

WORCESTER COUNTY PLANNING COMMISSION
MEETING MINUTES – September 5, 2024

Meeting Date: September 5, 2024

Time: 1:00 P.M.

Location: Worcester County Government Office Building, Room 1102

Attendance:

Planning Commission

Jerry Barbierri, Chair

Phyllis Wimbrow, Vice Chair

Marlene Ott

Ken Church

Kathy Drew

Betty Smith

Mary Knight

Staff

Jennifer Keener, Director, DRP

Kristen Tremblay, Zoning Administrator

Roscoe Leslie, County Attorney

Bob Mitchell, Director, Environmental Programs

Paul Renshaw, Zoning Inspector

I. Call to Order

II. Administrative Matters

A. Review and approval of minutes, August 1, 2024

As the first item of business, the Planning Commission reviewed the minutes of the August 1, 2024, meeting.

Following the review, a motion was made by Ms. Ott to approve the minutes as written, Ms. Drew seconded the motion, and the motion was carried unanimously with Mr. Barbierri abstaining.

B. Review and approval of worksession minutes, August 8, 2024

As the next item of business, the Planning Commission reviewed the minutes of the August 8, 2024, worksession meeting.

Following the review, a motion was made by Ms. Wimbrow to approve the minutes as written, Ms. Ott seconded the motion, and the motion was carried unanimously with Ms. Smith abstaining.

C. Board of Zoning Appeals Agendas, September 12, 2024

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

**WORCESTER COUNTY PLANNING COMMISSION
MEETING MINUTES – September 5, 2024**

No comments were forwarded to the Board.

D. Technical Review Committee Agenda, September 11, 2024

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

No comments were forwarded to the Committee.

III. FY 25 MALPF Easement Sale Application Review and Approval

The Planning Commission met with Katherine Munson, Planning Manager, Worcester County Environmental Programs, to review the following three (3) applications to sell an easement to the Maryland Agricultural Land Preservation Foundation (MALPF) in the FY25/26 application cycle:

1. Guy, Larry Dean and Deborah, TM 99, P 27; Hall Road, Pocomoke City; 96.75 acres
2. Maddux, Percy, S., TM 91, P 59; New Bridge Road; 144.92 acres
3. Maddux, Percy S., TM 99, P 49; 1226 Colona Road, Pocomoke City; 130.02 acres

Ms. Munson explained as background that the MALPF program is a state program that purchases permanent agricultural easements on farmland across the state, and that there are currently 71 MALPF easements in Worcester County (6 purchases pending) on nearly 11,000 acres of land. She noted that FY25 and FY26 have been combined into one funding cycle due to low funding anticipated for FY25. She also noted that there were fewer applications submitted than typical, although there was plenty of landowner interest in the program this year.

Maps were provided to the Planning Commission showing the location of the applicant properties in relation to protected lands, zoning and the 2006 Land Use Plan. Individual aerial maps of each property were provided. In response to a question, Ms. Munson confirmed that the applications are reviewed by MALPF, and approval by the county does not guarantee the landowners will receive an offer to sell an easement.

Ms. Ott made the motion to endorse all three (3) applications presented, as the applications meet all program requirements and are consistent with the comprehensive plan, and recommend approval of all applications to the Worcester County Commissioners. Ms. Wimbrow seconded the motion, and approval was unanimous.

**WORCESTER COUNTY PLANNING COMMISSION
MEETING MINUTES – September 5, 2024**

IV. Comprehensive Plan Land Use Map Amendment Public Hearing – 1pm

The Planning Commission conducted a public hearing on a proposed amendment to the Land Use Map associated with the 2006 Comprehensive Plan. Mrs. Keener introduced the request, explaining that the amendment had been reviewed by the Planning Commission at their June 2024 meeting. Based on the testimony received at that time, the board provided a favorable recommendation to consider a change in the Land Use designation from Agriculture to Commercial Center for fifteen parcels identified on Tax Map 21 as Parcels 32, 71, 79, 83, 84, 87, 88, 94, 97, 110, 111, 114, 219, 265 and 276.

Subsequently, staff prepared a report to submit to the state clearinghouse for review. The comments that were received from the state agencies were included in the record. Mrs. Keener noted that Maryland Department of Planning staff suggested that it would be more appropriate to process this request as part of the full comprehensive planning process, which is currently underway. Such findings are further detailed in the letter dated August 7, 2024.

Mr. Barbierri opened the floor to receive public comment. Presenting testimony was Mark Cropper, attorney for Racetrack Plaza, LLC, and Michael Luppachini, member of the LLC. Mr. Cropper noted for the record that the entire process began with his February 13, 2024, a request for a land use amendment for his client's property. The matter went before the Worcester County Commissioners in May 2024, requesting their consideration to make the comprehensive land use designation consistent with the sectional rezoning that was approved in 2019 to C-2 General Commercial District. He outlined the difficulties that his client currently has in applying for water and sewer service, as well as growth allocation due to the underlying land use designation. Mr. Cropper requested to incorporate by reference and adopt the February 2024 letter, testimony before the County Commissioners in May 2024, and the testimony before the Planning Commission on June 6, 2024.

Upon a request for clarification from the Planning Commission, Mrs. Keener noted that the County Commissioners had reviewed the initial request and directed staff to present the request to the Planning Commission. It was at the June 6, 2024 meeting that the Planning Commission determined that the Commercial Center designation was more appropriate and requested staff to proceed with the proposed amendment to the 2006 Land Use Map.

Mr. Barbierri closed the hearing. Mrs. Keener explained the next steps. The Planning Commission will need to make a formal recommendation on the matter, which will be referred to the County Commissioners, who may choose to adopt, modify, remand or disapprove the draft amendment. In addition, they may hold their own public hearing; however, it is not required.

**WORCESTER COUNTY PLANNING COMMISSION
MEETING MINUTES – September 5, 2024**

Mrs. Wimbrow and Ms. Ott stated that they did not vote in favor of the amendment in June, finding that this change should be considered in conjunction with the comprehensive planning process. Mr. Church stated that it would take too long for adoption of the new plan. Mrs. Drew agreed with the timing, stating that the County Commissioners already determined what was appropriate for the area when they approved the sectional rezoning, therefore it was not necessary to postpone the request.

Following the discussion, a motion was made by Mrs. Drew, seconded by Mrs. Knight, to provide a favorable recommendation for the land use map amendment from Agriculture to Commercial Center for the fifteen affected properties. The motion carried 4 to 3 with Mr. Barbierri, Mrs. Wimbrow, and Ms. Ott opposed.

V. Map Amendment – Rezoning Case #446

As the next item of business, the Planning Commission reviewed Rezoning Case No. 446, a request to rezone approximately 142.91 acres out of an approximately 151.27-acre parcel on Tax Map 40, Parcel 241, Lot C, and 53.2 acres out of an approximately 223.47-acre parcel on Tax Map 40, Parcel 93, from A-1 Agricultural District to A-2 Agricultural District, located on the northerly side of Croppers Island Road, Newark, east of the intersection with US Route 113 (Worcester Highway). Mark Cropper, applicant's attorney, Gregory Wilkins, professional land surveyor, Bob Ewell, property owner, were present for the review.

Testimony:

Submitted as Applicant's Exhibit No. 1 was a binder containing seven tabs worth of documents. Mr. Cropper stated that the Planning Commission has seen most of the documents previously, except for the final item that contains a traffic impact analysis that was conducted this year by The Traffic Group. He read the findings of the report, found on page 3 of 4, which state that the analysis continues to yield a Level of Service (LOS) A, and the anticipated expansion of the rental campground by 53 sites would have a de minimis impact on the existing roadway network, consisting of Cropper's Island Road, and the intersection with US Route 113 (Worcester Highway).

Mr. Cropper then identified all the remaining documents contained in the binder, which included the following items:

- The opinion of the Board of Zoning Appeals Case No. 65727 for the 2002 special exception that was granted for the original 92 site campground on Parcel 93.
- The opinion of the Board of Zoning Appeals Case No. 105968 for the 2008 special exception that was granted to expand the campground to a total of 167 sites, and a variance

WORCESTER COUNTY PLANNING COMMISSION
MEETING MINUTES – September 5, 2024

to the setback between a residential district and the campground from 1,000 feet to 500 feet.

- Island Resort Campground application for an Atlantic Coastal Bays Critical Area Growth Allocation. Mr. Cropper noted that the Growth Allocation was approved by the County Commissioners, and the only purpose for it was to facilitate the expansion of the campground by the additional 53 sites.
- The Findings of Fact from the Planning Commission to the County Commissioners with a favorable recommendation for the requested Growth Allocation.
- Meeting minutes dated January 16, 2024, from the County Commissioners approving the Critical Area Growth Allocation to support the expanded campground.
- A site plan that reflects the additional 53 sites. If the County Commissioners look favorably upon the rezoning, this will be the site plan that will be submitted to the Board of Zoning Appeals for the special exception for the expansion of the campground.
- Lastly was the traffic impact analysis.

Mr. Cropper stated that the applicant would not be seeking the rezoning if they were not endeavoring to expand the campground by the 53 sites. The issue arose because of the 2009 comprehensive rezoning and updated Zoning and Subdivision Control Article, in which campgrounds were no longer a permitted use in the A-1 Agricultural District. What was previously the A-1 District was split into the A-1 District and the A-2 Agricultural District. As a result of that change, rental campgrounds are now only allowed in the A-2 District. Mr. Ewell's campground retained an A-1 Agricultural District designation, and therefore it became a legal non-conforming use. There are limitations under the non-conforming uses, wherein you can only expand the use up to 50%. Mr. Cropper contended that it was not clear what land area would be included, and therefore to avoid the debate, they have sought a rezoning for the existing campground area and the proposed expansion area from A-1 District to A-2 District. The campground then becomes a legal conforming use, which can then be expanded without being limited by the 50% rule. The proposed expansion area would also be a legal conforming use.

The purpose for providing all the information on the Growth Allocation request was that they wouldn't even be requesting a rezoning if the County Commissioners had denied the Growth Allocation request, as the campground expansion was dependent upon that approval. Mr. Cropper stated that as part of the Growth Allocation request there is a plethora of concerns that must be addressed in determining whether a use is appropriate on the specific property, which in this case is the campground expansion. He stated that the most predominant issues in the growth allocation process pertain to environmental issues, such as impacts to wetlands or buffers. The entire purpose of the growth allocation process is to determine if this use on this property warrants a change in the Critical Area designation that otherwise wouldn't be allowed.

WORCESTER COUNTY PLANNING COMMISSION
MEETING MINUTES – September 5, 2024

Mr. Cropper argued that the Planning Commission's favorable recommendation and the County Commissioner's approval of the growth allocation as reflected in the record therefore support the rezoning of the property to be a legal conforming use. He reiterated that the non-conforming status occurred because of the actions of the County Commissioners in 2009 in adopting the Zoning Code and Zoning Maps, and not because of the actions of the applicant. He shouldn't be limited or restricted on the expansion of the campground for an action that he did not take.

In the staff report, the issue was raised that the existing campground was on Parcel 241, but the expansion is on Parcel 93. Mr. Cropper explained that when the original campground was approved, it was all Parcel 93. When the expansion was approved in 2008, it was all Parcel 93. The newly proposed expansion is also on Parcel 93. Mr. Ewell, for estate planning purposes, created Parcel 241 from Parcel 93. Mr. Cropper argued that the expansion does not require a boundary line adjustment, but his client could do that if staff felt that was the best option. Mr. Cropper restated that the proposed rezoning is based on a mistake, and the mistake is the fact that the adoption of the 2009 Zoning Code and Zoning Maps resulted in a legal non-conformity, which limited Mr. Ewell's ability to pursue this expansion.

Mr. Cropper introduced Gregory Wilkins, professional land surveyor. He concurred with the statements that were made by Mr. Cropper. Part of the Growth Allocation process requires a finding of consistency with the Worcester County Comprehensive Plan. Since the Growth Allocation was approved specifically for the expansion of the campground for the 53 sites, it was already found that the expansion is consistent with the Comprehensive Plan, otherwise the Growth Allocation could not have been approved. Mr. Wilkins concurred.

Mr. Ewell testified that he was not aware of the mistake that was being created in 2009 when the Zoning Code and Zoning Maps were being updated. He has always wanted to expand the campground without the additional burdens or restrictions. If the County Commissioners rezone the area where the existing campground is and the portion of Parcel 93 that would accommodate the expansion would cure the mistake and facilitate all expansions that they intend to make on the campground. Mr. Ewell concurred that he would not have gone through the Growth Allocation process if he had not intended to expand the campground and achieve the final phase of this project.

Mr. Ewell hired The Traffic Group to conduct the traffic study, and he has reviewed and concurred with the findings that Cropper's Island Road can accommodate the additional traffic generated by an additional 53 sites, at a LOS A.

WORCESTER COUNTY PLANNING COMMISSION
MEETING MINUTES – September 5, 2024

Mr. Cropper stated that when the project was previously before the Planning Commission during the Growth Allocation request, they had been proposing 62 sites. However, that plan would have required Mr. Ewell to seek a variance to the 1,000-foot setback from a residential zoning district, and therefore they have reduced the number of sites to 53. Should the County Commissioners approve the rezoning, Mr. Ewell acknowledges that they will still be required to seek a special exception for the expansion of the rental campground.

Mr. Barbierri clarified that the request is for the entirety of the A-1 zoned area on Parcel 241, and strictly the petitioned area of Parcel 93 as shown on the site plan exhibit. He reiterated that it does not include the area where the butcher shop/ roadside stand is located. Mr. Cropper wanted to make it very clear that they were only seeking to rezone that portion of Parcel 93 that is necessary to accommodate the campground expansion and the existing campground. There is no intention to expand the A-2 District zoning anywhere else on the property. He has stipulated to many people that they are only seeking to make the existing campground and expansion a legal conforming use. He reiterated that they have no objections to a boundary line adjustment but doesn't think it is necessary.

Relative to the traffic study, Mr. Barbierri wanted to confirm that the counts were done on Memorial Day weekend, and at that time 95% of the units were occupied. Mr. Cropper stated that it was done intentionally, so that they documented the most extensive use of Cropper's Island Road. When asked if they were ever at 100% capacity, Mr. Ewell confirmed that they were, just not that weekend. Mrs. Drew inquired about whether some individuals rented their spot for the season, and Mr. Ewell confirmed that they do, and leave their recreational vehicles on the site.

Mr. Barbierri confirmed receipt of one email from a resident noting their concerns that was submitted as part of the Planning Commission's review. Mr. Cropper noted that many of the concerns were addressed during the Growth Allocation review, namely that runoff would be addressed with the development plan and the wastewater facility will accommodate the expansion with the modifications that have been approved.

Mrs. Wimbrow stated that while not opposed to the project, she has a concern with the argument of a mistake on Parcel 93, since those sites were not anticipated at that time. Mr. Ewell always anticipated an expansion; what he didn't anticipate were the limitations and restrictions created by being converted from a legal conforming use to a legal non-conforming use. Mr. Cropper argued that such an intense use as the campground on what was A-1 zoned property was not taken into consideration during the 2009 comprehensive rezoning process. He continued, stating that to take the argument to the furthest extreme, if the County Commissioners were only to rezone the existing campground located on Parcel 241, and not

WORCESTER COUNTY PLANNING COMMISSION
MEETING MINUTES – September 5, 2024

the petitioned portion of Parcel 93, then the rezoning of Parcel 241 becomes an argument for a change in the character of the neighborhood, for which they would seek another rezoning for Parcel 93. Therefore, there is no reason to go to that step.

Mrs. Wimbrow further inquired whether the applicant has confirmed that there is no additional area required beyond the proposed petitioned area to accommodate the expansion. Mr. Cropper stated that he has relied on the surveyor and engineer as the experts to verify that this will be all they would need. Mr. Wilkins confirmed that it would be sufficient.

Upon a question about whether it would be cleaner to prepare a boundary line adjustment to incorporate the petitioned area of Parcel 93, staff confirmed that it would be, as the rezoning would follow a property line rather than a zoning boundary described by metes and bounds.

Mrs. Drew revisited the timeline of the subdivision of the property. At the time of the original campground development, it was all Parcel 93. In March of 2009, Mr. Ewell subdivided the campground (now Parcel 241) from the remaining lands of Parcel 93. She stated that if the rezoning were to occur, that the boundary line adjustment would be cleaner.

Mrs. Knight asked whether the traffic study reviewed speed? Mr. Cropper stated that it was strictly traffic volumes, and not speed. Mr. Wilkins verified that the digital speed sign is still there, and Mrs. Knight noted that many of the residents appreciate that sign based on feedback she has received. Furthermore, she stated that she has no problem with the change in zoning.

In reviewing the findings that the Planning Commission must address, they concluded the following:

- A. Regarding the definition of the neighborhood: The Planning Commission found that because the argument was based on a mistake that a definition of the neighborhood was not applicable.
- B. Regarding population change: The Planning Commission concluded that there would be no change in the year round population of Cropper's Island Road because of the campground expansion.
- C. Regarding availability of public facilities: The Planning Commission found that there would be no impact upon public facilities as there is no public water and sewer infrastructure planned to serve the petitioned area, and the campground is served by an existing wastewater treatment plant with biological treatment and an existing drainfield with backup tilefield and sprayfield.

WORCESTER COUNTY PLANNING COMMISSION
MEETING MINUTES – September 5, 2024

- D. Regarding present and future transportation patterns: The Planning Commission found that the petitioned area fronts on Cropper's Island Road, a County-owned and -maintained road. There were no comments provided by County Roads, and the State Highway Administration comments noted that there would be no negative impact to the state road system. The traffic impact analysis prepared by The Traffic Group was conducted on Memorial Day weekend, when 95% of the campground was occupied, to document the most extensive use of Cropper's Island Road. The analysis showed that the road is currently at a Level of Service A, and that the expansion of the campground by 53 sites would cause a de minimis impact. Based upon its review, the Planning Commission found that there will be no negative impact on the transportation patterns arising from the proposed rezoning of the petitioned area.
- E. Regarding compatibility with existing and proposed development and existing environmental conditions in the area, including having no adverse impact to waters included on the State's impaired waters list or having an established total maximum daily load requirement: The Planning Commission found that a portion of the petitioned area is an existing campground, and the remaining petitioned area on Parcel 93 is proposed for the expansion. The environmental conditions in the area have been addressed in detail with the Growth Allocation request, which was submitted into the record as Applicant's Exhibit No. 1. Based upon its review, the Planning Commission found that the proposed rezoning of the petitioned area from A-1 Agricultural District to A-2 Agricultural District is compatible with the existing and proposed development and existing environmental conditions in the area.
- F. Regarding compatibility with the Comprehensive Plan: The Planning Commission finds that the 2006 Comprehensive Plan encourages campgrounds as a means of temporary recreational housing and that their recreational uses have been important to the county's resort tradition. Specifically, the Planning Commission finds that the petitioned area is an area that is desirable for recreation, and therefore the expansion of the campground is consistent with the Comprehensive Plan and in keeping with its goals and objectives.

In consideration of its findings and testimony provided to the Commission, the Planning Commission concluded that there is a mistake in the existing zoning of the petitioned area. The Commission found that the existing campground (petitioned area of Parcel 241) should have been zoned A-2 Agricultural District at the time of the 2009 comprehensive rezoning. Uses such as campgrounds and golf courses were included in this new zoning district for the express purpose of limiting the land area where the commercialized recreational uses could be permitted. While the subdivision occurred prior to the comprehensive rezoning in 2009, the

**WORCESTER COUNTY PLANNING COMMISSION
MEETING MINUTES – September 5, 2024**

Planning Commission found that it was a mistake in the existing zoning not to allow for a greater use of the parcel for a campground, even though the currently proposed expansion area on Parcel 93 was not a pre-existing approval at the time.

Following the discussion, a motion was made by Mrs. Knight, seconded by Ms. Smith, and carried unanimously to find the proposed amendment to rezone the petitioned area from A-1 Agricultural District to A-2 Agricultural District consistent with the Comprehensive Plan based on a mistake in the zoning of the property, and forward a favorable recommendation to the Worcester County Commissioners, with the condition that a boundary line adjustment be prepared to incorporate the petitioned area into Parcel 241.

VI. Site Plan Review – Flat Calm – Major Site Plan Review

Proposed site development for 11 variously-sized self-storage buildings, totaling 36,950 sq. ft. Located at 10510 Racetrack Road, Tax Map 21, Parcel 15, Tax District 3, C-2 General Commercial District, Flat Calm, LLC, owner / George E. Young, III, P.E. Engineers and Surveyors, engineer.

As the next item of business, the Planning Commission reviewed the aforementioned proposal. Evan Young, PE, surveyor, presented the proposal along with the owner, Chet Rohrbach. The applicants informed the Planning Commission that they intend to build the development in phases. Phase 1 would consist of three (3) storage buildings and the office with the remaining phases providing the remaining buildings. The Planning Commission asked about the current conditions and were informed that there are a number of existing cottages that are proposed to be removed. The applicants requested that they be able to pursue a demolition permit, and staff indicated that they could do so.

Discussion was held on providing a second interparcel connection to the now Racetrack Auto and Marine site, which is a requirement of the zoning ordinance. The Planning Commission also discussed the easement including the letter of ‘abandonment’ from the adjacent property owner, and how it would need to be done via a correction plat in order to take effect.

The Planning Commission then started to review the Design Guidelines. A number of waivers were being requested by the applicant. The Planning Commission showed concern with building an office without having sewer in place, as the applicants indicated that they would like to frame out the office and wait. Public sewer is available, however the applicants do not wish to connect to it yet. The applicant indicated that the building would be used to run the computers for the gate and fence and would be operated like a ‘mechanical room.’ If this is the proposed use, the applicants were advised to clarify the phasing of the office on the site plans.

**WORCESTER COUNTY PLANNING COMMISSION
MEETING MINUTES – September 5, 2024**

They then discussed how the development would look if no plantings were placed in the easement on the eastern side of the property near the entrance. They determined that it would not be necessary. It would be diffused, but not obscured, by adjacent buildings to the north.

Section 7. Mass and Scale. The applicants indicated that they would be preparing a master design concept plan separate from the site plan for review.

Section 8. Roofs. The Planning Commission agreed to a waiver for the two (2) elements required in a roof, as one (1) has been provided.

Section 9. Materials. The Planning Commission agreed to a waiver for the stone façade on the office building (stone is not a native material).

Section 10. Facades. The Planning Commission discussed the waivers of this section on all facades being proposed on all sides of the facility.

Section 14. Signs. The applicants agreed to adjust the site plan according to the code requirements regardless of the notation that said: ‘owner shall select sign under fifty (50) square feet.’

Section 15. Parking. The applicants agreed to revise the site plan to include the required interparcel connector to the southwest and relocate the parking spaces accordingly. The applicants also requested a waiver to the sidewalks. The Planning Commission did mention that the Route 589 (Racetrack Road) corridor right-of-way would need to be shown on the next revision of the site plan.

During this point in the discussion, Mr. Church suggested that the project is not organized enough to be in front of the Planning Commission for review at this time. The site plans are difficult to read and there are too many questions about the proposal.

On a motion made by Mr. Church and seconded by Ms. Ott, the Planning Commission voted to table discussion on the Flat Calm project until more detailed plans and more information were provided.

The applicants agreed to incorporate the discussion held so far into the redesign and will re-present at a future meeting.

**WORCESTER COUNTY PLANNING COMMISSION
MEETING MINUTES – September 5, 2024**

VII. Other Matters

The Planning Commission will be postponing its upcoming worksession until October in its review of the Comprehensive Plan.

VIII. Adjourn

On a motion made by Ms. Knight and seconded by Mr. Church, the Planning Commission adjourned.



Mary Knight, Secretary

Kristen M. Tremblay, AICP, Zoning Administrator