

**WORCESTER COUNTY PLANNING COMMISSION
MEETING MINUTES – June 5, 2025**

Meeting Date: June 5, 2025

Time: 1:00 P.M.

Location: Worcester County Government Office Building, Room 1102

Attendance:

Planning Commission

Jerry Barbierri, Chair

Ken Church

Phyllis Wimbrow

Marlene Ott

Kathy Drew

Mary Knight

Staff

Jennifer Keener, Director, DRP

Matt Laick, Deputy Director, DRP

Robert Mitchell, Director, Environmental Programs

I. Call to Order

II. Administrative Matters

A. Review and approval of minutes, May 1, 2025.

As the first item of business, the Planning Commission reviewed the minutes of the May 1, 2025, meeting.

Following the review, a motion was made by Mrs. Wimbrow to approve the minutes as written, Ms. Knight seconded the motion, and the motion carried unanimously.

B. Review and approval of work session minutes, May 8, 2025.

As the next item of business, the Planning Commission reviewed the work session minutes of the May 8, 2025, meeting.

Following the review, a motion was made by Mrs. Drew to approve the minutes as written, Ms. Knight seconded the motion, and the motion carried unanimously.

C. Board of Appeals Agenda, June 12, 2025.

As the next item of business, the Planning Commission reviewed the agenda for the Board of Zoning Appeals meeting scheduled for June 12, 2025. Ms. Tremblay was present for the review to answer questions and address concerns of the Planning Commission.

Following the review, no comments were provided to the Board.

WORCESTER COUNTY PLANNING COMMISSION
MEETING MINUTES – June 5, 2025

D. Technical Review Committee Agenda, June 11, 2025.

As the next item of business, the Planning Commission reviewed the agenda for the Technical Review Committee meeting scheduled for June 11, 2025. Ms. Tremblay was present for the review to answer questions and address concerns of the Planning Commission.

No comments were forwarded to the Committee.

Ms. Ott was in attendance for the remainder of the meeting.

III. Zoning Map Amendment

A. Rezoning Case No. 447 – 22.86 acres from C-2 General Commercial District to R-3 Multi-family residential District, Tax Map 21, P/O Parcel 66, Lot 1 and Revised Parcel B, Racetrack Road (Maryland Route 589), Ocean Pines, MD, Maryland Medical Owners II, LLC and Maryland Medical Owners III, LLC, Property Owners and Hugh Cropper, IV, Attorney

In attendance were Hugh Cropper, IV, attorney for the applicant; Wayne Yetman, representative for the owner; Steve Engel, land planner, Vista Design, Inc.; and Carl Wilson, traffic engineer, The Traffic Group.

Mr. Cropper introduced the rezoning request by explaining that it was for two separate, adjoining parcels, consisting of 22.86 acres in total. Mr. Cropper stated that they will define the neighborhood, which was illustrated on the zoning exhibit submitted as Applicant's Exhibit No. 1. Mr. Cropper stated that this is the same neighborhood that the Planning Commission adopted in Rezoning Case No. 392 (Tax Map 21, Parcel 66, A-1 to C-2) and No. 396 (Tax Map 21, Parcel 72, A-1 to C-2). Under Maryland law, he explained that an individual can prove a rezoning in two ways: that there was a mistake made in the zoning, or that there has been a substantial change in the character of the neighborhood, which is what they are alleging. Mr. Cropper noted that he provided a summary of changes that have occurred in the neighborhood within his application since the prior rezonings, but there were more changes since the last comprehensive rezoning of November 3, 2009. Mr. Cropper stated that if the Planning Commission concurred that there have been changes, they then must decide whether the rezoning is more consistent with the terms of the Comprehensive Plan.

Submitted as Applicant's Exhibit No. 2 was a copy of the Worcester County Comprehensive Plan Land Use Map from 2006 illustrating that the petitioned areas are in the Existing Developed Area (EDA). Prior to 2009, Mr. Cropper stated that the parcels were zoned A-1 Agricultural District, had a land use designation of EDA in the Comprehensive Plan, and in the pre-1978 comprehensive plan, had a land use designation of Suburban Residential. (Note: The 1989 Comprehensive Plan designated this area as Suburban Residential while the 1976 Comprehensive Plan designated this area as Suburban).

WORCESTER COUNTY PLANNING COMMISSION
MEETING MINUTES – June 5, 2025

In 2009, Mr. Cropper noted that the Planning Commission provided a recommendation of R-1 Rural Residential District zoning (density of 1 unit per acre), but the A-1 Agricultural District was adopted by the County Commissioners on November 3, 2009. In 2011, Mr. Cropper petitioned to have the entire original parcel of approximately 30 acres rezoned to C-2 General Commercial District (Rezoning Case No. 392). The change at that time was the discretionary approval at the Casino at Ocean Downs, when the MD General Assembly passed a law permitting a casino to be located within one mile of the intersection of US Route 50 and MD Route 589. On September 4, 2012, Rezoning Case No. 392 was approved by the Worcester County Commissioners. It was subsequently appealed by neighbors, and the judge overturned the Commissioners' decision, reinstating the A-1 District zoning. Mr. Cropper further appealed to the appellate court, and the C-2 District was reinstated. This rezoning was done to establish an outpatient medical campus for Atlantic General Hospital.

The Global Budget Revenue (GBR) is a methodology that focuses on population-based health management, by determining the amount of profit a hospital could make per capita. The concept was to create a large outpatient medical campus building consisting of 100,000 square feet, two stories, with four surgical suites, and other associated facilities to serve the elective surgeries. Mr. Cropper stated that the law changed and COVID came along. GBR was eliminated in Maryland, so there was no longer a financial incentive to do surgeries such as hip replacements outside of the hospital. This led to the project being cut in half, and a much smaller building was constructed for medical offices. Mr. Cropper argues that this represents a change in the character of the neighborhood. Mr. Yetman and Mr. Cropper obtained site plan approval for the original facility. They developed sealed construction plans and obtained a building permit before the circumstances changed. Subsequently, the building was scaled back, and a new site plan approval was granted by the Planning Commission. Had the medical facility been two stories, it would have needed more parking, as well as more ancillary services like pharmacies and restaurants. Sina Companies (parent company of Maryland Medical Owners II, LLC and Maryland Medical Owners III, LLC) previously evaluated assisted living facilities on the petitioned area, which would have been a complementary use to the medical campus. Unfortunately, after COVID and the New York lawsuits against such facilities, there is low demand to construct new assisted living facilities nor do banks loan money for it. Furthermore, Mr. Cropper argued that assisted living facilities would not have synergy with the smaller medical campus.

Again, Mr. Cropper noted that the petitioned areas were rezoned on September 4, 2012, and he is alleging a change in the character of the neighborhood since then. Mrs. Wimbrow inquired about whether future growth, especially in Delaware, which is bleeding into Worcester County (particularly traffic), will it create a need in the future for further expansion of the medical campus? Mr. Cropper stated that he did not see an expansion of the facilities being necessary in his lifetime given the merger of Atlantic General Hospital with TidalHealth.

Mr. Cropper readily admitted that the Planning Commission recommended the R-1 District and not the R-3 District or R-4 District in 2009. Mr. Cropper admitted that he and Mr. Bob Hand (land planner) testified as reflected in the minutes that residential was not appropriate;

WORCESTER COUNTY PLANNING COMMISSION
MEETING MINUTES – June 5, 2025

but he argues that the claim was based on an R-1 District designation and based on the scale of the originally desired medical complex, residential was not suitable.

Relating to the comprehensive plan, Mr. Cropper stated that residential is more consistent with the current comprehensive plan land use designation of EDA, and the prior suburban residential land use designation. Submitted as Applicant's Exhibit No. 3 were pages 13 and 14 of the 2006 Comprehensive Plan which states that EDAs should be limited to infill (as underlined by applicant on exhibit) and does not serve as a growth area. Mr. Cropper stated that the R-3 Multi-family District is a higher density residential zoning with infill.

Lastly, Mr. Cropper explained that his original rezoning request for R-4 General Residential District zoning was based on the density calculations, thinking that they would put smaller townhouses on the petitioned area. However, he acknowledged that in the 2009 Zoning Code, the R-4 and prior R-5 Districts were combined, and therefore they could potentially put a manufactured home park on the property in the R-4 District, which is not the intent. He also noted that it could be considered spot zoning, as the staff noted that the closest R-4 District zoning was Lake Haven Trailer Park. Therefore, the application was amended to the R-3 Multi-family District. While the property abuts the R-2 Suburban Residential District, he stated that there are more R-3 District zoned lands in the adjacent Ocean Pines subdivision.

Mr. Steve Engel, land planner and landscape architect with Vista Design, Inc., concurred with the definition of the neighborhood in Applicant's Exhibit No. 1. The comprehensive plan defines the neighborhood as being within a five-to-ten-minute travel time from services, and the petitioned areas are consistent with this. Unless the agricultural zoning to the west was included, which Mr. Engel noted is not applicable, the petitioned areas are square in the middle of the defined neighborhood. Mr. Engel concurred that if granted and the applicants were to construct townhouses or multi-family uses, there are no other residential subdivisions or zoning along MD Route 589 (Racetrack Road) except Pennington Estates between the petitioned areas and MD Route 90 (Ocean Expressway).

Mr. Cropper then summarized the changes in the character of the neighborhood:

1. Rezoning Case No. 396: A-1 Agricultural District to C-2 General Commercial District approved in 2016.
2. Submitted as Applicant's Exhibit No. 4 was Resolution 19-2 adopting the sectional rezoning of lands from E-1 Estate District and A-1 Agricultural District to C-2 General Commercial District to the west of the casino (pages 1-3). Mr. Cropper explained that individual rezoning applications were submitted on four parcels, but the Planning Commission consolidated the cases into one sectional rezoning.
3. Included as part of Applicant's Exhibit No. 4 (pages 4-6) was Resolution No. 24-13 adopting a Comprehensive Plan amendment for those the parcels subject to the sectional rezoning to be redesignated as Commercial Center on the Comprehensive Land Use Map.
4. A text amendment was adopted in 2020 to create a casino entertainment overlay district. Mr. Cropper acknowledges that while the casino has not applied to request the overlay district, it would allow them to request to do all sorts of commercial uses (like restaurants and hotels) in the agricultural zone (A-2 Agricultural District). He reiterated that since

WORCESTER COUNTY PLANNING COMMISSION
MEETING MINUTES – June 5, 2025

2009, well over 200 acres have been rezoned and/or have the potential to be developed commercially.

5. The development of the Atlantic General Hospital outpatient facility, which has been explained in prior testimony.
6. A traffic light was added at the intersection of the AGH facility, along with other road improvements.
7. In addition, the casino added a traffic light at McAllister Road and MD Route 589 with substantial road improvements south to US Route 50.
8. The Triple Crown Estates Residential Planned Community was developed since the last comprehensive rezoning and obtained Critical Area growth area allocation.
9. There have been several water and sewer amendments and sewer service area expansions for the petitioned area as well as others in the corridor. In addition, there was a Service Area expansion that allowed the casino to connect to Ocean Pines under Turville Creek, as well as a sewer line that has been connected to Crabs to Go. Mr. Cropper referenced current studies about the expansion of the Ocean Pines service area and potential interconnections of service areas.

In summary, Mr. Engel concurred with Mr. Cropper's statements that the R-3 District zoning is more compatible with the comprehensive plan than the C-2 District. R-3 District is the most consistent with the intent and purpose of the comprehensive plan, allowing multi-family uses and a higher density residential development. Mr. Engel concurred that the petitioned areas are suitable for higher density rather than sprawl subdivision. As a result of the revision in the requested zoning designation from R-4 to R-3, the density was reduced by two units per acre. Under the R-4 District, it was estimated that the density would allow for approximately 182 units, but in the R-3 District, it would accommodate a maximum of 137 units. In Mr. Engel's opinion, that is an appropriate density for the petitioned area to accommodate the residential use and all necessary infrastructure. The development can be clustered and provide significant open space. Mr. Cropper stated that any development of over 20 residential units would be required to go through the Residential Planned Community (RPC) process and come back to the Planning Commission for approval. This would be a master design community over 20 acres, which is preferable under the comprehensive plan. Mr. Cropper stated that this project centers residential growth near employment opportunities. In summary, Mr. Engel finds an R-3 District zoning more consistent with the intent of the comprehensive plan over an R-1 District or R-2 District designation.

Mr. Carl Wilson, The Traffic Group, is a Professional Engineer and traffic engineer who does traffic impact studies on a regular basis. He is licensed in MD, DE, DC, MO and FL as a professional engineer. The Traffic Group was involved with this property for a long time under Betty Tustin, and Mr. Wilson explained that they both worked on this property before she retired. On April 11, 2012, the original traffic study was conducted for the initial 100,000 square foot medical office. Submitted as Applicant's Exhibit No. 5 was the resume for Mr. Wilson. Submitted as Applicant's Exhibit No. 6 is a traffic analysis dated March 6, 2025. Mr. Wilson explained that they collected turning movement counts at the site's access point with MD Route 589, where the traffic signal is installed. The counts were collected in January, which they acknowledge was a timing issue with the rezoning submission. The turning

WORCESTER COUNTY PLANNING COMMISSION
MEETING MINUTES – June 5, 2025

movement counts were reviewed for the heaviest hour of traffic in the AM and PM. In addition, they reviewed crash data, however there was no history as it is currently a lightly used intersection. They added a 3% growth rate to their analysis. Trip generation was based on the original R-4 District density (eight units per acre – 182 units).

Submitted as Applicant's Exhibit No. 7 was the updated trip generation data. Table 1 was updated to the R-3 District density (six units per acre – 137 units) when compared to a 100,000 square foot shopping center in a C-2 District. During the peak hour, there were 65 residential trips in the AM and 79 in the PM. Compared to the shopping center, there were 173 trips in the AM, and 519 in the PM. This exhibit also compared trip generation for multi-family units to single-family units (Table 2), which typically have larger families and therefore result in more trips. Mr. Barbierri inquired about the total daily trip counts, which Mr. Wilson explained included all trips throughout the day, not just the peak hour. Typical deliveries and service vehicles are also included in the calculations. The numbers are from the Institute of Transportation Engineers (ITE), which are an established national standard. Table 3 compared a multi-family development to the medical offices and general retail. Mr. Cropper referenced the RPC regulations that permit a certain percentage of commercial uses that may be included with the residential development. He noted that any commercial use would be a much smaller component of retail than a shopping center. Mr. Wilson reflected on the complementary uses that could happen for those working at either the medical or retail facility without requiring access to MD Route 589. Mr. Wilson notes that internal traffic circulation accounts for a 20% reduction in trip generation.

It was reiterated that the original traffic study was calculated based on 182 units when the intersection capacity analysis was run. Critical Lane Volume is used by the State Highway Administration (SHA) to ensure that the lanes are adequate. In January, they were at a Level of Service (LOS) A. Mr. Wilson stated that the Highway Capacity Manual is more in depth and assigns delay in movement at the intersection. In summary, they found that the existing development is a LOS A in the AM, and a B in the PM, and if 182 units were added, they would still maintain the same overall LOS. Mr. Wilson noted that the minor site approach (internal road) becomes LOS C and D, which is still acceptable to the SHA, who controls the traffic signal timing, focusing on moving traffic on MD Route 589.

Mr. Wilson stated that they prepared a summertime projection supplemental that looked at historic volume SHA data from February and July 2007, which reflected an increase by a factor of 1.5 during the summer. In reviewing the average daily traffic conversion factors, they multiplied January 2025 by 1.22 to be comparable to July 2007 volumes, re-ran the analysis, and found they were still operating under LOS B and C at the traffic signal. Mrs. Wimbrow asked for clarification on the statement that the summertime data was from 2007? Yes, Mr. Wilson confirmed that though counts had been conducted on MD Route 589 during other times of the year, 2007 had the summer data that were the closest to what they were measuring. Mr. Wilson reiterated that the intersection would have an acceptable LOS during the summer months. Residential uses will flatten out during traffic peaks as opposed to the commercial uses. Mr. Cropper stated that as it relates to the existing medical complex and proposed townhouse use, the existing signal is likely over-designed.

WORCESTER COUNTY PLANNING COMMISSION
MEETING MINUTES – June 5, 2025

In summary, the proposed use would generate significantly fewer trips than the current C-2 District uses and the intersection will continue to function adequately. Mrs. Drew requested the condition that a connection from MD Route 589 to Ocean Pines and Triple Crown Estates be denied through the petitioned areas. Mr. Cropper agreed. Mr. Barbierri inquired if the intersection would still function properly if commercial uses were built as part of a RPC? Mr. Wilson stated that they didn't specifically run that calculation, but it would generate less demand than the 182 units.

Mr. Cropper summarized his case, stating that they have a good definition of the neighborhood, that there have been a number of changes in the character of the neighborhood, and that it is unlikely that there is another area in the county that has experienced as much change as MD Route 589. He stated that it is axiomatic and clear that residential uses are consistent with the Comprehensive Plan and admits that it was a stretch to say commercial was consistent with the Comprehensive Plan. Residential is certainly more consistent by allowing infill development and clustering uses near employment centers. Mr. Cropper said that no matter where you live, you are affected by traffic on MD Route 589. The petitioned areas are a high piece of property that should be developed with productive uses, and residential is the highest and best use for the property. Mr. Cropper claimed that under an R-3 District designation, the size of the units is such that they will be affordable. Mr. Barbierri inquired about their proposed use (townhouses), though it was acknowledged that other types of housing could be permitted. Mrs. Wimbrow asked about the density in the R-2 District, which is four units per acre. Mr. Cropper reiterated that under an RPC, you can develop residential uses based on the R-4 District. Mrs. Wimbrow was concerned about traffic on MD Route 589 and noted that one cannot guarantee that this would be workforce housing. Mr. Engel stated that single-family homes have a higher traffic count than multi-family.

Mr. Cropper reiterated that C-2 District zoning is not appropriate now, rather R-3 District is better. While some traffic will be generated by it, it is lessened by synergies, and that during the summer months there will be a steadier traffic flow than commercial uses. Ms. Ott asked if the lights along MD Route 589 were trip activated, and if they are likely to stay that way? Mr. Wilson stated that most are actuated that way, and there is synergy between the signals. Mr. Wilson said a signal is most responsive when there isn't heavy traffic. Mrs. Drew said it tends to be the heaviest on seasonal Friday afternoons and weekends, and most people avoid MD Route 589. Ms. Ott noted that she was bumper to bumper with green lights on MD Route 589 this week.

Mrs. Wimbrow said that the Planning Commission has concerns about the zoning district that are related to the traffic impact, particularly summer traffic and current figures. Given that they could potentially run up against traffic concerns at the next review, she asked whether the applicants would be willing to come back to the Planning Commission with a new traffic count at this and other intersections along MD Route 589. Mr. Cropper requested their decision today, with the understanding that they shall come back to the Planning Commission with the RPC. Mr. Church said that there is no doubt that 137 townhouses would be better than a music amphitheater for 1,000 people, plus a beer store and fast-food restaurant that would be

WORCESTER COUNTY PLANNING COMMISSION
MEETING MINUTES – June 5, 2025

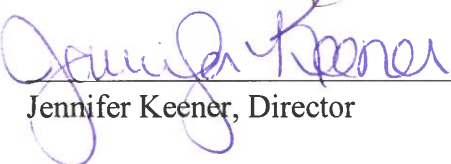
overwhelming. Mr. Cropper said he purposely didn't bring his usual C-2 District list of uses, but the traffic will be vastly more impacted by the future expansions of the casino or the fitout at TidalHealth. Mr. Mitchell confirmed that adequate EDUs were available for the development.

Mr. Cropper stated that in his application, he submitted his suggested findings of fact. The Planning Commission reviewed and commented upon each of the findings. Following the discussion, a motion was made by Ms. Ott, seconded by Mrs. Knight, and carried 5 to 1 with Mrs. Wimbrow opposed, to find the proposed amendment to rezone the petitioned area from C-2 General Commercial District to R-3 Multi-family Residential District consistent with the Comprehensive Plan based on a change in the character of the neighborhood, and forward a **favorable recommendation** to the Worcester County Commissioners **with the condition** that a connection from MD Route 589 to Ocean Pines and Triple Crown Estates be denied through the petitioned areas.

IV. Adjournment



Mary Knight, Secretary



Jennifer Keener, Director