MD Route 589 in the defined neighborhood. He argued that the Court of Special Appeals upheld the rezoning of the Silver Fox and Burbage Melson properties, therefore the Planning Commission and Worcester County Commissioners cannot then find otherwise for these cases.

In closing, Mr. Mark Cropper reiterated that the testimony and exhibits provided would be included as part of each subsequent case.


The Planning Commission then discussed each one of the findings to determine whether they had a consensus. They were as follows:

1. With respect to the definition of the neighborhood, they acknowledged Applicant's Exhibit No. 1 which outlined the neighborhood as defined.
2. The Planning Commission concurred with the definition of the neighborhood as identified by the applicant as outlined by the Rezoning Case No. 392, but it was not supported by Mr. Clayville. Ms. Ott asked that Mr. Clayville outline his neighborhood. If he had to define it, it would be at the corner of MD Route 589 and Grays Corner Road; the line would continue west and include those commercial properties between Grays Corner Road and US Route 50; it would turn onto Friendship Road; follow Georgetown Road and continue to Adkins Road; from Adkins Spur Road it would connect back to MD Route 589 south to the point of the beginning. Based on that categorization of the neighborhood, Ms. Ott was also opposed to the definition as defined by the applicant. (5 to 2)
3. Relating to population change, the Planning Commission agreed that there was no population change for the definition of the neighborhood.
4. Relating to the availability of public facilities, the Planning Commission noted that these parcels are all on well and septic as of right now. Mr. Wells said that any development that will require additional capacity than what can be provided via on-site septic will require public sewer. Therefore, public services are necessary to serve these properties. Mr. Wells thought that the zoning should come first, then the public services. According to Mr. Mitchell, the State of Maryland is not looking at that the same way per his comments. Mr. Mark Cropper added that zoning follows the Comprehensive Plan, not sewer service, and that all of those properties along US Route 50 were developed on septic. Mr. Mitchell's comments state that there is no sewer service planned. The State of Maryland requires the Comprehensive Plan's Land Use Map to be amended before a water and sewer plan amendment could be approved. The Planning Commission therefore concurred that there is no availability of public service for the subject property.

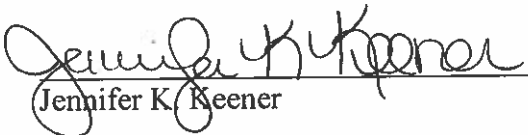
5. Relating to present and future transportation patterns, the Planning Commission discussed the SHA traffic counts and the draft improvement plan for MD Route 589 and the intersection with US Route 50. Discussion continued on the consideration of a traffic study for these properties. Mr. Mark Cropper stressed that his clients would not be able to afford a traffic study and that it would be ineffective due to the lack of an identified potential use. Overall, Mr. Diffendal reiterated his concern that this should be a sectional rezoning rather than handled piecemeal. Ms. Howarth clarified that the Planning Commission has a right to ask for a traffic study, and they can certainly table the decision on these applications and make a recommendation to the Worcester County Commissioners that a sectional rezoning should be considered. The timeframe for processing such a request was discussed.
6. Relating to compatibility with existing and proposed development, and environmental conditions in the area, the Planning Commission finds that there is not an adverse impact on environmental conditions, and that it is consistent with compatible land uses and development patterns. Mr. Clayville had concerns with the wording. Mrs. Howarth posed the question of whether the C-2 District was compatible with existing and proposed development, and whether the C-2 District was compatible with environmental conditions, etc.
7. Relating to compatibility with the Comprehensive Plan, the Planning Commission agreed that C-2 District is not compatible with the Comprehensive Plan. It was noted that the cases, except for Case No. 399 also included a request for C-1 Neighborhood Commercial District. Mr. Mark Cropper requested to amend the application to reflect the same considerations. Mr. Tudor read the C-1 District regulations at the Planning Commission's request. The Planning Commission determined (4 to 3) that C-1 Neighborhood Commercial District was compatible with Mr. Clayville, Ms. Ott and Mr. Knerr opposed.
8. Relative to the consideration of whether there has been a substantial change in the character of the neighborhood since the last Comprehensive Rezoning, the Planning Commission determined that there was by virtue of the casino additions. Mr. Clayville said that he disagreed on the previous cases, and therefore he disagrees this time. Ms. Ott said that the casino is not that much of a change. Mr. Mark Cropper said that as a matter of law, the neighborhood has already been determined by the Maryland Court of Special Appeals. The Planning Commission therefore cannot find the definition of neighborhood that has been upheld to be something else for this case. Ms. Howarth said that that the Maryland Court of Special Appeals found that the argument for change based on the character of the neighborhood was "fairly debatable", and therefore it does not mean that the defined neighborhood is set in stone. Mr. Mark Cropper said that once they found that a change had occurred for two prior rezoning cases, they cannot say that that change didn't actually happen. (5 to 2)
9. Relative to whether the change would be more desirable in terms of the Comprehensive Plan, the Planning Commission found that the rezoning of the property to C-1 Neighborhood Commercial District is more desirable. Mr. Clayville reiterated his opposition, based on existing availability of commercially zoned lands, and that there is no need for additional commercial lands. Mr. Knerr agreed with Mr. Clayville, and Ms. Ott opposed as well. (4 to 3)

Following the discussion, Mr .Barbierrri made a motion to table the discussion on the five currently pending rezoning cases, and recommend that the Worcester County Commissioners consider a sectional rezoning for the area defined as the E-1 Estate District properties on the westerly side of MD Route 589 (Racetrack Road). At staff's recommendation, the motion was amended to include those A-1 Agricultural District properties that are located in between McAllister Road and MD Route 589. The motion was seconded by Mr. Clayville and carried unanimously.

IX. Adjourn – The Planning Commission adjourned at 3:07 P.M.



Betty Smith, Secretary



Jennifer K. Keener