

# ***STAFFORD COUNTY PLANNING COMMISSION MINUTES***

## ***December 5, 2011***

The meeting of the Stafford County Planning Commission of Wednesday, December 5, 2011, was called to order at 6:38 p.m. by Vice-Chairman Michael Rhodes in the Board of Supervisors Chambers of the County Administrative Center.

MEMBERS PRESENT: Rhodes, Fields, Hazard, Apicella, Kirkman and Hirons

MEMBERS ABSENT: Howard

STAFF PRESENT: Harvey, McClendon, Zuraf, Ansong and Knighting

### DECLARATIONS OF DISQUALIFICATION

Mr. Rhodes: At this point, before we take a motion to approve the agenda, I might suggest that we... someone entertain considering a motion to move the reports and minutes approvals up after unfinished business, since our unfinished business will be so short tonight.

Mr. Apicella: So moved.

Mrs. Hazard: Second.

Mr. Rhodes: Okay with that any discussion? None. All in favor of the amended agenda of unfinished business then reports and minutes and then going on to new business and public presentations and public hearings signify by saying aye.

Mrs. Hazard: Aye.

Mr. Hirons: Aye.

Mr. Apicella: Aye.

Mr. Rhodes: Aye. Opposed nay. It is 4-0 so that will be the agenda. Mr. Harvey, what do we have here?

Mr. Harvey: Mr. Chairman, the first item on your agenda is discussing the farmers market. There is a Committee that has been established. Members of the Planning Commission on the Committee are Mrs. Hazard and also Mr. Fields. I believe Mrs. Hazard is available to give an update.

### UNFINISHED BUSINESS

1. Zoning Ordinance Amendment; Farmers Market (**Time Limit: January 19, 2012**) (**In joint Committee with Agricultural/PDR Committee and Planning Commission**)

Mr. Rhodes: Mrs. Hazard.

Mrs. Hazard: Yes, we have not met since our last meeting but we have a planned scheduled meeting on the 19<sup>th</sup>, which is a Monday to meet with the members from the Ag Committee and I believe also

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someone from Economic Development. So we will be considering some of the ideas that we have and we will be meeting then and reporting back probably in the New Year.

Mr. Rhodes: Very good. Thank you very much Mrs. Hazard.

Mr. Harvey: Mr. Chairman and Mrs. Hazard, may I confirm the meeting time and location for public notice purposes?

Mrs. Hazard: I believe it is 10 o'clock on the 19<sup>th</sup>.

Mr. Harvey: Yes and in the first floor conference room, I believe, right?

Mrs. Hazard: The first floor conference room.

Mr. Harvey: Thank you.

Mr. Rhodes: Very good. Thank you Mr. Harvey. The second item has been deferred until January 4<sup>th</sup>. The third item I don't think there is anything further on that is there Mr. Harvey?

2. SUB2501460; Tyler Estates Preliminary Subdivision Plan - A preliminary subdivision plan for 6 single family detached units, zoned A-2 consisting of 12.39 acres located on the north side of Ramoth Church Road between Freedom Lane and Powhatan Trail on Assessor's Parcel 38-11 within the Hartwood Election District. **(Time Limit: January 25, 2012) (History - Deferred at November 2, 2011 Meeting to November 16, 2011) (Deferred at November 16, 2011 Meeting to January 4, 2011)**
3. Zoning Ordinance Amendment; Rappahannock River Overlay District and Potomac River Overlay District (Referred back by Board of Supervisors) **(Time Limit: October 6, 2010) (History - Deferred at June 16, 2010 Meeting to August 18, 2010) (Deferred at July 21, 2010 Meeting to September 1, 2010) (Deferred at September 1, 2010 Meeting to October 6, 2010 Meeting) (Deferred - Requesting additional time from Board of Supervisors)**

Mr. Harvey: There has been no report back after my inquiry.

Mr. Rhodes: Okay, very good. Thank you. No new business. We will have to wait until 7:30 for public presentations and public hearings. Let's see where we... we are moved up to the Planning Directors report. Mr. Harvey.

NEW BUSINESS

None

PLANNING DIRECTOR'S REPORT

Mr. Harvey: Thank you very much Mr. Chairman. I am pleased to announce that the Planning and Zoning staff has a new member on our staff. Susan Blackburn has been appointed Zoning

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Administrator by the Board of Supervisors. She started last Monday and we are looking forward to her being a valuable asset to our department.

Mr. Rhodes: Wonderful.

Mr. Harvey: Also, unfortunately Mr. Fields and Ms. Kirkman are not here. I wanted to congratulate them on their terms of office here with the Planning Commission. I believe both have contributed significantly to Stafford County as well as for planning staff. I know with Ms. Kirkman she served with the Board of Zoning Appeals for five years then on the Planning Commission for four years. During her tenure, I believe that she has asked a lot of very good detailed questions, which has allowed the public to be educated on various matters as well as helped the staff improve our game in making our presentations and staff reports to the Commission.

Mr. Rhodes: Mr. Harvey those are very fair comments and I am going to take the liberty at the end when we are finished today regardless, to make sure and recognize those and offer everybody and opportunity for some comments. So I certainly would allow you to repeat those again there as well on behalf of the staff.

Mr. Harvey: Yes, thank you Mr. Chairman. Also I have more comments for Mr. Fields but given your statement I will reserve them for the end of the meeting. Thank you.

Mr. Rhodes: Thank you very much.

Mr. Harvey: That concludes my report.

Mr. Rhodes: Madam County Attorney?

COUNTY ATTORNEY'S REPORT

Ms. McClendon: No report at this time. Thank you.

COMMITTEE REPORTS

Mr. Rhodes: Are there any other Committee reports out there? Let's see we had... that was it right? There are no other standing ones that have been meeting right now.

Mr. Harvey: No sir.

CHAIRMAN'S REPORT

Mr. Rhodes: Okay. Very good. I will... nothing really further from the Chairman's Report other than comments we will want to make for our distinguished colleagues who will be departing after this session. But I will reserve those for the end. Seeing no other business I will entertain motions on the minutes.

OTHER BUSINESS

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APPROVAL OF MINUTES

*October 19, 2011*

Mr. Hiron: Mr. Chairman?

Mr. Rhodes: Yes Mr. Hiron.

Mr. Hiron: I would make a motion to approve the Stafford County Planning Commission minutes from October 19, 2011.

Mr. Rhodes: Very good.

Mr. Apicella: I will second that.

Mr. Rhodes: Motion and seconded. Any comments? If none, all in favor of the Stafford County Planning Commission minutes for October 19<sup>th</sup> say aye.

Mrs. Hazard: Aye.

Mr. Hiron: Aye.

Mr. Apicella: Aye.

Mr. Rhodes: Aye. Any opposed? None. Approved 4-0.

*November 2, 2011*

Mr. Hiron: Mr. Chairman?

Mr. Rhodes: Yes, please Mr. Hiron.

Mr. Hiron: I would make a motion to approve Stafford County Planning Commission minutes for November 2, 2011.

Mrs. Hazard: Second.

Mr. Apicella: Mr. Chairman, I have some corrections.

Mr. Rhodes: Please. Yes Mr. Apicella?

Mr. Apicella: On page 201, line 934, it says Fredericksburg and it should say...

Mr. Rhodes: I'm sorry, what line?

Mr. Apicella: Line 934.

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Mr. Rhodes: Line 934, page 20 of 105, okay. I'm sorry, please go ahead.

Mr. Apicella: And on page 66...

Mr. Rhodes: I'm sorry, what was the correction? I interrupted you so I didn't hear it listening to myself talk.

Mr. Apicella: Wow, I think I have the wrong page number. It's line 3109.

Mr. Rhodes: 3109, which would be page 66 of 105, okay.

Mr. Apicella: Okay. If the staff would remove the word no.

Mr. Rhodes: Such then it would read; And what I'm not clear is why they were excluded in...

Mr. Apicella: In Stafford's Family Subdivision Ordinance.

Mr. Rhodes: ... Stafford's Family Subdivision Ordinance. Okay.

Mr. Apicella: Yes sir. That's it.

Mr. Rhodes: Do you have those ma'am? What was the first correction again Mr. Apicella? Line 924?

Mr. Apicella: Line 934.

Mr. Rhodes: Oh 934.

Mr. Apicella: It says Fredericksburg and it should say Frederick.

Mr. Rhodes: Oh Frederick. Okay. On line 934 it should start with; Ordinance, the Frederick Ordinance and the Stafford Ordinance. Thank you very much. Was that it Mr. Apicella?

Mr. Apicella: Yes sir.

Mr. Rhodes: Very good. Okay, therefore a motion with those corrections. Any other comments? All in favor signify by saying aye.

Mrs. Hazard: Aye.

Mr. Hirons: Aye.

Mr. Apicella: Aye.

Mr. Rhodes: Aye. Any opposed, nay. Then 4-0 approved.

*November 16, 2011*

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Mr. Hiron: Mr. Chairman?

Mr. Rhodes: Yes Mr. Hiron.

Mr. Hiron: I would make a motion that we adopt or approve Stafford County Planning Commission minutes for November 16, 2011.

Mr. Rhodes: Motion to approve.

Mr. Apicella: I'll second.

Mr. Rhodes: Seconded by Mr. Apicella. Any comments? All those in favor signify by saying aye.

Mrs. Hazard: Aye.

Mr. Hiron: Aye.

Mr. Apicella: Aye.

Mr. Rhodes: Aye. Any opposed? None. That's approved 4-0. And given that we really had very light business on the front end and we have to wait until 7:30 for public presentations and public hearings, that's when they were advertised, what we will do is go into recess until about 7:10 when we need to discuss some legal advice. I would like to give Ms. Kirkman a little more time to get through traffic to get here. So with that we're going to stand in recess until about 7:10.

Ms. Kirkman arrived at 6:50 p.m.

Meeting was reconvened at 7:10 p. m.

Mr. Rhodes: Okay I will call the December 5<sup>th</sup> Stafford County Planning Commission back into session. We have an item requiring some legal advice, which I think may require a motion to go into closed session.

Mr. Apicella: Mr. Chairman I have a Resolution to authorize the closed meeting, which reads as follows. Whereas the Commission desires to consult with legal counsel and discuss in closed meeting legal advice regarding the Transfer of Development Rights Program and; Whereas pursuant to Virginia Code Section 2.2-3711(a)7, such discussion may occur in closed meeting. Now therefore be it resolved that the Commission on this 5<sup>th</sup> day of December 2001 does hereby authorize discussions of the afore-stated matter in closed meeting.

Mr. Rhodes: Thank you Mr. Apicella for the motion. Is there a second?

Mrs. Hazard: Second.

Mr. Rhodes: Second by Mrs. Hazard. Discussion? All those in favor signify by saying aye.

Mrs. Hazard: Aye.

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Mr. Hirons: Aye.

Mr. Apicella: Aye.

Ms. Kirkman: Aye.

Mr. Rhodes: Aye. Any opposed nay? 5-0, okay we will go to closed session now. We will be coming back at no later than 7:30 for the public presentations and public hearings.

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**7:30 P.M.**

Meeting was reconvened at 7:33 p. m.

Mr. Rhodes: Now that we're all back... let's see, is she on in there? Okay, now that we're all back I would ask for a motion to certify the results of the closed session.

Mrs. Hazard: Yes Mr. Chairman. I will make a motion to certify the actions of the Stafford Planning Commission in closed session on December 5<sup>th</sup>. Whereas, the Commission has on this 5<sup>th</sup> day of December, 2011, adjourned into a closed meeting in accordance with the formal vote of the Commission and in accordance with the provisions of the Virginia Freedom of Information Act. Whereas the Virginia Freedom of Information Act, Virginia Code 2.2-3700 provides for certification of such, closed meeting was conducted in conformity with law. Therefore I ask that we resolve that the Stafford County Planning Commission does certify on this 5<sup>th</sup> day of December, 2011, that to the best of each members knowledge (1) only public business matters lawfully exempted from open meeting requirements under Virginia FOIA were discussed in the closed meeting to which the certification applies and (2) only such public business matters as were identified in the motion by which the said closed meeting was convened were heard, discussed or considered by the Commission.

Mr. Rhodes: Thank you for that motion. Is there a second?

Mr. Hirons: Second.

Mr. Rhodes: Any discussion?

Ms. Kirkman: Mr. Chair, or Mr. Vice-Chair. We concluded rather hastily because of the need to begin the public hearings at 7:30 and at the end of our discussion I had raised a concern that ultimately what was being discussed might have more to do with policy discussions rather than legal advice. And what was explained to me was that we had to have the discussion with the lawyers in order to then later get to the policy decisions. I just... I feel like I did not get enough understanding of that issue so I am just simply going to abstain from voting.

Mr. Rhodes: Thank you Ms. Kirkman. All those in favor signify by saying aye.

Mrs. Hazard: Aye.

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Mr. Hirons: Aye.

Mr. Apicella: Aye.

Mr. Rhodes: Aye. Opposed nay? 4-0 with 1 abstention. Okay, we are through the closed session and we are now on to public presentations portion of the agenda. I apologize, we are five minutes late. That was supposed to start at 7:30. At this portion it's an opportunity for anyone from the public to speak on any matter of concern to them other than the items that are on public hearing. After the public presentations, you will have the opportunity during the public hearings portion to discuss those items, items 4 through 7. So, if there should be anybody in the audience tonight that has a desire to speak on any other item other than the items on public hearing, you may come forward at this portion. You will have three minutes to speak. Typically we do not have a back and forth discussion but it is an opportunity for you to present comments and issues that you want to have out for the record and for consideration. So with that if there is anybody that would like to address the Planning Commission for the public presentations portion, please come forward at this time. Without seeing a mad dash, we will close the public presentation... Oh please. Thank you. If you would just state your name and address for the record, the green light will come on after you do so and that will mean that you have three minutes, the yellow light will come on at one minute and at the red light, please try wrap up comments. Thank you.

PUBLIC PRESENTATIONS

Mrs. Callander: Yes, I am Alane Callander. I just want to take this opportunity to thank Ms. Kirkman and Mr. Fields for their exceptional service to the County. I am sorry Mr. Fields hasn't arrived quite yet. There really are no words that can fully express my appreciation for their work and they are truly irreplaceable. They know what's going on and it does take a long time to get to that point. They've been with the County and the Planning Commission for some time. They are truly stewards of the environment and I hope that the other members of the Planning Commission will realize what an absence it's going to be without them and I hope that you all have learned from their approach and help us to maintain quality of life and to protect our environment. Thank you.

Mr. Rhodes: Thank you very much. Is there anyone else? Okay. With that we will close the public presentations portion of the agenda and head towards the public hearing portion. The first item is item number 4, Amendments to the Zoning Ordinance. Mr. Harvey.

PUBLIC HEARINGS

4. Amendment to Zoning Ordinance - Proposed Ordinance O12-02 would amend the Stafford County Code by, among other things, creating new definitions, modifying permitted uses and creating new zoning regulations to establish a Transfer of Development Rights (TDR) program. The purpose of the TDR program is to provide a mechanism by which a property owner can voluntarily transfer residential density from sending areas to receiving areas and/or to a transferee without relation to any particular property through a process intended to permanently conserve agricultural and forestry uses of lands, reduce development densities on those and other lands, and preserve rural open spaces and natural and scenic resources. The TDR program is intended to complement and supplement County land use regulations, resource protection efforts, and open space acquisition programs. The TDR program is also intended to

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encourage increased densities in two designated receiving areas that can better accommodate this growth.

Mr. Harvey: Thank you Mr. Chairman. Ms. Ansong will be making the presentation.

Mr. Rhodes: Thank you.

Ms. Ansong: Good evening Mr. Vice-Chairman and members of the Planning Commission. Tonight I stand before you to present the proposed ordinance and the proposed amendments to the Comprehensive Plan for the TDR, Transfer of Development Rights. Computer please. This proposed ordinance, Ordinance O12-02, would amend the Stafford County Code by creating new definitions modifying permitted uses and creating new zoning regulations to establish a Transfer of Development Rights Program, also known as the TDR Program. What is a TDR? A TDR is a process where an owner of a parcel of land in a sending area may convey development rights in a sending area to another party such that the development rights so conveyed are severed and extinguished from the sending property and may be exercised on a receiving property in addition to the development rights already in existence on the receiving property. Here is a flow chart which demonstrates the... ideally the way the process would work in terms of a TDR. I'm just going to read it just so everyone has a general understanding of how the process would flow. Initially the landowner files an application to determine the number of development rights of the sending property. Then the Director would issue determination of development rights documents to establish the potential number of available development rights. Next landowner files covenant restrictions and requests Director to issue Transfer of Development Rights Certificate for a specified number of development rights. Next Director issues TDR Certificate to landowner and records Certificate and Covenant Restrictions to sever development rights from sending property. Then the landowner agrees to sell severed development rights to the speculator and Director approves the transfer to the speculator and records new TDR Certificate in Land Records. After that, speculator agrees to sell development rights to the developer. Director approves the transfer and records new TDR Certificate in Land Records. After that, the developer files plans with the County acknowledging the use of development rights covered by the TDR Certificate. A letter from the Director approving the plat or plan based on the TDR Certificate is sent. And lastly, the Director records subdivision plat or site plan with the deed to invalidate in perpetuity the development rights covered by the TDR Ordinance. So in terms of a TDR Transfer of Development Rights Program you have two areas; you have the sending area and you have the receiving area. So this map depicts both areas, the sending and receiving areas. Here's a calendar of events in terms of the TDR Program and how it came about. September 16, 2011, the Board of Supervisors adopted Resolution 11-194 referring their version of the TDR Ordinance and Comprehensive Plan Amendments to the Planning Commission for review and requested that the Planning Commission prepare, develop and consider any additional ordinance and plan amendments necessary for the adoption of the TDR Program. On November 2<sup>nd</sup>, 2011, the Planning Commission prepared changes to the proposed TDR Ordinance and here we are today at the public hearing for the proposed TDR Ordinance. So as I stated earlier, there are two areas in terms of the TDR Program; you have the sending area and you have the receiving area. And first I would like to discuss the sending areas. In terms of the sending area, a sending area is defined as those areas from which development rights are authorized to be severed and transferred to a receiving area or transferee without relation to any particular property. The sending area is land located east of the CSX Line north of Potomac Creek and south of Aquia Creek. Here you have a map of the sending area with a big arrow pointing to the sending area. And the sending areas are outlined in blue, it's like a blue triangle. Those are all the

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sending areas within that blue line. As I stated earlier, the Board initially sent their version of the TDR Ordinance to the Planning Commission. So what this slide reflects is the Board version of the TDR Ordinance and the Planning Commission's recommendations to the Ordinance that was sent down by the Board. So it's a side by side comparison and you can see the Board's suggestions and the Planning Commission's recommendations. In order to qualify as a sending area, the property shall be designated for Agricultural, Rural or Parkland uses; located in areas designated as sending areas on the TDR Map which is in the Comprehensive Plan. Land must be zoned A-1, Agricultural, or A-2, Rural Residential, on the Zoning Map. And lastly, a separate parcel... the property shall be a separate parcel or contiguous parcels that are comprised of at least 20 acres or are designated as park on the Land Use Map in the Comprehensive Plan. So the version that the Board sends down and the Planning Commission's version of the Ordinance are the same regarding these four sections, but the Planning Commission suggested that another piece be added to Section D, which you can see in the bold italics. And that addition is that in terms of the Parkland for the sending areas, the Planning Commission recommended that the Parkland be comprised of at least two acres and in existence on the effective date of the Ordinance.

Ms. Kirkland: Mr. Vice Chair?

Mr. Rhodes: Yes Ms. Kirkman, please.

Ms. Kirkman: Can we ask questions as we go through this? Could you clarify the intent of the Planning Commission amendment there? Does the comprised of at least two acres apply only to the Parkland piece of that clause or does it apply to all parcels?

Ms. Ansong: Wasn't that the Parklands? Just the Parkland from what I recall.

Ms. Kirkman: Just the Parklands. So the contiguous parcels could be a tenth of an acre, a quarter of an acre, an acre, so long as all the contiguous parcels added up to 20 acres?

Ms. Ansong: Yes.

Ms. Kirkman: Okay, thank you.

Mr. Rhodes: Thank you.

Ms. Ansong: So as I stated earlier, there are two areas in the TDR Program. There's a sending area and the receiving area. I touched briefly on the sending area and now I'm going to touch briefly on the receiving area. So in terms of the receiving areas, a receiving area is defined as those areas authorized to receive development rights transferred from a sending area. The receiving areas are the Courthouse and Brooke Station Urban Development Areas. Here's a map once again, but this map shows the receiving areas. There are two receiving areas; you have the Courthouse receiving area which is in pink... at the top there's like a number 1 in it. And then you have the second receiving area which is the Brooke Station receiving area. And there's two big arrows pointing to each receiving area for the TDR Program. Once again, this slide shows the Board's version of the TDR Ordinance, O12-02. And the right side shows the Planning Commission's recommendations and the options regarding that ordinance, Ordinance O12-02. So, in terms of receiving areas, in order to qualify as a receiving area, the property shall be located in one of the following zoning districts, A-1 or R-1. But the Planning

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Commission recommended that in addition to the A-1 and R-1 Zoning Districts, that three more Zoning Districts be added to the receiving areas. And those three additional Zoning Districts proposed are the PD-1, Planned Development, PD-2, Planned Development Two, and P-TND, Planned Traditional Neighborhood Development.

Ms. Kirkman: Mr. Chair?

Mr. Rhodes: Yes Ms. Kirkman.

Ms. Kirkman: Later on in our Agenda in public hearings we have an Ordinance for Urban Development Land Use. How does this Transfer of Development... and that proposed ordinance is specifically for the Urban Development Areas which would include the Brooke UDA and the Courthouse UDA... how does this proposed ordinance address that land use?

Ms. Ansong: Honestly I haven't really looked too much at what is on the Agenda, I do know it's there but I don't know the details of what that address is.

Ms. Kirkman: So that ordinance is developing a land use specifically for the Urban Development Areas? How does this ordinance incorporate that land use?

Mr. Harvey: Ms. Kirkman if I may?

Mr. Rhodes: Yes Mr. Harvey.

Mr. Harvey: This ordinance does not incorporate the ordinance that's proposed for public hearing later tonight. This ordinance references existing zoning categories that we have today. This other UD Zoning District may be adopted by the Board sometime next year. At that point in time we could come back and re-hold and amend this TDR legislation to incorporate that new zoning category. But it would have to occur at a later date since it doesn't exist today.

Ms. Kirkman: Okay, and that's the ordinance that's being developed... that's being proposed specifically for the Urban Development Areas?

Mr. Harvey: Correct.

Ms. Kirkman: And then my second question is, what this in essence will allow as proposed is Transfer of Development Rights from one agricultural area to another agriculturally zoned area; is that correct?

Ms. Ansong: Yeah, if your sending area is A-1, I believe... if your sending areas are A-1, R-1 or A-1 and then are receiving areas can be A-1 as well. So yeah that's quite possible.

Ms. Kirkman: Okay, thank you.

Mr. Rhodes: Thank you. Please proceed.

Ms. Ansong: So, in addition to the various zoning districts that a parcel has to be in order to be a receiving area, the property also has to be located within a receiving area on the sending and receiving

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area map in the Comprehensive Plan. Also the property shall be located within the USA which is shown in the Comprehensive Plan. And it should also be designated as part of a UDA by the Comprehensive Plan. So in terms of these four sections regarding what is required to be receiving areas, the Board's version and the Planning Commission's versions are almost identical but there are two very important differences. One, as I stated earlier, was the addition of the three additional zoning districts proposed by the Planning Commission and also an additional inclusion, Part E. The Planning Commission suggested that apart from the four sections which were already stated, the Planning Commission also proposed that the property be included in an assessment of an infrastructure in the receiving area that identifies the ability of the area to accept increases in density and its plans to provide necessary utility services within any designated receiving area. Also, in addition to the proposed ordinance that the Board forwarded to the Planning Commission, the Planning Commission had additional recommendations regarding the proposed Ordinance O12-02 TDR Program. And these are two of the additional recommendations that the Planning Commission made regarding that. One recommendation dealt with commercial developments. If the owner of the receiving property wishes to convert Residential Development Rights to Commercial Development Rights, each such Residential Development Right shall be deemed the equivalent of the right to construct 4,000 square feet of commercial space on the receiving property. Another addition that the Planning Commission suggested in terms of the proposed ordinance was a 50% rule. And what that states is that no more than 50% of the total development rights in any development project shall be comprised of development rights transferred in the receiving area. Once again, here's another section in the proposed TDR Ordinance O12-02. And again you have a side by side comparison of the Board's version and the Planning Commission's suggestions regarding that proposed ordinance. And what this is, this section involves the gross acreage of the sending area and the Planning Commission suggested that when calculating the initial calculation for the sending area, apart from looking at the slopes in terms of subtracting that from the acreage, the Planning Commission also suggested that the portion if any of the sending property that is comprised of easements or rights-of-way for public roads and for those sending properties that do not abut any public road, five percent of the gross acreage of such sending properties be subtracted in order to determine the initial calculations for the sending property.

Mrs. Hazard: Mr. Chairman?

Mr. Rhodes: Yes Mrs. Hazard.

Mrs. Hazard: I have a question about that. Mr. Harvey knows that I think in terms of examples. So under this I guess the proposed 28-359, under either scenario, this is when it comes to the Planning Director for calculation; it does not go to determination of whether the property is a proper sending property. How would this come before you if a group of... if it comes at 20 acres, the multiple contiguous parcels come to you and it's 20 acres, then do you do the subtraction to say it's less than the 20 acres or does the person coming in ahead of time have to make sure it's 20 acres with this subtracted out? I don't know if that makes sense. And then my follow-on is going to be, can you take me through how you would calculate one of these in an example?

Mr. Harvey: Yes certainly. The ordinance specifies that they have to have a minimum of 20 contiguous acres. So if, for instance, they have three pieces of property that comprise 20 acres, that would be what they specify in their application. There's an application form that will be developed and a process in which the number of development rights will be determined. As you mentioned, this section of the proposed Ordinance 28-359 goes through how you calculate those development rights.

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Basically you take the total land area; you would exclude any property that's already been restricted from development. They've either recorded a conservation easement on the property or there's a restrictive covenant prohibiting someone from further subdividing, or some other mechanism. So we would look for those types of things. We'd also look to see if they had previously transferred any development rights from that overall tract of land. Then we would take a look at the amount of land that has hydric soils, we would subtract those properties, and then we'd also subtract any road right-of-way dedication, any slopes greater than 25%. Then you would come up with a net area and you would apply that net area by the minimum lot size for those zoning categories to get the potential number of developable lots so to speak or development rights. So when you get that potential number of development rights, that's what I would send back in a letter form to the applicant saying based on our calculations you're entitled to so many development rights that could be severed from your property.

Mrs. Hazard: And there would be an analysis of any deed restrictions that would be accompanying any lot that would be included in the application, is that correct?

Mr. Harvey: Yes.

Mrs. Hazard: Thank you.

Mr. Rhodes: Thank you; please proceed.

Ms. Ansong: In looking at the proposed Ordinance O12-02, the proposed ordinance, TDR Ordinance, the Planning Commission also suggested an additional two options which were not in the original version that the Board asked the Planning Commission to review originally. And the Planning Commission suggested two recommendations; one deals with the right to use property for agricultural uses or forestall uses. And basically this is an addition that allows when the sender... when someone sells their rights basically it allows them to continue using their property for agricultural uses or forestall uses. That's what A addresses. And then the Planning Commission also proposed adding a statement about tax abatement. And what this does is it allows the owner of severed development rights to enter into an agreement with the Commissioner of the Revenue for a Real Estate Tax Abatement for a period of up to 25 years in exchange for retiring all or a part of the development rights on a sending property. Also, another option recommendation that the Planning Commission made regarding the proposed TDR Ordinance O12-02, dealt with a definition which was not in the version that the Board of Supervisors forwarded to the Planning Commission. And the Planning Commission suggested that a definition for retire be added to the proposed ordinance. And they suggested that here it is, the definition for retire, the process by which development rights are extinguished. Earlier I showed this slide which basically shows the various zoning districts for the receiving area. The Board suggested that the receiving areas be restricted to only A-1 and R-1, whereas the Planning Commission suggested that the receiving areas yes they shall be A-1 and R-1, but they also suggested 3 more zoning districts; the PD-1, PD-2 and P-TND. And the next slide will show the various density allocations regarding these zoning districts. So here we have the A-1 zoning district and currently the allocated density is three acres, minimum lot acreage, and when you add in the TDR, the maximum density with the TDR will be four dwelling units per acre... single-family detached dwelling units only.

Ms. Kirkman: So if I could just clarify. Since the proposed ordinance allows Transfer of Development Rights from one agriculturally zoned area in the sending area to agriculturally zoned

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areas in the receiving area, that means agriculturally zoned areas in the receiving area could go from one house per three acres to 12 houses per three acres without a rezoning. Is that correct?

Ms. Ansong: Yeah, based on this maximum density you could go to what is listed.

Ms. Kirkman: Okay, thank you.

Ms. Ansong: Another density... another zoning district which is in the sending area... I'm sorry, which is in the receiving area, is the R-1 Zoning District. Currently, in terms of allocated density, it is 1.5 dwelling units per acre. But in terms of the TDR, the maximum density with the TDR, the units can go up to 12 dwelling units per acre. In terms of townhouses, you could get up to six dwelling units per acre and multi-family you could get up to 12 dwelling units per acre. The next zoning district in the receiving area is the PD-1; this is one of the zoning districts which was recommended by the Planning Commission. Currently the density is seven dwelling units per acre. With the TDR the maximum density can go up to 12 dwelling units per acre. Once again, the townhouses can go up to six dwelling units per acre and multi-family you can get 12 dwelling units per acre. Next we have the PD-2 Zoning District, another zoning district which was proposed by the Planning Commission. The current allocated density is 3.25 dwelling units per acre. With the TDR the maximum density can go up to 12 dwelling units per acre. Townhouses six dwelling units per acre and with multi-family you can get 12 dwelling units per acre, townhouses six. And lastly we have the P-TND Zoning District, another zoning district which was proposed by the Planning Commission. And currently the allocated density is 12 dwelling units per gross tract areas. And with the TDR the maximum density can go up to 12 dwelling units per gross tract acres.

Mr. Apicella: I have a segway question.

Mr. Rhodes: Yes Mr. Apicella.

Mr. Apicella: Can you go back? So in follow-up to Ms. Kirkman's questions, with regard to PD-1, PD-2 and P-TND you would have to get a rezoning to get those classifications?

Ms. Ansong: Yes.

Mr. Apicella: Okay, thank you.

Ms. Ansong: Also with the proposed recommendation...

Ms. Kirkman: Excuse me.

Mr. Rhodes: Yes Ms. Kirkman.

Ms. Kirkman: To clarify... but that would only be if they rezoned something else; if they were already had these zonings they would not require a rezoning.

Ms. Ansong: In the receiving area?

Ms. Kirkman: Yeah.

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Ms. Ansong: Yes.

Ms. Kirkman: So if they were already zoned R-1 or PD-1 or PD-2 they would not require a rezoning.

Ms. Ansong: No but if they're rezoned to these then they yeah... then they would get that maximum density.

Ms. Kirkman: Okay, thank you.

Mr. Apicella: But just for the purposes of the TDR that we're looking at today, the pilot program we're looking at two sending areas that are UDA's that have either A-1 and/or A-1 and R-1 currently.

Ms. Ansong: Exactly.

Mr. Apicella: Okay thanks.

Mr. Taves: Excuse me... Mr. Chairman?

Mr. Rhodes: Yes Mr. Taves?

Mr. Taves: I believe Mr. Apicella just said to sending areas; I believe those were receiving areas.

Ms. Ansong: Receiving areas, sorry.

Mr. Taves: Okay thank you.

Mr. Rhodes: Thank you.

Ms. Ansong: Thank you, thank you Mr. Taves. Also in looking at density allocation a part from the statements that I just made earlier, when you look at the PD-1 and the PD-2 Zoning Districts that the Planning Commission has proposed, apart from the densities which would change we would also have to establish yard sizes, minimum lot size, maximum height and minimum lot width requirements, maximum floor area ratios, minimum open space ratios for TDR developments. And in looking at the P-TND there would have to be a reduction in minimum gross tract area and a decrease in the open space ratio. So, in summary, the proposed ordinance for the TDR Program, Ordinance O12-02, would amend the Zoning Ordinance to allow TDRs, Transfer of Development Rights, it would establish new zoning definitions, it would establish new minimum lot sizes and yard requirements. It would also create new tables such as the Standards for Transfer of Development Rights, and set forth the uses and standards for all developments using TDRs for each zoning district in Stafford County. The ordinance would also show the process in which to certify the severance of development rights, the legal instruments such as certificates and deeds. The ordinance will also outline the general provisions for eligibility as a sending and receiving area. And it will also detail the processes that certify the severance of development rights, as I said earlier. And it will also show the transfer process and it will detail the development of approval procedures, fixing development rights to a site plan or a subdivision plan. I believe... before I talk about the Comprehensive Plan amendment, I believe the Planning Commission is being asked tonight to vote on the proposed version of the TDR Ordinance which was sent by the Board. And I believe they're also being asked to vote on the proposed ordinance that the

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Planning Commission has made their recommendations and options to. And lastly, the Planning Commission is being asked to vote on the proposed Amendments to the Comprehensive Plan regarding the TDR. Now I would like to discuss the Comprehensive Plan Amendments regarding the TDR. There are several text amendments which are being proposed in the Comprehensive Plan to address the proposed TDR Ordinance. Some of the amendments in the Comprehensive Plan deal with the definition of the TDR Program. Now there is a proposed addition defining the TDR Program and the criteria for sending and receiving areas. The proposed Comprehensive Plan amendment also addresses the recommendation that any development in a receiving area shall be made up of no more than 50% of Transfer of Development Rights. And also the proposed Comprehensive Plan amendment has a proposed map which shows the sending and receiving areas for the Transfer of Development Rights Program. That map is labeled as Figure 3.8... oops, sorry about that. Also the proposed Comprehensive Plan amendment shows the modified Brooke Station Section which originally stated that it was preferable for all developments in the Brooke Station UDA to be tied to the retirement of TDR. It also addresses the recommendation that one residential development right severed from a sending area is equivalent to the rights to construct up to 4,000 square feet of commercial space in a receiving area. Lastly the proposed Comprehensive Plan amendment also addresses the facts... or also addresses the proposal that the sending areas can send approximately 904 development rights to the receiving areas. And Brooke Station you can see could possibly receive 435 rights and the Courthouse UDA could possibly receive 469 rights, totaling 904 development rights. Staff recommends approval of a TDR Ordinance and of a Comprehensive Plan amendment, text amendments, and the map. Are there any questions?

Mr. Rhodes: Any questions of staff?

Ms. Kirkman: Mr. Vice-Chair, before we move onto questions, I wasn't present at the beginning of the meeting so I don't know if you called for disclosures or disqualifications?

Mr. Rhodes: No ma'am.

Ms. Kirkman: You're not normally handling those duties. So in the absence of that I did want to disclose, although I'm not legally required to I don't believe, that my property is located in the... the property where I reside is located in the proposed sending area. I do not believe under our statute, our conflict of interest statute, that that presents a conflict of interest because it affects me the same way that it affects everyone in the sending area, and that's how our conflict of interest statute reads. Additionally, I would like to disclose that I'm a co-founder of the group Save Crow's Nest. And I did not know that that would be a part of this discussion until Mr. Apicella requested that we go into closed session tonight regarding Crow's Nest Harbor and how that may be related to the TDR legislation. And again, I'm not affected specifically by this so I don't believe under statute... and please... if the attorneys... I was caught a little off guard by this... if you think it does I'd like to hear that a conflict of interest and I do believe that I will be able to act in this matter in a fair and objective way.

Mr. Rhodes: Thank you Ms. Kirkman. And actually I appreciate you raising that because being the substitute tonight I failed to do the Declarations of Disqualification and I have failed. So if there were any others, breaking the order of the agenda, I should actually ask and make sure and confirm there are no other Declarations of Disqualification or Clarifications. Okay, thank you. Thank you Ms. Kirkman. Other questions of staff? I would like to identify that Mr. Fields has arrived because this

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was not a normally scheduled night; he had a prior commitment so welcome Mr. Fields and also that Ms. Kirkman had arrived during the... right after the first recess since we recessed early into the agenda. Yes.

Mr. Fields arrived at 8:04 p.m.

Ms. Kirkman: If no one else has questions I'll begin.

Mr. Rhodes: Ms. Kirkman:

Ms. Kirkman: I bet you a dollar to a donut Mr. Apicella asks some after I do. So the first question I have is, is it correct that what this ordinance will do is, particularly with regards from Transfer of Development Rights from the A-1 sending area to the A-1 receiving area, allow an increase in residential density in the A-1 receiving area from one house per three acres to 12 houses per three acres without a rezoning?

Ms. Ansong: It looks like that's how it's written now.

Ms. Kirkman: And does that then mean that the County has absolutely no ability to collect cash proffers on that increased residential density from one house per three acres to 12 houses per three acres?

Ms. Ansong: I think right now the way the TDR Ordinance was written was in order to collect cash proffers that's why the whole 50% rule was brought up. So I guess it would depend on how that A-1 development would be.

Ms. Kirkman: But for the property... so let's say we've got three acres in the receiving area that's zoned A-1 now and gets... which allows one house per by-right for residential development. And it purchases 11 development rights so it can now build 12 development rights, 12 residential units on those three acres without a rezoning. Without a rezoning, is there any ability of the County to collect cash proffers on those additional 11 units that are being built?

Ms. Ansong: I guess the way I understand it is if all 12... maybe if I'm wrong someone can step in... but I guess the way I've understood it is if they're sending all 12... They're building a development and they want to send 12 rights, six of them can be TDR but the rest cannot. That's how I've...

Ms. Kirkman: But the ordinance doesn't specify by lot; what the ordinance says is by the UDA. So if someone... my read of the ordinance and please, the attorneys, if I'm incorrect please speak up... my read of the proposed ordinance, if the first applicant comes in and has... proposes development in say the Brooke UDA that only uses half of the increased residential units and could then potentially use the half that's allocated for TDRs. There's no requirement in the ordinance that says each lot can only be developed at 50% TDRs.

Mr. Taves: I think it was on a per development basis was my recollection.

Mr. Apicella: It says per project.

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Mr. Taves: Right. And if I may note, you're correct in that you can have these increased densities in the A-1 in the receiving areas, but those receiving areas are only in UDAs. And the UDAs are by definition areas where the County wants to encourage development. That doesn't mean that the County's obligated to build water and sewer to those properties. The developer would have to find a way of getting that infrastructure there. And you also have a decrease in the same density in the sending areas. So, TDRs... the whole program is sort of a balance. In one area where you want to preserve property and reduce development densities, you do that by designating those areas as sending areas. And in another area where you want to encourage development densities, that would be the receiving areas. And here the only two receiving areas are the UDAs. And I would note that the concern you are mentioning about not needing any rezoning, for example, in the Brooke... my understanding is in the Brooke Station UDA, there isn't any other type of zoning except for primarily it's the A-1, and so that's one of the reasons why the Planning Commission proposed adding those three districts so that to give the development community more flexibility. And in order, for example in Brooke, in order to get those three zoning districts as Ms. Ansong mentioned, you'd have to get a rezoning for those properties.

Ms. Kirkman: But if a developer can, under the TDR Program, okay let's say it's only half, it's only... instead of only doing one house per three acres, they're doing six houses per three acres... why would a developer go through the rezoning process if they could do it by-right through the TDR process?

Mr. Taves: They can... I believe they can get even greater densities under those other districts.

Ms. Kirkman: But only through a rezoning right now, is that correct Mr. Harvey? Right now even though A-1 property is located in the Urban Development Area, they're not entitled to build at a greater density because they don't have the zoning for that.

Mr. Harvey: That is correct. People are entitled to build under their current zoning categories in the Brooke sending area... excuse me, Brooke receiving area. All those properties are zoned A-1 Agricultural. In the Courthouse receiving area the properties that have been identified as potential receiving properties are either zoned A-1 Agricultural or R-1 Suburban Residential. In the Courthouse receiving areas we don't have any property zoned at PD-1, PD-2 or P-TND.

Mr. Rhodes: So to get those six to 12 development units per acre under those other authorities would then necessitate the rezoning which was the point you were raising.

Ms. Kirkman: Right. They'd either have to obtain the development rights through TDR, which means no rezoning and no cash proffers, or through a rezoning, at which point the County has the ability to request cash proffers.

Mr. Taves: But I think the point that was just made was in order to get those zoning districts that we were talking about, the PD-1, PD-2 and P-TND, you'd have to go through a rezoning.

Mr. Rhodes: Right

Ms. Kirkman: I don't understand the point you're trying to make because the point I'm trying to make is under the UDA you could go in... under the UDA you could go in and build by-right at six to 12 through TDRs with no rezoning.

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Mr. Rhodes: Six for three acres...

Ms. Kirkman: Right.

Mr. Rhodes: ... using the TDR transfer and another six on their own, and then the other one would give you three times that which would be up to 12 per acre, yes. Okay.

Ms. Kirkman: Thank you.

Mr. Rhodes: Other questions?

Mr. Apicella: Just to clarify though...

Mr. Rhodes: Yes Mr. Apicella.

Mr. Apicella: It's a one for one development unit trade so in order to get those 12 development units on that one acre you'd have to buy 12 development units from the sending area, right?

Mr. Taves: That's right.

Mr. Apicella: And so in that hypothetical scenario, in order to get 12 units on one acre you'd have to buy 12 development units in A-1 zoning which equals 36 acres. So you're trading 36 acres of development for one acre of development in the scenario that was proposed.

Mr. Taves: Within the...

Mr. Apicella: You'd be eating up 36 acres, 12 times three, A-1 is three acres, right?

Mr. Taves: If by eating up you mean open space tranquil... tranquil protecting areas, yes.

Mr. Apicella: You're protecting 36 acres.

Mr. Taves: Yes.

Mr. Apicella: Okay, and for this TDR Pilot Program I'll call it, the maximum number of development units that can come from the sending units is 800, right? That's the cap?

Mr. Harvey: We've calculated there's 904 units that potentially could be severed and transferred.

Mr. Apicella: Okay so that's a change from the last time we talked about it it was 800. But the max would be 900... roughly 900.

Mr. Harvey: That's our estimate yes.

Ms. Kirkman: And Mr. Harvey, of those 904 units, how many of those units are in Crow's Nest Harbor?

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Mr. Harvey: It would be equivalent to 300 and some of the units are lots that are already created within that neighborhood.

Ms. Kirkman: And that particular subdivision has a deed restriction which says that the property cannot be developed without public water and sewer. Is there public water and sewer out to those properties?

Mr. Harvey: No, there currently is not.

Ms. Kirkman: Thank you.

Mr. Rhodes: Okay; other questions for staff?

Mr. Fields: Mr. Chairman?

Mr. Rhodes: Yes Mr. Fields.

Mr. Fields: I do want to clarify... not to get completely lost in the mud here but just to clarify Mr. Apicella's point which is well taken... but that if you're taking 12 development rights off of A-1 in the sending area, under the by-rights scenario you're putting those 12 onto three acres, not onto one acre. Because you're still going to basic ... you're still going to... isn't that correct? In the A-1 you can transfer from one per three to 12 per three, right, not 12 per one. Am I getting that right?

Mr. Rhodes: Right

Mr. Fields: Okay, so just to clarify, you're talking 36 acres versus three acres. Yep and so that's the ratio I think. Okay thanks.

Mr. Rhodes: Any other questions for staff?

Ms. Kirkman: Yes.

Mr. Rhodes: Yes Ms. Kirkman.

Ms. Kirkman: I'm not sure where the figure came from but can someone explain how it was assumed that one residential development right is equal to the value... the financial value of 4,000 square feet of commercial development? What kind of fiscal analysis went into that?

Mr. Harvey: Ms. Kirkman, there was no fiscal analysis. That was generated initially from a committee discussion that occurred, a committee of the Planning Commission. The committee's rationale was looking at if you have one development right and you wanted to convert it to commercial use, how many square feet does a typical house in Stafford County occupy. And it's roughly 4,000 square feet; that's the rationale that was used for coming up with that number of conversion of development rights from residential use in a sending area to commercial use in a receiving area.

Mr. Rhodes: Other questions for staff?

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Mrs. Hazard: Yes Mr. Vice-Chairman.

Mr. Rhodes: Yes Mrs. Hazard.

Mrs. Hazard: I did have one question and this probably is more to the sub-committee. With regard to the changes that were made adding PND, and actually all of them, the decrease in the open space ratio, how were those determined? They decreased with TDRs; I was just curious how that was allocated or how that was calculated.

Mr. Harvey: Yes thank you. In looking at the zoning categories that were asked to be added to the TDR Program, we noticed that many of them right now have a lower density threshold. So we took an estimate of what we thought would have to be a decrease in the amount of green area on the property to accommodate that additional density. That's how we came up with some numbers for reductions and open space ratio in similar types of measures that are included in the table.

Mrs. Hazard: Okay.

Mr. Rhodes: Okay, thank you. Any other questions for staff from the Planning Commission members before we open this public hearing? Very good, thank you. We will now open it to the public comments portion of the public hearing. This is an opportunity to come forward to provide any comments on the discussion thus far of the presentation which consisted of the Board of Supervisor's version of the ordinance, the Planning Commission version, as well as the Comprehensive Plan amendment proposed. Anyone who would like to speak can come forward; you'll have three minutes to address the Planning Commission. It is not an interactive discussion but it is an opportunity to present some consideration and thoughts for us to take on as we further debate the issue. When you come forward you'll need to state your name and your address. Once you do so you'll be given three minutes which will be signified by a green light that will come on right there at the dias. A yellow light will come on to assist you to let you know that one minute remains. Then a red light will come on and we would ask that you then conclude your comments. Would anyone like to come forward for public comments to the Planning Commission at this time? Somebody's got to be first. So again if you would just state your name and your address and then the time will start. Thank you.

Mr. Riutta: My name is Jim Riutta. I would fall into the sending area and as I drive home every night and start to see some of these farms being sold off to builders that are able to add these additional houses by-right in the sending areas. And the idea behind the TDR is to take and protect those open areas and send them to the UDAs. The UDA has been passed and I don't know the politics behind it or I do and it doesn't really matter at this point because the idea is to take smart growth and send the population to an area that we've designated as an ideal location to put those homes. And the idea behind the TDR makes a lot of sense because what we're trying to do is protect these vital areas and give an incentive for people to protect that area and send it over to the UDAs. And then so I think everybody agrees on the TDR; some of it may be the specifics as to the amount of homes that can go into the developed area such as the 50% rule. I'm not sure why you would want to restrict it. The idea is that you want to get as many of these areas protected and move those to the UDAs, to the areas that we've designated that we want population growth. So I would emphasize that you need to continue forward with the TDRs and even take a look at whether you need to limit the 50% rule so that you can again encourage the movement from those protected areas into the receiving areas. Thank you.

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Mr. Rhodes: Thank you sir. Anyone else?

Ms. Reed: Good evening.

Mr. Rhodes: Good evening.

Ms. Reed: Hi, my name is Becky Reed. I'm very concerned about who is going to pay for the infrastructure cost when you can put so many more units in the receiving area than you had in the sending area. I remember the report that Dr. Fuller gave when he pointed out that multi-family homes do not come anywhere near paying for themselves. It appears to me that this is going to end up being a cost borne by the taxpayers of Stafford. Thank you.

Mr. Rhodes: Thank you ma'am. Anyone else?

Ms. Callander: I'm Alane Callander. I have to admit I'm more confused now after the presentation than I was when I walked in here this evening. However, I believe that the end result of the process, of the transferring, is to increase the allowable density on a developer's property without the benefit of a public hearing. Since state law mandates that this would be a by-right increase in allowable density, it could result in high density development being done adjacent to a single-family residential area without the residents being aware of it until construction is underway. So anyway, I'm concerned about the public and people who will live in the area of these transfers to have an opportunity to be informed and to be able to voice their opinions. I'm also concerned about whether there... you know, it seems like there would not be proffers and as Ms. Reed mentioned concern about who is actually going to pay for the infrastructure. Thank you.

Mr. Rhodes: Thank you ma'am. Anyone else?

Mr. Farley: I'm Rupert Farley. I'm not involved in either the sending or receiving areas so I'd like to think my comments are unbiased. The thing that concerns me the most and I should first commend you on the changes that you've made to the plan; I think they're all great except the 50% rule. Now the intent of the 50% rule is somebody had in their mind that we're going to be losing out proffers here. We're not losing proffers! The example we gave here was of 12 units, you know, 11 in the country, one in the UDA, and that example, we got no proffers from those units if they built by-right. If you bring them into town under this rule, you still got no proffers. But that's okay because we're no worse off; we're better off because we've got the land protected, we've got people in an area where they're easier to serve. In the long run we're going to save money. So if you put in the 50% rule, all you're doing is making a disincentive for people to use the UDA and the TDRs. Because now if a developer has his choice of buying that three acre lot you were talking about downtown and getting some TDRs to beef it up to 12, he's going to have to go through some hoops; whereas if he just goes out in the country and buys up all these properties and builds 12 houses, he doesn't have to worry about that. Now we're stuck with houses that are scattered all over the countryside and then they're going to cost us some money. These folks here are working, worrying about you know how much it's going to cost us. What costs us is houses that are stuck on five acre lots all over the place in the long run. So I hardly recommend you dropping the 50% rule. Thank you very much.

Mr. Rhodes: Thank you sir. Other comments?

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Mr. Milde: Hi, I'm Paul Milde, in the Brooke sending area. This is not something you see often, a Board of Supervisors member speaking to the Planning Commission but it's an important item for me. I've been working on TDRs from the Board level for five years. I've testified in front of Joint Committees in Richmond and tried to change the legislation and we did to make it a little more palatable. So quickly I want to run through a couple things that I've heard. It's true... if you live in Brooke you probably don't have cable. Most of the people that are affected by this the most in the sending areas don't have cable, but I'll tell you, if you drive out to the sending area you'll see farms going on the market. The Jackson Farm just sold off of Marlborough Point Road. The Guy Farm just sold to a developer at the corner of Marlborough Point Road and Brooke Road. The Lynn Farm of 136 acres of A-2 on Marlborough Point Road has just gone on the market for \$1.4 million, that's about 50 more homes out there. The Crow's Nest Harbor lots, in spite of what you may have been told, my attorney that works with you also sometimes, Charlie Shumate for the County, does not think that that is protected because of the 353 lots out there that are averaged three and a half acres on a total of around 900 acres of Crow's Nest Harbor are very much under threat of development because you can't take land and tie it up because of some 20 year old agreement to have water and sewer that the County will not allow even if they pay for it. So one day we will have to answer to that taking of land and I don't know that we want to assume we won't. There's still design standards in the UDAs; unlike out in the rural areas almost all the sending area is not in an HOA so you have design standards you'll be working on in the UDAs. If you put houses in the UDAs you're closer to schools, fire stations, sheriff's departments, public water and sewer. You ask who pays? Who do you think's paying for all of these services to be sent out to the rural areas of Stafford? I think it's a less expensive proposition for the taxpayers to move these units voluntarily inside of a UDA. This is just a pilot program. The people of course have spoken in favor against only one of them actually that owns land or is in the Aquia area or in the sending or receiving areas. And I know that it's a relatively popular idea in our sending area because people don't like seeing the farms being developed. Poplar Hill, Sections 1 and 2, by the way... or 5 and 6, excuse me... on the left side past Sentinal Ridge if you know that area heading out to Marlborough Point Road are also platted already. Another 100 homes will go on that beautiful hillside that we all enjoy. So, and also Mr. Fields, if you have three acres and you retire 36 lots, you could put them all on the A-1 Zoning inside of the UDA. So the answer to your question was a little different. You would have to retire 108 acres at three acres per lot in the rural area... you could put 36 units, 12 per acre on a three acre parcel, so you really do get 12 units per acre. I'll stop now; thank you for all your work on this.

Mr. Rhodes: Thank you. Other comments? I'm seeing no one coming forward. We will close the public comments portion of the public hearing and I'll bring it back to the Commission. Are there comments that were generated from staff to clarify any points or highlight issues from the public comments that we thought needed clarification or anything from the Commission members that you wanted to direct back to staff from the public comments?

Mrs. Hazard: Yes Mr. Chairman.

Mr. Rhodes: Yes Mrs. Hazard.

Mrs. Hazard: There seems to be much discussion about an example. I think we all need one or two examples and I know that's how I think. Everybody's throwing around, everybody's trying to calculate. Is there a way we could do two or three examples of the one we have tried to do with Mr. Harvey or with staff talking through how that transfer works? Is that helpful? It seems like we've had

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lots of different reiterations of exactly how many acres are required... or retired, excuse me... to implement one of these programs.

Mr. Rhodes: Ms. Ansong, Mr. Harvey just repeat the...

Mr. Harvey: I can do a hypothetical example for you.

Mr. Rhodes: Please.

Mr. Harvey: Somebody has 30 acres of land that's in the A-2 zoning category. The A-2 zoning category allows a minimum lot size of one acre. The person has applied for a Transfer of Development Rights determination on how many development rights they have for the property. We look at the hydric soils, the slopes greater than 25% and the area for public roads to be taken out of that 30 acres. That approximately works out to six acres, so you're left with 24 buildable acres, and again with that zoning category you'd be credited with 24 development rights. The person sells those 24... or goes through the process to sever the development rights, the development rights are issued in certificates, those certificates are taxable. So that person decides, well I don't want to pay taxes on them; I'm going to sell them to whoever wants to buy them. They work out an arrangement, they sell the development rights, that person buys them and that person says, well I have a piece of property that's two acres in size and I want to locate those 24 units on that two acres. They have an R-1 zoned piece of property which on the two acres would allow three lots. So I'm not counting what they have already existing in this example but they decide that they want to apply those TDR units to that two acres. Under the Board's proposal, there was no restriction on the number of units that could be transferred, so they would apply those 24 units onto those two acres and they build two 12 unit apartment buildings. That would be an example I would use. Is that sort of in line of what you were thinking of Mrs. Hazard?

Mrs. Hazard: Yes. I just thought it was useful; I think most people are... I do... think in concrete how does it really transfer and I found that helpful. Thank you.

Mr. Rhodes: Any other questions direct to staff? Okay... yes Ms. Kirkman.

Ms. Kirkman: I did have two follow-up questions and then I guess Mr. Apicella can ask his. The first is the statement was made that this is a pilot program. But my understanding is that once the TDR Ordinance is passed by the Board that then all it will take is an amendment to the Comprehensive Plan to expand either the receiving areas, the sending areas, or both. Is that correct?

Mr. Taves: Well, I think you would have to have an amendment to the sending and receiving areas map which would be an amendment to the Comprehensive Plan. But that would also require a public hearing just like we're having today.

Ms. Kirkman: So... but the TDR Ordinance itself would not have to be passed again; that would already be in place?

Mr. Taves: No, that would already be in place and the Board, with the Planning Commission's recommendations going forward, can make whatever tweaks may be found necessary to improve the program over the years.

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Ms. Kirkman: And staff may be in a better position to respond to this. I believe the original TDR Ordinance actually had most of the County in either a sending or receiving area, including having urban areas that were sending areas and urban areas that were receiving areas. Is that correct?

Mr. Harvey: There was a Joint Committee of the Planning Commission and Board that had an initial recommendation that looked at the areas outside the current Urban Service Area as being sending areas plus also parts of the Urban Service Area that were inside the Quantico Noise Impact Area is potentially sending areas. And then the receiving areas would be the Urban Development Areas. However, that recommendation did not go forward from the Board.

Ms. Kirkman: And then my next question is there was some discussion about the value and whether or not you'd pay cash proffers or not. And in fact I believe as we've gotten by-right subdivisions out in the A-2 and the A-1 areas, and those preliminary subdivision plans require soils testing to establish that on-site septic systems can be put on those lots. What we've typically found on average is that A-1, the lots instead of being one acre are generally closer to three acres and that A-2 lots are generally closer to three than one, and that A-1 lots are generally closer to five acres than three acres. So that it doesn't divide cleanly out into one acre of A-1 is equal to one development right. And that really is because the requirements of on-site sewage disposal. Is there any requirement in the TDR Ordinance that the sending property demonstrates that if they were not too sever those development rights that there is sufficient on-site sewage disposal capacity to serve all of the lots that are... all of the units that are going to be severed?

Mr. Harvey: No, currently the ordinance does not require soils analysis as far as suitability for drainfield sites. The ordinance does require excluding certain types of conditions, like excluding hydric soils; hydric soils are generally areas that will not perk for a drainfield. Also, it requires eliminating slopes greater than 25%. Sometimes those areas are problematic for locating drainfields. So it's sort of doing a backwards calculation in that you're excluding areas that may not be suitable for drainfields. You have a net area that's left over that may be but we don't know for sure.

Mr. Taves: Mr. Chairman, if I may add to that. During the course of time when we studied with the Joint Planning Commission/Board of Supervisors Committee/Sub-Committee and the Board's evaluation of these proposals, we looked at that particular issue. And what was eventually determined to the best of my recollection is that the Board didn't want to be putting developers and people who might be able to use the TDR Program in a position of costing them so much that TDRs wouldn't be used. In other words, if you had to go through the process of doing soil studies and soils reports and everything and that kind of intensive analysis for a property that eventually was not going to be developed, because you're talking about a sending property... a property in the sending area... that if it was used for TDRs, you wouldn't be using that septic analysis because you're not developing that property. So it was kind of a balancing between keeping TDRs affordable and useable and not pricing themselves out of the market.

Mr. Rhodes: Okay; other questions for staff? Anyone?

Ms. Kirkman: Yes.

Mr. Rhodes: Yes Ms. Kirkman.

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Ms. Kirkman: The proffer guidelines... right now what's the... I know it gets adjusted annually based on the Swift Marshall Construction Index.... what's the current cash proffer guideline on a single-family detached residential unit?

Ms. Ansong: It's around 43,000 I believe.

Ms. Kirkman: Around 43,000? Thank you.

Mr. Rhodes: Okay. Mr. Apicella

Mr. Apicella: Mr. Chairman I've heard some questions and I think we can go on for a while asking questions so I'd like to make a motion to recommend that the Planning Commission approve and send forward to the Board of Supervisors O12-02 with the Planning Commission's published modifications. Additionally, I recommend that the staff recommendations be incorporated to delete in the definitions of the sending and receiving areas the reference to the zoning map amendment, and to incorporate a 60 day delayed implementation date upon adoption of the ordinance.

Mr. Rhodes: Okay, a motion; is there a second? Could you repeat the last two elements, the delete zoning map amendment...

Mr. Apicella: Yeah, these were recommendations from the staff report.

Mr. Rhodes: Mm hmm.

Mr. Apicella: And I hope I've captured this...

Mr. Rhodes: I don't have the right page open so...

Mr. Apicella: So additionally I recommend that the staff recommendations be incorporated to delete in the definition of the sending and the receiving areas the reference to the zoning map amendment and to incorporate a 60 day delayed implementation date upon adoption of the ordinance.

Mr. Rhodes: Okay, thank you again. Is there a second? I'll second for discussion. Mr. Apicella, you made the amendment, you have the first comments.

Ms. Kirkman: I would just like clarification of the motion maker.

Mr. Rhodes: Yes Ms. Kirkman.

Ms. Kirkman: Sort of in lay persons language could you clarify, are you recommending adoption of the Board's proposal?

Mr. Rhodes: I heard Planning Commission and that's what I thought I seconded it to, so I apologize for interrupting.

Ms. Kirkman: I just want to make sure which one we're talking about.

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Mr. Apicella: Can we make sure is that what we're supposed to do or are we suppose to take action on both?

Mr. Rhodes: We will need, I think we will need, and I'll just confirm but I think we'll need a vote for recommendation of the Board's version. I think we'll need a vote on a recommendation of the Planning Commission's version, both that we sent to public hearing. And then subsequently, need a vote on the item 5 for the Comp Plan amendment.

Mr. Taves: I think that's accurate, in fact, if you don't make a recommendation with regard to the Board's proposal you have deemed it approved.

Mr. Rhodes: So this one is a recommendation concerning the Planning Commission version of it. So, Mr. Apicella for comments... first.

Mr. Apicella: As we all know the approved Comprehensive Plan requires the County to establish a Transfer of Development Rights Program. And as we have discussed over several meetings, TDRs are an additional tool that voluntarily promotes land preservation and transfers growth from sensitive areas where there is limited or no infrastructure to places that could better accommodate growth. The TDR legislation was developed by a panel of staff and officials from Stafford. It was based on the state statute, Frederick County's TDR Ordinance, and a model ordinance developed by VACO. As it's currently proposed, the TDR Program would not not create anymore development units in the Urban Development Areas than already are authorized. So this is not a plus up in growth, instead it would be a decrease in the total number of development units allowable countywide and the total number of units that we're talking about are 800 from the sending area known as Brooke. A subcommittee of this Planning Commission identified and the Planning Commission as a whole approved several additional provisions to improve the ordinance and to incorporate discretionary authorities in the state code. These include establishing a cap so that no more than 50% of any project in a receiving area shall consist of TDR units. And I appreciate the concerns that were raised, but the reason why that 50% cap was added was that this helps promote TDRs for those who might feel it abates proffers while also giving the County the opportunity to negotiate proffers. So it's a middle ground and in my view it's a win-win solution. It also establishes a minimum threshold on the number of acres in a sending area required to participate in the program. It allows residential development units in the sending area to be converted to commercial space. This will allow the County to collect more tax revenues while reducing residential growth. It establishes a Tax Abatement Program that allows property owners to obtain tax relief in exchange for permanently retiring all or part of their development rights. Each additional zoning... it establishes additional zoning districts in the receiving areas to encourage rezoning of mixed use developments. And lastly, it clarifies that while development rights in sending areas will be severed from the property, landowners can establish or maintain agricultural or forestall uses. This is a pilot program and implementing this pilot program and the TDR legislation will allow the County to fine tune it over time to learn what works and what doesn't, to perfect the ordinance as we go forward. It's not a perfect program, there are none, but it will go a long way towards preserving land and reducing development in Stafford County. And I strongly urge my peers to support O12-02.

Mr. Rhodes: Thank you Mr. Apicella. Other comments?

Ms. Kirkman: Before moving on did you wish to comment as the second?

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Mr. Rhodes: Not at this point, thank you.

Ms. Kirkman: Mr. Chair, I have some amendments that I would like to propose. The first motion that I'm making is a motion to amend Section 28-357(5) to delete the words "contiguous parcels".

Mr. Rhodes: Just one moment, sir... 28-357(5)?

Ms. Kirkman: 357 number 5, yes.

Mr. Rhodes: Which page? 28?

Ms. Kirkman: You know I, I, let me get to that...

Mr. Rhodes: I'm sorry.

Ms. Kirkman: I did not write down page numbers.

Mr. Apicella: It's on page 9.

Ms. Ansong: 18 of the PC version, 9 of the Board version.

Mr. Fields: The PC version is what we're discussing.

Mr. Rhodes: And you're discussing obviously the PC version, right? So I'm sorry... page 18.

Ms. Kirkman: You know, I may have looked at the numbering on the Board version so this would be number 4 in the PC version.

Mr. Rhodes: Okay so 28 357(b)(4)?

Ms. Kirkman: Yes, so that it would eliminate the words or... the amendment is to eliminate the words "or contiguous parcels". So that that section reads a separate parcel that are comprised of at least 20 acres.

Mr. Rhodes: Okay is there a second?

Mr. Fields: Second.

Mr. Rhodes: Second; discussion?

Ms. Kirkman: Mr. Chair, I made that motion because right now there is no minimum size requirement on the lot acreage as staff affirmed earlier. You could have a lot that was a tenth of an acre, a quarter of an acre, a half of an acre, an acre... any small size as long as it aggregated up to a total of 20 acres with other lots. And really if you're looking at this in terms of conservation values, typically those small lots do not have great conservation value. And so that's the reason why I made the motion.

Mr. Rhodes: Thank you. Secunder?

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Mr. Fields: Nothing.

Mr. Rhodes: Thank you; other comments? Mr. Apicella.

Mr. Apicella: Mr. Chairman, I'm not going to support this particular amendment. I think it could negatively impact or adversely impact the goals of TDR. I think the idea of having 20 contiguous acres is to save the maximum amount of land possible. So by limiting it to 20 acres, I think we're really reducing the number of parcels that could be afforded some kind of potential to be a sending area.

Mr. Rhodes: Thank you Mr. Apicella; others? Hearing no one else so we will take a vote on each of the, you said you had amendments, I think in plural, correct? So we'll take a vote on each of the amendments as we go. Hearing no other requests for comments all those in favor of the proposed amendment as stated for 38-357(b)(4) to take out the words "or contiguous parcels" please signify by saying aye.

Mr. Fields: Aye.

Mrs. Hazard: Aye.

Ms. Kirkman: Aye.

Mr. Hirons: Aye.

Mr. Rhodes: I think that was three, correct?

Mrs. Hazard: Four.

Mr. Rhodes: Four? Okay four. All those opposed say nay.

Mr. Apicella: Nay.

Mr. Rhodes: Nay. So that amendment passes 4 to 2. Ms. Kirkman?

Ms. Kirkman: Yes, my second amendment is to... I'm making a motion to amend Section 28-361; this is on page 22 of the Planning Commission version. It's regarding the sending property certification. Specifically, in sections A and B to delete "the Director shall be responsible" and instead insert "the Planning Commission shall be responsible for determining whether a proposed sending property meets the qualifications of the code".

Mr. Rhodes: Okay, so just to confirm it, that was in A and B?

Ms. Kirkman: Yes.

Mr. Rhodes: So that would be 1, 2, 3, 4, 5, 6, 7 citations of "Director" where you would replace with "Planning Commission".

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Ms. Kirkman: I did not count up the numbers of the Director.

Mr. Rhodes: I believe there would be two, if it's all of them it would be two in section A, two in A-1 and two in A-2 and one in B. So there would be a total of seven. Is there a second?

Mr. Fields: Second

Mr. Rhodes: Motioner?

Ms. Kirkman: Mr. Chair, I made that motion because I firmly believe in transparency in this kind of process and I believe it would be of value to the citizens of Stafford County to have these decisions made in the daylight of public meetings rather than in the offices of the Planning Director.

Mr. Rhodes: Seconder?

Mr. Fields: Yes I agree. There's always an argument for the efficiencies of allowing the Director and not putting things into the process for the Planning Commission. But I have to agree that with any decisions where we're talking about land use decisions, it will affect people that live in an area with a maximum amount of knowledge and transparency does nothing but serve the public interest. I don't think in the end that it's a bad idea.

Mr. Rhodes: Thank you Mr. Fields; other comments? Mr. Apicella?

Mr. Apicella: Mr. Chairman, a similar amendment was proposed at the last Commission meeting and was voted down by the Commissioners. I'm not going to reiterate the same reasons why we voted it down last time but I think at the end of the day this is an administrative process rightly done by the Planning Director and it would potentially overload the Planning Commission and its other duties. I think there's other mechanisms to provide additional transparency without overloading the Planning Commission and its regular duties.

Mr. Rhodes: Thank you Mr. Apicella. Others? Mrs. Hazard?

Mrs. Hazard: Go ahead.

Mr. Rhodes: Mr. Taves?

Mr. Taves: Mr. Chairman, I was just going to mention a concern that I may have about making these amendments. The Commission sent forward its proposal to the Public Hearing that we're having today. That was done back in November and as you all know, we draft up based on those recommendations, based on the Board's proposed amendments and the Planning Commission's proposed amendments, we draft up advertisements that are sent out to the public. And, for example, this particular change that you're bringing up, that has not been advertised. That's not something that has been proposed to the public for their consideration at this public hearing. And so I'm concerned about making these types of changes. The Commission had the opportunity back in November to propose these sorts of things. And that was what the purpose of those recommendations were at that time. They weren't solid recommendations in the sense that you hadn't conducted a public hearing yet. But you're bound by the scope of the advertisement that we've laid out for this Public Hearing

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that's based on the actions of the Commission on November 2<sup>nd</sup> and of course of the Board of Supervisors before then.

Mr. Rhodes: Thank you Mr. Taves.

Ms. Kirkman: Mr. Taves if I could get clarification on that.

Mr. Rhodes: Ms. Kirkman.

Ms. Kirkman: My understanding of the notice requirements is that first off the whole point of a public hearing is to hear what people have to say and make adjustments as necessary. And secondly, the extent to which you're bound by the advertisement has to do with whether or not the changes that are being proposed are more or less restrictive, particularly in regards to land use and densities. And I do not believe that any of the things that are being proposed are more restrictive; in fact, I believe they go in the opposite direction of expansions. So I really don't see how there would be a legal... that there would be any kind of sort of fundamental structural flaw created by adopting these amendments.

Mr. Taves: Well I think the concern is that, and you may be right, if you had a situation where you already had an ordinance that was in existence, but we don't. And so we're starting out from scratch here really. And let me compare it to this situation. Let's say we already had an ordinance in place, and the ordinance provided for the Director to do the evaluations and do the administrative process that we're discussing. And let's say the Planning Commission proposed a public hearing... to conduct a public hearing on whether... on the sole issue of whether the Director should continue to do that or whether the Planning Commission should. And... or let me change that... whether the let's say a different County official should. So we have the Director doing it under the existing ordinance and the proposal is for a different County official, let's say Zoning Administrator. And at that public hearing, after it's been advertised, what you're saying today is the equivalent of the Planning Commission saying, well you know I don't think this Zoning Administrator idea is a good idea. Let's change it to the Planning Commission. And I don't think that you can assure that there are no members of the public out there who might have some issue with that, either pro or con. And that's the whole purpose of that public hearing. And I'm not saying that you can't change something that you've advertised; you can change things as long as it's within the realm, within the scope of the advertisement. And I'm just not sure in this situation that what we're talking about is within the scope of the advertisement.

Mr. Rhodes: Okay, thank you Mr. Taves.

Ms. Kirkman: Mr. Taves is it then your position that in regards to the ordinances that we have in front of us that the only option of the Planning Commission is to vote the two ordinances up and down?

Mr. Taves: Ma'am I didn't say that.

Ms. Kirkman: Okay thank you I just wanted to clarify that.

Mr. Rhodes: I didn't hear that either. Are there other comments on the amendment? Mrs. Hazard, I think you were starting to, do you still have one?

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Mrs. Hazard: No, I was just going to comment that in the discussions that we had previously about changing this particular requirement I was in favor at that point and I will be in favor at this point as well.

Mr. Rhodes: Mr. Hirons, anything?

Mr. Hirons: I think I gave these reasons last time this was brought up. I don't disagree with the intentions of this but I think it's a step too far in this case. The added cost to the folks selling their development rights would be a bad thing.

Mr. Rhodes: Thank you Mr. Hirons. And I too was not in support as last time, I will not be voting in support of this. I think it's an administrative function; it could be handled by the Director. With that...

Ms. Kirkman: Before we vote I just want to get...

Mr. Rhodes: Yes Ms. Kirkman, please.

Ms. Kirkman: ... verification from my colleague, I wasn't aware that there were costs involving having the Planning Commission do this. I didn't...

Mr. Rhodes: Time is a cost; effort is a cost.

Mr. Hirons: Yeah...

Mr. Rhodes: It's an administrative function, that's the way I took it.

Ms. Kirkman: Okay.

Mr. Hirons: I interpreted it more as inferring the cost of time, their cost to prepare for a meeting, etcetera.

Ms. Kirkman: Okay, alright, I just wanted clarification.

Mr. Hirons: Again, I don't disagree with the intentions, it is good in intentions but it is an administrative function.

Mr. Rhodes: All those in the favor of the amendment with Section 28-361 to change the term and reference to "Director" in sub-paragraph A, A-1, A-2 and B, the seven citations to Planning Commission, all those in favor say aye.

Mr. Fields: Aye.

Ms. Hazard: Aye

Ms. Kirkman: Aye.

Mr. Rhodes: I think that was three, all opposed say nay.

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Mr. Apicella: Nay.

Mr. Hirons: Nay.

Mr. Rhodes: Nay. 3-3, it does not pass. And Ms. Kirkman?

Ms. Kirkman: Mr. Vice-Chair, I make a motion to amend Section 28-364 to add an additional section A and subsequently re-number the following subsections such that Section A shall be that application to apply transfer of Development Rights shall be made to the Planning Commission.

Mr. Rhodes: So there will be a new Section A that says Application to Apply... could you restate?

Ms. Kirkman: Shall be made to the Planning Commission. And that we're looking at Page 28 of the Planning Commission version.

Mr. Rhodes: Okay, that's a motion, second?

Mr. Fields: Second.

Mr. Rhodes: Seconded. Motioner comments?

Ms. Kirkman: Yes Mr. Chair, I made that motion for the same reason I made the previous motion is right now this Transfer of Development Rights can lead to exponential increase in residential density without any public process. And for that reason I think wherever we can build into this ordinance a public process, it's imperative that we do so.

Mr. Rhodes: Thank you Ms. Kirkman. Mr. Fields?

Mr. Fields: Nothing.

Mr. Rhodes: Thank you. Any other comments? Mrs. Hazard?

Mrs. Hazard: Yes, with respect to this particular portion, this was actually what we had discussed before. My concern with this and why I will be supporting it is because there isn't a requirement that the UDAs be rezoned into the PD, PD-2, P-TND or UD which may be a future area. So there are going to be pieces of the UDA area that may remain in A-1 or R-1. And those particular... because we have seen UDAs come to us, nobody has picked the whole area to come before us. And there's always going to be these pockets of areas or at least for a while until someone comes in and says they're going to develop the whole UDA area, that there will be some impacted individuals who bought in A-1 and believe that they're going to stay there. And for that reason I will be supporting.

Mr. Rhodes: Thank you Mrs. Hazard. Are there any other comments?

Mr. Apicella: Mr. Chairman for the same reason...

Mr. Rhodes: Mr. Apicella.

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Mr. Apicella: ... I didn't support the last proposed amendment, I'm not going to support this one. I think it would be again a significant burden on the applicant and on the Planning Commission. I think it's an administrative function rightly so that the Planning Commissioner can adjudicate. Furthermore, with respect to some transparency, it's my understanding that development plans still have to ultimately be submitted to the Planning Commission for review. So I think that's the appropriate venue for public consideration.

Mr. Rhodes: Thank you Mr. Apicella. Any other comments? I will not be supporting the amendment either. Therefore, all those in favor of the amendment for 28-364 to add the new as stated subparagraph A and re-number the paragraphs saying B to B and C signify by saying aye.

Mr. Fields: Aye.

Mrs. Hazard: Aye.

Ms. Kirkman: Aye.

Mr. Rhodes: I think that was three. All those opposed say nay.

Mr. Apicella: Nay.

Mr. Hirons: Nay.

Mr. Rhodes: Nay. 3-3 it does not pass. Are there any others Ms. Kirkman?

Ms. Kirkman: Yes there is! Actually this next one gets to the point that my colleague made regarding the lack of any requirements for rezoning. With that in mind, I'm making a motion to amend the entire ordinance to remove TDRs as a by-right use in A-1 and to remove all of the related subsections regarding that in Section 28-35, Table of Uses and Standards.

Mr. Apicella: I don't know if this is the appropriate motion but a point of order. Isn't... doesn't the statute require it to be a by-right?

Ms. Kirkman: But I'm not proposing whether it's by-right or not. I'm proposing it that it not be allowed in the A-1 District as the receiving area.

Mr. Rhodes: We have a motion referencing the applicability in A-1 District and the impact to Section 28-35, Table of Uses and Standards. Is there a second?

Mr. Fields: Let me just ask to clarify the motion. You're talking about by-right as in the receiving area?

Ms. Kirkman: In the receiving areas, that's correct.

Mr. Fields: Second.

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Mr. Rhodes: Motion seconded, before comments, if we could just clarify is there any restriction to eliminating the A-1 as stated there... from understanding of the TDR Code?

Mr. Taves: I don't think I have a problem with that, that's certainly something that's within the realm of this Commission's discretion.

Mr. Rhodes: Thank you Mr. Taves.

Mr. Harvey: Mr. Chairman?

Mr. Rhodes: Yes.

Mr. Harvey: I would like to point out that the state statute requires that our receiving zones be able to accommodate all of the potential sending units. So if you eliminate A-1 as a potential receiving zone we will have to go back and recalculate what the density might be for the R-1 zones and modify that in the ordinance.

Mr. Rhodes: Okay, thank you. Significant recalculation... thank you. Ms. Kirkman, as the motioner, comments?

Ms. Kirkman: Yes, I made this motion because I'm particularly troubled by the fact that the whole idea of... the whole concept of Transfer of Development Rights is to protect agricultural and rural areas. Yet the way in which this has been proposed it's going to allow dense residential development in agriculturally zoned areas. I think it's appropriate, for example, for receiving areas to already be zoned at urban densities; that would be a very appropriate use. However, that's not what this ordinance does and that's why I proposed the amendment.

Mr. Rhodes: Thank you Ms. Kirkman. Mr. Fields?

Mr. Fields: I agree, and this has been part of the discussions all along and part of one of my oppositions to this ordinance. There's no... conceptually it's not an issue of course of the concept or legitimacy of TDRs. But I've always felt it's... while I understand where it comes from is an attempt to solve a specific problem relating to specific UDAs, I believe it is going down a wrong path to allow one zoning district to have two completely different sets of densities depending on its designation as a UDA or not. I understand that it's kind of... an intent to be a practical problem solving issue of making this sending area work with these receiving areas. I don't disrespect that intent but I think, I think we cannot allow high density transfers within the same zoning district without creating a whole other set of problems. And it's really, it's really inappropriate. I mean, once again, if a place is going to have 12 houses per acre or whatever the correct number is and the property next to it is zoned A-1, that just has to be a rezoning, it has to be a very public process.

Mr. Rhodes: Thank you Mr. Fields; other comments?

Mr. Apicella: Mr. Chairman, I believe the amendment if passed would undermine the whole purpose for which we're meeting tonight, which is to establish a pilot TDR Program. As I see it, there's only 42 acres out of the... how many acres in total are there in the two...

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Mr. Rhodes: Receiving areas?

Mr. Apicella: ... receiving areas currently?

Mr. Harvey: I'll have to check on that figure.

Mr. Apicella: So, ultimately what it would do is probably give us about one-third of the acreage that would currently exist within the two UDAs to be able to transfer all this development. And as Mr. Harvey just indicated we have to have enough capacity within the two receiving areas to take the development units from the sending areas. So, again, this would undermine the whole... the whole ordinance as currently envisioned. So I'm not going to support it. I think it's not good policy and it would go against trying to preserve land in Stafford County.

Mr. Rhodes: Thank you Mr. Apicella. Other comments?

Ms. Kirkman: Could we get a clarification?

Mr. Rhodes: Yes Ms. Kirkman.

Ms. Kirkman: I just want to make sure my understanding is, if we removed A-1 from the land uses that a current property owner in the A-1... with an A-1 use within the UDA could get a rezoning to one of the covered land uses and then could purchase development rights and use those. So is that correct?

Mr. Taves: Sure.

Ms. Kirkman: So by removing the A-1 we're... it's still possible to implement.

Mr. Rhodes: Yes; possible certainly complicates it much more significantly and I will not support this. This is... this is... we identify the Urban Development Areas, had a lot of debate, a lot of discussion that took us to the point of identifying those. Those are the areas at the end of the day that we identified to have targeted for the growth for the development and so therefore I think it is fully appropriate that those zoned lands in those areas be the ones that be in the receiving areas and to eliminate those out significantly decreases the availability and does undermine the effort here.

Mr. Hirons: Mr. Chairman?

Mr. Rhodes: Mr. Hirons.

Mr. Hirons: I kind of disagree with that because yeah we did identify these UDAs as the growth areas, but with the intention that they would be rezoned to the appropriate zoning category to receive the dwelling units. In this case, we're taking an existing zoning category and saying, oh, well in this case you can go ahead and add more without coming to us for a rezoning. So I will be supporting, I believe Ms. Kirkman's motion.

Mr. Rhode: Any other coments?

Mr. Apicella: I have one more opportunity...

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Mr. Rhodes: Mr. Apicella.

Mr. Apicella: Mr. Chairman, again this is a one for one trade so it's not really increasing overall development in Stafford County. It's taking development from a sending area that would otherwise or could potentially be developed and moving it to a receiving area. So there's no net increase in growth and I understand the whole issue about proffers and I think we've tried to come up with a solution to help encourage TDRs and land preservation while also stimulating proffer negotiations. So again at the end of the day, I think we've come up with a good middle ground solution and I hope the amendment will not pass.

Mr. Rhodes: Thank you. With that being said I will now call for...

Mr. Harvey: Mr. Chairman?

Mr. Rhodes: Yes Mr. Harvey.

Mr. Harvey: Can I further clarify?

Mr. Rhodes: Yes.

Mr. Harvey: My point I made earlier, it's my understanding that the statute requires that your receiving area must, through its existing receiving zones, be able to accommodate by-right the units that could potentially be sent. My comment was that if you eliminate A-1 as a potential receiving zone, you will have to increase the density in the remaining R-1 receiving zone. So that's not been stipulated in the ordinance as to what that new density would be. That would be something that the staff would have to go back and recalculate.

Mr. Rhodes: I think it's fair to say it would be significant re-work to calculate what would be appropriate should this amendment pass.

Mr. Harvey: It's likely we couldn't accomplish it tonight for the deadline.

Mr. Rhodes: That's what I would think, so, yes, okay. Thank you for that clarification Mr. Harvey.

Mr. Hirons: Mr. Chairman?

Mr. Rhodes: Yes Mr. Hirons.

Mr. Hirons: Can it be moved forward in some form or fashion to allow staff to make those calculations prior to it being presented to the Board? And a part of the presentation that this was our recommendation with and these are the calculations that went along with it as a consequence of this.

Mr. Rhodes: Would we be recommending forward something that's compliant?

Mr. Taves: Well I think because the Planning Commission is just making a recommendation, it can make whatever recommendation it wishes. And we can certainly determine with Mr. Harvey whether or not that recommendation would comport with the statute at that point.

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Mr. Rhodes: Wouldn't we then be needing to identify what the alternate changes to the receiving areas would be then before we could really be sending anything forward? And once we make our recommendation forward we don't have the opportunity to provide those other details. So I don't think having something recommended forward that's...

Mr. Taves: Well the Commission wouldn't but Mr. Harvey would certainly have that opportunity.

Mr. Rhodes: Without our input as to what other adjustments would be necessary.

Mr. Taves: Correct

Mr. Rhodes: Okay, okay yes I guess so.

Mrs. Hazard: Mr. Vice-Chairman?

Mr. Rhodes: Yes Mrs. Hazard.

Mrs. Hazard: I guess then I would want to comment at this point, although I do agree with the substance of what we're doing, I do have great heartache sending something forward that I can't even tell you what the calculation is... what the alternative is. Although in theory I agree with it, I cannot vote on something that I can't even tell somebody what the alternative is, if that makes sense.

Mr. Rhodes: Thank you Mrs. Hazard.

Ms. Kirkman: Mr. Chair?

Mr. Rhodes: Yes Ms. Kirkman.

Ms. Kirkman: Mr. Vice-Chair, you've been promoted without the increase in pay.

Mr. Rhodes: Yeah that's right.

Ms. Kirkman: So I think the way the process would probably have to work if the Planning Commission moves this forward is that it might in fact, the Board might have to return it to the Planning Commission for additional work. I mean that's certainly an option the Board has. Unfortunately what's happening because the way it was sent to us in the timeline, we don't have the luxury of doing more work on it now. And so I think it's important to convey to the Board our desire that A-1 be removed as one of the land uses. And then in subsequent work we could figure out what's the best way to do that and accommodate the intention of the ordinance.

Mr. Rhodes: Thank you Ms. Kirkman, and just to clarify that I don't have the desire to pull that out of there so I won't be voting for the amendment. With that I will call for the vote, all those in favor of the amendment to drop A-1 as a use in the receiving areas please signify by saying Aye.

Mr. Fields: Aye.

Ms. Kirkman: Aye.

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Mr. Hirons: Aye.

Mr. Rhodes: I think that was 3. All those opposed say nay.

Mrs. Hazard: Nay.

Mr. Apicella: Nay.

Mr. Rhodes: Nay. Three... 3-3 it does not pass.

Ms. Kirkman: Mr. Vice-Chair, I have one last amendment to propose.

Mr. Rhodes: Yes ma'am.

Ms. Kirkman: And that is to amend Section 28-359 which is on page 20 of the Planning Commission version.

Mr. Rhodes: Thank you.

Ms. Kirkman: And page 21 to add a fifth requirement regarding the calculation of development rights. And that is that the Director shall subtract units for which there is not an approved water and sewer connection and/or certification by an AOSE that the lot on which the unit resides can be served by an onsite sewage disposal system.

Mr. Rhodes: Was that an "or" in there so that there's not a connection or certification by AOSE?

Ms. Kirkman: Well there could actually be both.

Mr. Rhodes: Okay, okay.

Ms. Kirkman: Depending on how old and long the property has been around.

Mr. Rhodes: Sure, okay. Second?

Mr. Fields: Second.

Mr. Rhodes: Okay, Commissioner.

Ms. Kirkman: Mr. Chair, I proposed this amendment for the reason that I sort of got at earlier, which is right now the experience of the Planning Commission in reviewing preliminary subdivision plans has that... has been that often parcels do not get the number of units you might expect because of the need to work around the requirements for onsite sewage disposal. And that does not become apparent until you actually do the soils work. And if we're giving away 43,000... a development right worth \$43,000, we should make sure that that in fact is a development right that exists in reality.

Mr. Rhodes: Thank you. Secunder?

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Mr. Fields: Yeah, in a perfect world you could probably... you wouldn't have to necessarily do this but I tend to agree that the reality of it is if we are going to give that credit for that development right then it does need to be a legitimate development right. In a system that isn't using concurrent down zoning of the agricultural units so that the TDR is compensatory for down zoning, then... then the development right takes unfortunately I think in my mind takes on a new requirement to be a truly... a truly consolidated and legitimate development right.

Mr. Rhodes: Thank you Mr. Fields; other comments? Mrs. Hazard?

Mrs. Hazard: I was wondering if the motion maker would consider, instead of inserting this language in the particular spot that you have chosen, if we should be amending or re-examining the sending property definition in 28-357 concerning whether a property would even qualify as a sending area if it's in a buildable area. It's just for discussion or for comment; perhaps it should stay in the calculation but I throw it out as an idea.

Ms. Kirkman: Mr. Chair, can we discuss that? I mean, that's an interesting notion because it probably and maybe Mr. Harvey could...

Mr. Rhodes: Part of discussion.

Ms. Kirkman: ... provide some... any thoughts he may have. It might be easier to just make it a part of the qualification process than the calculation of development rights. What do you...?

Mr. Rhodes: Comment Mr. Harvey?

Mr. Harvey: Yes, I think it would make it clearer for applicants that are interested in TDR to know whether they are even eligible or not.

Ms. Kirkman: Do you have any...?

Mr. Taves: Excuse me Mr. Chairman, if I could just mention..

Mr. Rhodes: Yes

Mr. Taves: ... similar to the comments that I made earlier about adding requirements that don't presently exist that have not been advertised. I have some concern about that in this regard.

Mr. Rhodes: Okay thank you, noted.

Mr. Apicella: Mr. Chairman, I'm surprised that Mr. Taves didn't reiterate his comments earlier about soil testing. We discussed the same issue during the Planning Commission subcommittee meeting about whether or not soil testing would be right and appropriate in these circumstances and you raised the same issues at that point in time that you did tonight. My concern is that it could be cost prohibitive and it's creating an unnecessary financial burden on the landowner to conduct a soil test for which there will be no system on their property. So again, I think it could cause fewer people to participate in this program than would otherwise participate and result in fewer TDR sending area rights moving to receiving areas. And maybe that's the intent but the bottom line is we should not be

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passing on costs to landowners that they're going to get no benefit from because they're not going to be putting sewage systems on their property.

Mr. Rhodes: Thank you Mr. Apicella. And to me more importantly we've already... I think they were fairly creative in incorporating consideration of that by the soils that were excluded (inaudible) trying to take that into consideration and I think we've done that in a reasonable, prudent but efficient manner. Other comments? Mr. Hirons.

Mr. Hirons: I am going to support the motion because I agree that we need to... I assume you've accepted it being as a...

Ms. Kirkman: Well no I need... I have some clarifying questions I need...

Mr. Hirons: Okay, I'm going to save my comments until you guys clarify that.

Ms. Kirkman: Work it out?

Mr. Rhodes: Ms. Kirkman.

Ms. Kirkman: So, I'm thinking about that and I like the notion of front ending it so that the property owner and the contract developer who will actually be the entity that bears the cost. No up-front what the deal is but I'm trying to think practically how it could work. I mean you could certainly add as a qualification that it's within the Urban Services Area or has the ability to connect to public water and sewer. I'm a little less clear how on the front end you would require the soil testing because the obvious way to do that is a preliminary subdivision plan. And that truly would be onerous. So... Mr. Harvey, do you have suggestions about how to structure that if we were to front end it under the qualifications rather than the calculation?

Mr. Harvey: The qualification could be that for each... for the property that's proposing to determine development rights that they have done soils analysis for that property to determine...

Ms. Kirkman: The number of development rights?

Mr. Harvey: ... what potential there is for drainfields on that site.

Ms. Kirkman: Okay. So in light of the comments from my colleague from Hartwood, I will withdraw my motion and make a substitute.

Mr. Rhodes: Second...?

Mr. Fields: Seconder agrees.

Mr. Rhodes: Yes, yes Ms. Kirkman?

Ms. Kirkman: My motion is to amend Section 28-358, which is on page 18 and 19 of the Planning Commission version. Let me find the right number that it would be... oh, that's receiving I'm sorry.

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Mr. Rhodes: There is a suggestion here that it's 357.

Ms. Kirkman: Right, it's 357 sending properties. Under B adding a number 5... a number 5... we've got... the version I'm looking at has two number 4's on it.

Mr. Rhodes: One was for showing the difference Planning Commission Board of Supervisors.

Ms. Kirkman: Okay, alright. So, adding a number 5 that such property shall demonstrate an ability to connect to public water and sewer and/or certification by an AOSE that the number of development units is supported by soils work. Do you think that would get it?

Mr. Harvey: I think that would provide some guidance so I guess we may need to have some more clarification that the... that OSE certifies that the property is suitable to support...

Ms. Kirkman: Suitable.

Mr. Harvey: ... a certain number of drainfield sites.

Ms. Kirkman: So it would be or... and/or an AOSE has conducted soils analysis and certifies the number of units the property can support with onsite sewage disposal systems.

Mr. Rhodes: We have that language? Okay, could you restate please.

Ms. Kirkman: So the first part is the easy part, has the ability to connect to public water and sewer and then...

Mr. Rhodes: Such property shall demonstrate ability to connect to public water and sewer and/or...

Ms. Kirkman: And/or certification by an AOSE based on soils work of the number of units that can be supported by onsite sewage disposal systems.

Mr. Rhodes: But I have other than the last three words are, such property shall demonstrate ability to connect to public water and sewer and/or certified... certification by an AOSE based on soils work of the number of units that can be supported.

Ms. Kirkman: By onsite sewage disposal systems. Got it Denise?

Mr. Rhodes: Okay; is there a second?

Mrs. Hazard: I'll second.

Mr. Apicella: Mr. Chairman, again I would like to...

Mr. Rhodes: Motioner's comment, I'm sorry Mr. Apicella.

Ms. Kirkman: Mr. Chair, I withdrew the original amendment and made this substitute amendment based on the comments from my colleague. I do believe it's better front ended than the more

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complicated calculation of units. And really, if we're giving a developer a \$43,000 credit for a development right, we ought to make sure that they can in fact actually do that development on the sending property.

Mr. Rhodes: Secunder?

Mrs. Hazard: Yes, my comment is just along that line is we need a... we need to be sure that the lots or parcels are developable, I'm not sure that's really the word but and I believe the more we know going in, the better. Like I said, with front loading it, as opposed to the analysis that will have to be conducted by Mr. Harvey when he gets to the calculation portion. So there is going to be some onerous I believe on the person coming forward with regard to the calculation, it seems like why not learn that up front.

Mr. Rhodes: Thank you. Mr. Apicella.

Mr. Apicella: Mr. Chairman, I just wanted again reiterate my concern that even if a property doesn't perk, in the vast majority of cases someone can spend a lot of money getting an above-ground system and therefore complying with the requirement at great expense. So we're asking somebody to approve something that ultimately they will be able to approve if they do an above-ground system if a perk site doesn't come available. And I don't see the utility and I'm concerned about again limiting the number of potential lots that could be preserved through the TDR Ordinance as a result.

Mr. Rhodes: Other comments? Mr. Hirons.

Mr. Hirons: Yes, I'll just finish my comments that I will support the amendment because I agree, we need to define a development right as a development right, not something magical out there. And a... the cost to me could be simply passed on to the developer who's buying that development right. Either the cost passed on directly or as part of the negotiation of the sale that if you want to buy my development right, well I don't have a problem selling it, but the burden is on you to prove that it meets all of these requirements. So, just like selling a house, the closing costs can be passed onto the buyer.

Mr. Rhodes: Thank you Mr. Hirons. Any other comments? I'll just say that I will not support the amendment. Again we already have procedures in the calculation that very simply and up front and fairly quickly pull out the hydric soils and the 25% slopes in other areas. I think that's a reasonable and prudent coverage there. We are making this much more complicated, we're adding restrictions in at the end after the hearing and I don't feel that this is an appropriate amendment to pass at this point. That being said I will now call for the vote. All those in favor of the amendment to... where the heck is it? Section 28-357 adding subsection B5 as was stated too many times signify by saying aye.

Mr. Fields: Aye

Mrs. Hazard: Aye.

Mr. Hirons: Aye.

Ms. Kirkman: Aye.

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Mr. Rhodes: I believe that was four; opposed say nay.

Mr. Apicella: Nay.

Mr. Rhodes: Nay. Two, so the amendment passes 4-2. Okay, Ms. Kirkman, that was the last one I think you mentioned.

Ms. Kirkman: It was.

Mr. Rhodes: Thank you very much. Are there... now we'll go back to the primary motion that was before us, which was to recommend approval of the Planning Commission's version of the proposed TDR. With the two qualifiers from staff as were cited by the motion maker, and now with two amendments and they were both to Section 28-357. The first one was taking out "or contiguous parcels" from subparagraph B-4 and the second was adding the new subparagraphs 5. Are there any other further comments on that motion?

Mr. Apicella: Mr. Chairman, I call a question.

Mr. Rhodes: Mr. Apicella, yes.

Ms. Kirkman: Mr. Chairman, is my colleague proposing that we vote on the primary motion with absolutely no debate regarding it?

Mr. Rhodes: There was I believe...

Mr. Apicella: I did make a motion Mr. Chairman.

Mr. Rhodes: He's asked in discussion, do we need a second for that. I'm sorry parliamentarian. Yes, okay. Is there a second? Okay no second, no action taken. Are there any other comments on the motion?

Mr. Fields: Mr. Chairman?

Mr. Rhodes: Yes Mr. Fields.

Mr. Fields: While I do appreciate the efforts to amend the motion, we're back to some fundamental problems and I hate to be... well I don't hate to be, actually I enjoy being consistent it tells me a couple reminiscences I've... this will basically be the last votes I take in 12 years of service to Stafford County and the Board of Supervisors and Planning Commission, and I believe you'd be hard-pressed to find an exception 12 years to the votes that I've taken have always been consistent with certain very fundamental principles about what I believe and the public interest in terms of land use. And if we could have just had this so that this was a pilot program that transferred from the region that's the sending area to the Courthouse area, I probably could have gotten on board. But the idea of transferring into A-1 areas in Brooke and the whole idea of the Brooke UDA which exists so far outside the Urban Services Area and not being based on any proximity to employment centers which I've articulated over and over is the only place we should be building houses in Stafford in the future. To really achieve a sustainable future, this could be... the thing envisioned here could be an

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improvement over some of the worst of the sprawl that's been done in Stafford, but it is still sadly not really getting to the point of a truly sustainable future which has a proximity of living wage employment and residences. If people are still commuting on trains or commuting by cars to jobs in other places, we have not achieved a true balance of community interest. Also, I've felt that on the TDR Program, it's unfortunate but certainly the body of... the body of what's gone before things like the Montgomery County Program, Calvert County Maryland Program, things like this, TDR's have tended to be, I'm not saying anything new is not possible. The general wisdom has always been that TDRs are successful when they're compensatory for a down zoning of rural areas; meaning that in Stafford's case, I've always thought for example that if you downzone the A-1 area from one house per three acres by-right to one house per 10 acres by-right and then as they've done in most programs allowed the sale of three development rights at the three acre density, to compensate the landowner for the down zoning of the property, I would reasonably laissez-faire about that. I would say let's just, just like they do in Montgomery County Maryland, they zone their agricultural land from one per five acres to one per 25 acres but allowed the sale of five development rights on five acres simply on a mathematical calculation. They didn't get into some of the details that we're doing here, that I supported here, but that's because they're compensating for a downzoning and they've achieved a far greater level of preservation to that downzoning. Without those things in place, once again, it's really very simple. If you're not putting people next to jobs and if you're not compensating for a true downzoning of the rural area the TDR Program does not achieve what I would envision as being a progress towards a sustainable future. So therefore I cannot support it.

Mr. Rhodes: Thank you Mr. Fields. Other comments?

Ms. Kirkman: Mr. Chair?

Mr. Rhodes: Ms. Kirkman.

Ms. Kirkman: First I want to express my appreciation to my colleagues for entertaining some amendments to the Planning Commission version of the Transferred Development Rights Ordinance. Nonetheless, I find myself in the position of... actually I'm going to abstain from voting and the reason for that is I truly do support the concept of Transfer of Development Rights. And I also have worked for years for a fair and just Transfer of Development Rights Ordinance. Unfortunately, the legislation that's before us now makes a farce of the original intention of Transfer of Development Rights. It allows dense residential development of agricultural areas. The intent of TDR is to protect those areas. It makes TDRs a by-right program to increase residential density without any public process and with no ability to collect cash proffers. In short, it becomes something that is nothing more than a give-away to developers. And there is no clearer example than in the sending area is Crow's Nest Harbor which consists... constitutes more than a third of the development rights that can be transferred. Those properties cannot be developed now and, in fact, the attorney that was hired by the Board of Supervisors to advise the Planning Commission told us in no uncertain terms that it would be very, very difficult after all these years for anyone to take to court a successful case that there was an unjust taking of their properties if they weren't developed. In summary, really the end fact is this is just simply one more step in the Republican Board of Supervisors process to ensure the developers will never pay a cash proffer in this county again. Thank you.

Mr. Rhodes: Thank you for your opinions and comments. Mr. Hiron.

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Mr. Hirons: Ms. Kirkman, I wish you would just stop at a certain point.

Ms. Kirkman: I know, I know.

Mr. Hirons: Because I do agree with my colleague to a certain extent with some of their sentiments.

Ms. Kirkman: Probably not that part about the Republican Board.

Mr. Hirons: I most certainly don't agree in that area.

Mr. Rhodes: No, that's inappropriate yeah.

Mr. Hirons: But I do appreciate the comments. I appreciate all the work that's gone into where we are at this point, over the last several years not just the last two years that I've been involved on this... in this. TDRs, to a certain extent, they do make sense. It is a no brainer to look at it on the surface. It's one for one, it conserves land and it's most certainly a good conservation tool. Unfortunately, what we have in front of us causes me a lot of pause and a lot of concern. The number one thing is there's no way around it. We're giving up cash proffers to accept the TDR Program. Now, you know, and the trade-off of that is more conserved land. But we have a lot of infrastructure that we need to get out to in particular to the Brooke UDA which is included in this as a receiving area and that's a lot of concern to me. If we do not utilize every single ounce of cash proffer from the developers for that property, it's going to be... that money is going to be put on the burden of the taxpayers here in Stafford County. I have a lot of concern with that. A more minor issue I suppose is it also includes a sending area can be a designated parkland in the Comp Plan and it gets down to, is it down to two acres now minimum? But once the TDR... or once the development rights sold on something that is designated parkland or is designated parkland regardless of what it is, once the development right is sold and then can't be used as park, that makes absolutely no sense to me. So, in particular, because of what we're giving up in cash proffers for this program, I just can't support it at this time. This is... TDRs again are a good tool but in this case it's kind of like that great looking pair of shoes that you see, you want to purchase but the store just doesn't have your size but they have a half size bigger or a half size smaller. You go ahead and buy that half size bigger and next thing you know your feet are full of blisters. That's why I'm fearful the result of this is going to be is... a very negative impact to Stafford County as a whole so I will not be supporting.

Mr. Rhodes: Thank you Mr. Hirons and sorry about your shoes. Mrs. Hazard.

Mrs. Hazard: I've had those; I've bought those shoes before. I guess my comments are I do support the TDR Program and what it says and what it is supposed to do for this County. My concern is that we are just premature. Because it is tied so much to the UDA creation and legislation which we are... our second believe it or not public hearing tonight is about how we should be implementing the UDAs, we're not even sure how we're going to implement those let alone put TDRs on top of that. I believe that this is a program that has a lot of merit and that we should be examining. But at this point, I believe we are just premature in putting that and tying that to the UDAs at this time. Many of you know I have concerns about the notice comments which I have said in the past and based on comments and questions about impacts on schools and roads, how do we really make sure we know where that development is moving to make sure that we don't create more problems with our roads, especially as we talk about the courthouse and eventually into the Brooke Station. So, sadly at this point, I do not

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support what we have in front of us; however, I do believe that there is a place in Stafford County for TDRs.

Mr. Rhodes: Thank you and I will just say that I do support the amendment; I don't like the changes that were just modified. I do appreciate all the efforts that have gone into it. I do think this is a good trial whether it's called a pilot, whether it's trial, whether it's an attempt, it's an approach towards making a positive impact in the County and progress and I do believe we should be moving it forward. With that I will now ask for all those in favor of the motion to recommend approval of the Planning Commission version of the Transfer of Development Rights Ordinance with the two staff modifications that were included in the original amendment and the original motion and the two amendments that were approved here please signify by saying aye.

Mr. Apicella: Aye.

Mr. Rhodes: Aye. That's two; opposed nay?

Mr. Fields: Nay.

Mrs. Hazard: Nay.

Mr. Hirons: Nay.

Mr. Rhodes: That's three and one abstention; 2-3 run does not approve. Just to confirm, this was not referred to us so we don't need to make a negative vote on a recommendation; it just dies right so we can go onto to the Board of Commission one, right? Okay. Next would entertain a motion concerning the Board of Commission version of the TDR. I think that it was sent to us for vote back.

Mr. Taves: Mr. Chairman, you mean the Board of Supervisors?

Mr. Rhodes: I'm sorry, thank you very much. Board of Supervisors version of the TDR Ordinance.

Mr. Hirons: Mr. Chairman?

Mr. Rhodes: Yes Mr. Hirons.

Mr. Hirons: I make a motion to make a recommendation of the Board of Supervisors for denial of the TDR Ordinance that was sent to us by them. I don't know what number that is.

Mr. Fields: Second.

Mr. Rhodes: Motion seconded, dealing with O12-02 Board of Supervisors version. Motion or comments?

Mr. Hirons: I think I had my say in that sir.

Mr. Rhodes: Thank you. Secunder?

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Mr. Fields: I've said enough.

Mr. Rhodes: Thank you very much; other comments? Mrs. Hazard? I think...

Ms. Kirkman: Again, I...

Mr. Rhodes: Ms. Kirkman?

Ms. Kirkman: ... will be abstaining and again that's because I support the concept of Transfer of Development Rights but not in the form that it's been presented to us by the Board of Supervisors.

Mr. Rhodes: Thank you.

Ms. Kirkman: And I wanted to add just to give you all some notion of what kind of economic impact we're talking about. If you roughly calculate out, just for Crow's Nest Harbor, the value of those development rights, you're talking about probably close to \$15 million that if the developers don't pay that, it will be the homeowners of Stafford County that will have to pay it through property taxes.

Mr. Rhodes: Thank you. I just will clarify that it's coming from places that we're not giving any proffers or anything else and going elsewhere so it's not really a loss in there. I think we are mistaken in all supporting TDR and not supporting recommending for it, I just don't get it. But with that I will call for the vote. All those in favor of the Board of Supervisors' version of the Zoning Ordinance for TDRs signify by saying aye.

Mr. Apicella: Aye.

Mr. Fields: The motion was to deny.

Mr. Rhodes: I'm sorry, the motion is all those not in favor... thank you very much for keeping me straight. Don't worry, Gordon will be back soon... not in favor of the Board of Supervisors' version signify by saying...

Ms. Kirkman: Mr. Chair, just a point of order. I think...

Mr. Rhodes: Recommending disapproval.

Ms. Kirkman: Right. Those who... I think the motion you have to ask for who is in favor of the motion to recommend denial.

Mr. Rhodes: Thank you. Got it?

Mr. Fields: Got it.

Mr. Rhodes: Good, okay. So those in favor of the motion to recommend denial of the Board of Supervisors' version of the TDR Zoning Ordinance signify by saying aye.

Mr. Fields: Aye.

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Mrs. Hazard: Aye.

Mr. Hiron: Aye.

Mr. Rhodes: Three; nay?

Mr. Apicella: Nay.

Mr. Rhodes: Nay; two. Abstain, one, recommending disapproval... or denial. Okay. Then therefore do we need an affirmative act on item 5? It was associated with the Planning Commission's version, wasn't it? Oh no this was...

5. Amendment to the Stafford County Comprehensive Plan ("Plan"): A proposal to amend the Plan dated June 7, 2011 in accordance with Virginia Code Section 15.2-2229 regarding Transfer of Development Rights (TDR). The proposed amendment would modify Chapter 3 of the Plan to incorporate amendments to the textual document and adopt a new map entitled Figure 3.8, Transfer of Development Rights Sending and Receiving Areas. The map generally depicts the area south of Aquia Creek, east of the CSX Rail Line and north of Potomac Creek that are designated as Agricultural/Rural and Park on the Plan Land Use Map as a sending area for Transfer of Development Rights and the lands designated as the Brooke Station Urban Development Area and Courthouse Urban Development Area as receiving areas for Transfer of Development Rights.

Mr. Harvey: This is an independent...

Mr. Taves: Mr. Chairman, is that the plan amendment?

Mr. Rhodes: Yes, Comprehensive Plan Amendment.

Mr. Taves: I think that would be a good idea.

Mr. Rhodes: Okay, thank you. Entertain a motion associated with item number 5 dealing with the Amendment to the Comprehensive Plan.

Ms. Kirkman: Can I get clarification? Did that amendment come from the Planning...was that initiated by the Planning Commission or sent to the Planning Commission by the Board?

Mr. Rhodes: Mr. Harvey?

Mr. Taves: It was prepared by the Planning Commission.

Ms. Kirkman: Okay.

Mr. Rhodes: I thought it was our clarification to it but...

Ms. Kirkman: I know, I just wanted to make sure.

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Mr. Rhodes: Mr. Harvey, anything to add?

Mr. Harvey: Yes, it was prepared by the Planning Commission at the Board's direction.

Mr. Rhodes: Okay, thank you.

Mr. Apicella: Mr. Chairman, I move for adoption of R12-03.

Mr. Rhodes: I can't find my papers but I'm assuming that's the right numbers. Sorry I can't find it here. For item number 5, is there a second? I will second for discussion.

Ms. Kirkman: Mr. Chair, I'm going to make a substitute motion which is a motion to recommend denial of R-03.

Mr. Fields: Second.

Mr. Rhodes: Okay, motioner... comments?

Ms. Kirkman: Nope.

Mr. Rhodes: Seconder?

Mr. Fields: Oh... just, I think you know if we're recommending denial of Transfer of Development Rights we need to recommend denial of the map that goes along with it.

Mr. Rhodes: Okay.

Mr. Fields: It just seems like a housekeeping matter at that point.

Mr. Rhodes: Okay, thank you. Other comments? I'm sorry, I just can't find it, is that the right referencing, R-03?

Ms. Kirkman: It's R12-03.

Mr. Rhodes: 12-03 okay, thank you. So all those in favor of denial...

Ms. Kirkman: Of the substitute motion.

Mr. Rhodes: Of the substitute motion to deny R12-03 change please signify by saying aye.

Mr. Fields: Aye.

Mrs. Hazard: Aye.

Ms. Kirkman: Aye.

Mr. Hirons: Aye.

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Mr. Rhodes: Opposed say nay.

Mr. Apicella: Nay.

Mr. Rhodes: Nay. Two, and it passes 4 to 2. Okay. Item number 6 Mr. Harvey.

Mr. Taves: Excuse me, Mr. Chairman... point of order.

Mr. Rhodes: Mr. Taves.

Mr. Taves: And I'll defer to Ms. McClendon if she wishes but we had this happen once before. I believe that the first vote was a vote on the substitute motion so that substitute motion upon your vote becomes the main motion I believe. So I think you need to vote again.

Ms. Kirkland: Oh yeah. So I think...

Mr. Rhodes: So now that we've made the substitute motion the main motion and now we have to vote on the main motion.

Mr. Taves: Exactly.

Mr. Rhodes: Which is the same thing we just voted on recommending denial of... or no changes associated with R12-03.

Ms. Kirkman: Mr. Chair?

Mr. Taves: Recommending denial I believe of the adoption of that amendment.

Ms. Kirkman: I know what Mr. Tave's is... let me try and translate. I think what he's saying and he is correct, by Roberts Rules of Order the vote should have been to accept the substitute motion. Then once there's a decision made to accept it then you vote on it.

Mr. Taves: That's right.

Mr. Rhodes: Then it becomes the motion of record for vote.

Ms. Kirkman: Yes.

Mr. Rhodes: Okay.

Ms. Kirkman: So it's a two-step process.

Mr. Rhodes: Okay, it will be interesting to see if the vote numbers change. Okay, so now that we have accepted the substitute motion and made it the primary motion to be considered which is to recommend denial and not passage... however you want to state it... of the R12-03, all those in favor of that motion that is now before us signify by saying aye.

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Mr. Fields: Aye.

Mrs. Hazard: Aye.

Ms. Kirkman: Aye.

Mr. Hirons: Aye.

Mr. Rhodes: It should be four of you.

Ms. Kirkman: Motion to accept the substitute motion. Yes, we have to do that.

Mr. Fields: I thought we just did that?

Mr. Taves: I thought you already did that?

Ms. Kirkman: Well, we... no, actually the motion that was stated when we voted was a motion to recommend denial; it was not stated as a motion to accept the substitute.

Mr. Rhodes: Parliamentarian, do you want to go back on that?

Ms. McClendon: I think for housekeeping matters we should go ahead and just clear it up and make the words clear so it would be a motion to accept the substitute motion as the primary motion.

Mr. Rhodes: Okay, so we are back on the first vote, none of the votes have counted so far. And so to accept the substitute motion as the primary motion all those in favor signify by saying aye.

Mr. Fields: Aye.

Mrs. Hazard: Aye.

Ms. Kirkman: Aye.

Mr. Hirons: Aye.

Mr. Rhodes: Opposed nay.

Mr. Apicella: Nay.

Mr. Rhodes: Nay. 4-2 passes. And now a vote on what is now the motion which is concerning R12-03 and the motion is to recommend denial therefore no changes associated with that. All those in favor signify by saying aye.

Mr. Fields: Aye.

Mrs. Hazard: Aye.

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Ms. Kirkman: Aye.

Mr. Hirons: Aye.

Mr. Rhodes: Aye 4; nay?

Mr. Apicella: Nay.

Mr. Rhodes: Nay. Two; denial passes 4-2. Let's do it again. Okay. All those that were here for the TDR thank you very much for your time, for your comments, and for taking the time to be here to make a difference in the County. Now we'll move onto item number 6; Mr. Harvey?

Ms. Kirkman: Mr. Chair, can we recess for just a few minutes?

Mr. Rhodes: Do we need a group recess or want to press?

Ms. Kirkman: I can just take a point of personal privilege if there is no other need.

Mr. Apicella: I'd like to move on Mr. Chairman.

Mr. Rhodes: I think we're going to press, thank you Ms. Kirkman. Mr. Harvey?

Mr. Harvey: Mr. Chairman, Mr. Zuraf will make the presentation for item 6.

6. Amendment to the Stafford County Comprehensive Plan - Courthouse Urban Development Area Plan - A proposal to recommend the adoption of a new textual document entitled "Courthouse Urban Development Area Plan, Stafford County, Virginia," dated October 27, 2011, ("Courthouse UDA Plan" or the "Plan") as an amendment to the Stafford County Comprehensive Plan (the "Comprehensive Plan") in accordance with Virginia Code Section 15.2-2229.

Mr. Zuraf: Good evening Mr. Vice-Chairman, members of the Planning Commission, Mike Zuraf, Principal Planner with the Planning and Zoning Department. Can I have the computer please, floor computer? Item 6 is an amendment to the Comprehensive Plan to adopt the Courthouse Urban Development Area Plan. The plan is entitled the Stafford... the Courthouse Urban Development Area Plan for Stafford County, Virginia. This would be a new element of the Comprehensive Plan of the County's Comprehensive Plan. It would serve as a guide for future development in the Courthouse Area. This would define a clear direction for the future development of the Courthouse Area. It does provide a detailed land use concept and does analyze transportation impacts based on those land use concepts. This does not amend any other elements of the Comprehensive Plan. This is a small area plan that was developed as a product of an Urban Development Area Grant that the County received through VDOT. That grant provided technical assistance to allow us to have a team... consultant team that was led by Rhodeside and Harwell, Land Use Planners, RK&K Transportation Engineers, and Code Studio assisting with the Zoning Ordinance. The Rhodeside and Harwell staff and RK&K Engineers are present if needed and we may be able to patch in somebody from Code Studio by teleconference if necessary. I want to go through kind of the plan section by section as a way to describe this. Section 1 in the introduction does provide background information regarding the process

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and basis for developing this plan. It does cite the related policies and land use recommendations in the 2010 - 2030 Comprehensive Plan that was just approved last December and amended in June that relate to and provide a basis for the development of this small area plan. And it does describe how the County in this section may handle interim development proposals while amendments are being considered to ordinances. That would include processes on how to deal with development proposals under existing by-right but... zoning and then also how to handle potential rezoning requests that might come in. Section 2 of the plan deals with the description of the public input process that went into this plan; some lengthy public input process did occur back in January of this year. The consultant team assisted in some public workshops that really were associated with the allocation of the remaining 4,000 Urban Development Area dwelling units into the Comprehensive Plan and that input and those work sessions gave us some good insight into where the citizens wanted to see future growth. In the spring of 2011, as part of the normal process under the grant, stakeholder interviews were conducted by the consultant team. They interviewed different people associated with Economic Development, business leaders in the community, people associated with Parks and Recreation, some of the soccer recreation, other recreation leagues, school representatives, transportation representatives from VDOT to get an overall feel for the County and what the issues are. From that the consultant developed a kind of a study and analysis of all the Urban Development Areas and we went to the Board of Supervisors in June; they authorized the County to focus on developing a smaller area plan for the Courthouse Urban Development Area because there was only enough funding to develop one of the smaller area plans and one of the seven Urban Development Areas. So we got the authorization in June to proceed with the Courthouse Area, in July we had our first community workshop to begin discussion on the Courthouse Urban Development Area and get input from the community. And at the end of September an open house was conducted to present the recommended land use concept and the transportation analysis on the Courthouse Area. And also throughout the process there were regular updates provided to the Board and Planning Commission on where we were and what was happening. Section 3 in the plan, that gets into the actual kind of plan itself and that section starts with an overall vision for the Courthouse area. It is to establish the Courthouse Area as a downtown for the community as a place to live, work, shop and recreate, a place for families to gather, and a place that is predominately accessible to pedestrians. This section also you know it does deal with and describes kind of the overall building blocks for the Urban Development Area Plan and how the plan was kind of developed. And it does build off the recommendations of the Redevelopment Plan. It does provide more specific land use recommendations that kind of tie into the more detailed Comprehensive Plan recommendations that were made in the 2010 - 2030 Plan. It does address more so topographic constraints whereas the Redevelopment Plan didn't necessarily do that. And then it does account for new plans that are being developed for the Courthouse Road and Interstate 95 Interchange reconstruction. At the last Planning Commission meeting during our discussion of this item, there was I guess follow-up questions about the... whether the Redevelopment Area Plan needed to be amended due to differing land use patterns and also the building and streetscape images in the Redevelopment Plan and I just... I had that discussion with Brad Johnson, the Redevelopment Administrator. He did not see the need to amend the Redevelopment Plan as a result of this Urban Development Area Plan. He noted that the land use recommendations in the Redevelopment Plan were more conceptual and not meant to be literal land use recommendations; it was more of a general concept. And he also noted that as far as the streetscape images in the Redevelopment Plan that they do not really vary too much from those that are in the Urban Development Area Plan and because of that doesn't see the need for any changes at this point. The main idea of this Courthouse Urban Development Area concept is to develop around three neighborhood centers. Those centers being first around the historic Courthouse Village, this is here at the intersection of Courthouse Road and Route 1, around the courthouse that is

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located in this area. The second neighborhood center would be considered a new downtown; this is an area that would be located kind of basically between the courthouse and the hospital. And that area around would be known as South Courthouse Commons in the south of the hospital. Section 4 of the plan gets into the specific land use recommendations; there's more detailed description of each neighborhood center. And specifically the historic Courthouse Village that's recommended for mixed use development, that would be located around the courthouse at a scale and design that would be consistent with the historic character of the buildings that are in this area. The new downtown between the courthouse and the hospital, that's seen as the mixed use development area that might have the highest amount of density of development, where you may have first floor shops and offices or residential dwelling units above. And that does recommend building heights up to five stories in that central location. The Courthouse Commons Area that's also a mixed use area again located south of the hospital; that intensity would be more similar to the scale of the historic Courthouse Village with building heights likely no more than three stories in that area. And also this specific land use map that's provided in the plan does provide land use recommendations for all the area within the Urban Development Area boundaries, and the development densities recommended in these areas do correspond with the recommended Urban Development Area densities in the Comprehensive Plan. The consultant did analyze the build-out of this land use concept plan as it relates to the recommendations in the 2010 - 2030 Comp Plan. And from the comparison you will see that a lot of the end result of the different types of dwelling units do closely resemble the recommendations of the Comprehensive Plan. This section of the plan also does provide view shed illustrations that depict the look and the land use... of the different land use patterns. These are some of the... a sample of some of the images that are included in the plan. You have these types of images from three different vantage points provided in this section. Section 5 of the plan gets into the transportation recommendations. Some of the assumptions of the Transportation Study that was prepared as part of this; it does assume the new Interstate interchange and different traffic pattern that is being envisioned with that. It does retain U.S. Route 1/Jefferson Davis Highway as a four lane facility but would be divided. And does assume that you would eventually have an inter-connected street network and development pattern that would promote more pedestrian accessibility that would allow for trip reductions that is typically accommodated through what's known as internal capture. Also, it analyzes the intersections along U.S. Route 1 at the intersections with Hope Road, Courthouse Road, the new downtown intersection which would be signalized in the future, and then the intersection with Hospital Center Boulevard. The study does show that without any transportation improvements, building that other Urban Development Area would result in failing service levels at many of the intersections; that equates to what's known as a Level of Service F. In the future year 2020, in the study it does look at what improvements would be required to improve the Level of Service to a Level of Service D. Those improvements include, at several locations, providing separate left and right turn lanes from the through lanes. As you know along Route 1 right now, the turning lanes are all integrated with the through lanes which cause delays. It would recommend eliminating split phasing at all intersections. Split phasing is how basically at each intersection each direction basically goes at its own turn so everybody has to wait their turn to basically move in the four different directions at the intersection. So that would eliminate the split phasing and provide protected permissive left turn phasing. And then at Hospital Center Boulevard there's a recommendation that provides second left turn lanes at all approaches here with the... with the realignment of Courthouse Road. Under the new interchange proposal a lot more traffic would be loading onto Route 1 at that location. As we have noted I think previously, the Comprehensive Plan, the overall Comprehensive Plan does recommend a Level of Service of C for future development. Staff does note that in talking with our consultants, Level of Service C does typically mean that you have a lot more free-flowing traffic; it generally means higher

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speeds which doesn't necessarily correspond well with... in a pedestrian environment so they felt that a Level of Service D in a more urban environment might be... should be an acceptable Level of Service in this case. Also the...

Ms. Kirkman: Excuse me. Could you just clarify that because I thought the Level of Service was based on wait times, not on how fast you're moving?

Mr. Zuraf: Well, it's overall conditions which part of it is wait times but it's the overall movement of traffic through intersections. And my understanding from the discussions with the traffic consultant they are here maybe they can back me up on it...

Ms. Kirkman: Okay, thank you.

Mr. Zuraf: ... but that was from our discussions with them. Also the recommended transportation network is consistent with the planned U.S. Route 1 and Courthouse Road Streetscape Improvement Project which is currently underway in the County. We're working currently on more detailed specific plans for adding medians in Route 1 and Courthouse Road and other streetscape improvements and this would fit in with that. The Chapter 527 Traffic Impact Assessment has been submitted to VDOT for review. The entire Traffic Impact Assessment has been included in your latest package as one of the items in the Appendix of the Plan. Section 6 of the plan is the implementation recommendations. The plan does recommend a new zoning district to achieve the implementation of this plan. That is the next item on your agenda; it's a district that creates sub-districts and these new zoning districts would correspond with the recommendations of this plan. The plan does include a map that illustrates how these sub-districts under this new ordinance, which we'll talk about next, would actually apply to the land use plan. Also, the plan does identify how different street types that are also recommended in that ordinance, how those might apply and fit into the entire kind of network that's envisioned in this area. Section 7 of the plan gets to design guidelines and how this plan might apply to other Urban Development Areas. The series of design guidelines for development has been provided. Some of the design guidelines are more general design guidelines that apply to the entire Courthouse Urban Development Area and they relate to different issues such as land use, circulation and open space. And then there are more specific design guidelines for the different neighborhood centers and how development should be applied in each of those areas. The section also describes how the process may serve as a model for the development of small area plans in other Urban Development Areas. The section also includes recommendations for potential amendments to the 2010 - 2030 Plan, such as certain policies or sections of the recommended land use. The plan does describe how this plan does provide different Urban Development Area boundaries through the analysis and development of this small area plan. We ended up with a Land Use Concept Plan with boundaries that slightly differ from the Urban Development Area boundaries in the Comp Plan that was approved back in June. On this image you can see the adopted Urban Development Area Boundaries is the bold line and underneath you can see areas where the proposed land use plan might be... may have been reduced or increased. Some of those reasons, like in this area, you have a major power line easement that runs north/south and this is Courthouse Road and it was seen that it might be appropriate to... that would be appropriate... an appropriate break in the Urban Development Area and so that area to the east was removed. But then you had other areas under the north side of Courthouse Road where the Urban Development Area was expanded; this area still recommends in yellow more single-family detached units. But there was seen that there could be a potential for a connection, a road connection from Courthouse Road up to Hope Road. And then around another change proposed is where the amended

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Courthouse Road and realigned Courthouse Road meets Route 1. The land use around that intersection was identified as more highway commercial, seeing that you'd have a lot more traffic in that area and less I guess suitability for an Urban Development pattern in that location. Those were a few of the changes and those are described in the plan. Staff does support the amendments of the Comprehensive Plan. Staff believes it serves to further the implementation of the Urban Development Areas as recommended in the Comp Plan, it carries out that 2010 - 2030 Comp Plan recommendations, provides clear direction for the future development of the Courthouse area. You have in your package Planning Commission Resolutions that reflect approval and denial. And to note also a deadline was established of December 31<sup>st</sup> for the Planning Commission to take action on this proposal. And I'll answer any questions you have at this time.

Mr. Rhodes: Thank you Mr. Zuraf. Are there any questions for staff?

Mr. Hirons: I only have one...

Mr. Rhodes: Mr. Hirons.

Mr. Hirons: ... quick question; I may have missed it. Do we have to take any action? It's not a part of our...

Mr. Rhodes: Tonight yes.

Mr. Hirons: ... stuff tonight. No overall but actually making those UDA boundary changes; do we need to do that or...?

Mr. Zuraf: That wouldn't require a separate public hearing because it would be an amendment to the Comp Plan... the overall Comp Plan document so that's all provided here as recommendations for follow-up action.

Mr. Hirons: Okay, great thanks. That's all I need.

Mr. Rhodes: Thank you. Other questions for staff? Mr. Apicella.

Mr. Apicella: Just a basic question. The Comp Plan is generally referred to as a Plan, not a requirements document. Is that similarly true for the small area plan?

Mr. Zuraf: Yes; this only serves as a guide, it does not change anybody's zoning. It's basically for so as development proposals come in this is basically kind of serves as a measuring stick for development proposals.

Mr. Apicella: Okay. Sorry, I do have one other question. What were the primary traffic concerns raised during the public meetings and how were those dealt with or mitigated in any revisions to the plan?

Mr. Zuraf: Well the biggest concerns I believe were about... there were concerns about the... with the medians that were proposed, how much right-of-way that might take. So there are property concerns about the amount of additional right-of-way that might be needed. And also just an overall concern

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about Route 1 being retained as a four lane road through the courthouse area as opposed to widening to six lanes. Regarding the issue of the median and you know median widths and the impact there that's I guess more of a design issue that maybe can be dealt with at you know at a future stage. But they're you know, to get turn lanes in and then to deal with the traffic you're going to have to have at least 12 to 16 feet in width in there and so there may be some impacts to properties but if, you know, without adding additional through lanes that the ultimate impact shouldn't be too extensive. So I guess to answer your question there weren't any specific changes made in this plan that addressed that concern. With the concern about four lanes versus six lanes, I guess what was further explained in the plan was the importance of having a grid network of streets to funnel traffic in and around the area., because if you just keep four lanes to the courthouse area and didn't really have a grid network of streets, the conditions would be terrible and that's shown. But with a grid network you... that would tend to relieve traffic through the area by providing alternative routes.

Mr. Apicella: So would six lane-ing Route 1 preclude the grid creating of the side roads?

Mr. Zuraf: That could... no that wouldn't preclude that but it would maybe... it would have... it would be less pedestrian-friendly in through the courthouse area if you have a six lane highway running through, because it's the right-of-way is typically upwards of 160 feet of right-of-way width and so the... you use lose the pedestrian scale that's envisioned in the Urban Development Areas typically.

Mr. Apicella: How much of the proposed median would offset what would be the additional two lanes?

Mr. Zuraf: Well, probably half of that but I think typically with a six lane roadway you typically will see... you want a median in the middle of that six lane with that much traffic. What we typically see is that you know it would be designed with a median so that just adds to it.

Mr. Apicella: So you're saying in order to get six lanes you'd have to have a median.

Mr. Zuraf: That's the way we've seen I think it would...I've not seen that without.

Mr. Apicella: Well when the consultants come up I would like for them to address that.

Mr. Zuraf: Okay.

Mr. Apicella: Thank you.

Mr. Rhodes: Other questions of staff?

Ms. Kirkman: I do have a question for the traffic engineer but...

Mr. Rhodes: Very good.

Ms. Kirkman: ... when that person comes up I'll ask that. I did just want to check in with the attorney. I had asked and I believe you did respond in writing, but for the purposes of the public hearing I'd asked about what some of the consequences of adopting this small area plan would be for

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the application process. Specifically, would this absolve applicants of any responsibility to do Traffic Impact Analysis under Chapter 527?

Mr. Rhodes: Ms. McClendon?

Ms. McClendon: That's correct. Basically, if certain requirements under the Virginia Administrative Code are met basically ensuring that the applications are in substantial compliance with a small area plan. If that is met and the cover letter and those... the information covered are certified to be in substantial compliance and they don't have to submit a traffic impact statement, they can rely on the one that was performed for the small area plan.

Ms. Kirkman: Roughly what was the cost of the consultant?

Mr. Zuraf: The grant... the total grant was \$225,000.00.

Ms. Kirkman: Okay, thank you.

Mr. Rhodes: Any other questions for staff? I heard there were a couple for the traffic consultants, if they could come forward. Mr. Apicella. If you could just state your name and restate the firm. Thank you.

Mr. Parker: Good evening. Jeff Parker, RK&K Engineers.

Mr. Rhodes: Thank you. Mr. Apicella?

Mr. Apicella: Yes I attended the... I think it was a public information session in September or October and I heard some of the same concerns about the median strip on Route 1 and how that would potentially not be the most effective use of that space or taking of additional space. And I was curious how that was dealt with subsequent to that public meeting. And we just heard Mike Zuraf say that in order to get a six lane... and I think that's what some of the folks were intimating in their comments at the public meeting that they would prefer six lanes because it is a primary road and will continue to be a primary road irrespective of how we might ascetically try to improve it. Mike said that you would still need to put a median strip in order to get six lanes. Is that in your experience?

Mr. Parker: My experience, yes, is that for a road of that magnitude with six lanes you would require a median mainly for safety purposes. That's not to say that you won't find an older roadway in the State of Virginia without one. But you wouldn't place a... you wouldn't design a new six lane highway if you will, arterial roadway, without a median. I would follow-up with VDOT roadway design standards to confirm that, but it's been my experience that with a six lane roadway you would require a median; whereas, with a four lane roadway you would not necessarily be required to have a median.

Mr. Apicella: So what would be the benefit of putting a median strip on this four lane road?

Mr. Parker: On the four lane road there would be ascetic benefits and there would be some safety benefits. Now we haven't done a study to quantify the safety benefits but, in terms of the benefits that you would get from a barrier separating with a raised median curb and what not, you would see a reduction in the potential for crossover accidents and things of that nature.

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Mr. Apicella: In terms of the traffic pattern on Route 1 does it tend to be... when we get I guess traffic, I don't know what the right terminology is, but when people are using Route 1 in lieu of 95 are they generally using it southbound more predominantly or going northbound?

Mr. Parker: Your travel pattern in the a.m. peak is northbound and the p.m. peak hours it's southbound.

Mr. Apicella: So it's about equivalent? Because I know when I drive through Stafford County it tends to be a greater number of cars using Route 1 south.

Mr. Parker: During the p.m. what we found with our traffic studies that was the case. During the p.m. peak we found that the southbound was the predominant direction but the total volume heading southbound during the p.m. was greater than the total volume heading northbound in the a.m. on Route 1.

Mr. Apicella: Okay thank you.

Mr. Rhodes: Thank you. Ms. Kirkman.?

Ms. Kirkman: Yes sir please, please stay... thank you. I wanted to get back to this... I wasn't quite following what staff presented about Level of Service C would require more volume of... because we've looked at plenty of traffic impact analyses that had improvements in them to maintain or bring up to a level of servicing secondary roads where there's very low volumes or high volumes and low speeds. So could you clarify what was intended by that comment?

Mr. Rhodes: Just to confirm, that was the comment about Level of Service C could facilitate a greater speed through an area which wouldn't be as pedestrian-friendly but Level of Service D would be less speed through.

Mr. Parker: That's true... level of service can be based on two different... on several different factors. At an intersection as you stated, level of service is generally based on wait time, delay. You also have arterial level of service, it's still the same A through F letter scale but arterial level of service would be your... the level of service across multiple intersections along in this case Route 1. We analyzed four different... three existing intersections with one proposed intersection included. Arterial level of service is based on the overall travel speed throughout the corridor. That travel speed has as a component the delay at the individual intersections along that route. Our study looked at maintaining at the intersections Level of Service D operations as a minimum worst level of service. At some of the intersections with the recommended lane configurations to achieve Level of Service D at all of the intersections along the corridor... at certain intersections you actually end up with Levels of Service B or C with those lanes. But you also end up with Level of Service D depending on the time of... whether it's the a.m. peak or the p.m. peak. As a result of those same lane configurations, you should know that for the arterial level of service going through the entire corridor, we ended up with, now this is based on speed, we actually did end up achieving Level of Service C; except for in one instance during the p.m. peak period where we ended up with a Level of Service D. But the difference between Level of Service C and D in this particular case was .9 miles per hour. In other words, it's negligible in terms of the speed.

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Ms. Kirkman: But given the standard in our Comprehensive Plan which is Level of Service C, how come you did not design traffic improvements to achieve Level of Service C wait times?

Mr. Parker: To achieve Level of Service C wait times at the intersections in the corridor you would end up having more lanes than what we've recommended. Which would have an adverse impact on your pedestrian crossing times, your pedestrian-friendliness of the area, mobility; it just contradicts the goal of the small area plan and what you're trying to do with the Urban Development Area.

Mr. Kirkman: And that couldn't be alleviated or mitigated in some way by volume being diverted to outer connectors?

Mr. Parker: Well the goal here isn't to divert that through traffic to your outer connectors. Those outer connectors are intended for local use so that folks who live in the UDA, work in the UDA but are not just that traffic passing through on 95. You don't want that traffic on 95 diverting onto Route 1 and then diverting off into your new neighborhood. But if you live in the neighborhood you don't want to be forced to use U.S. 1 with all of those people who just hopped off of 95. The goal of that grid is really to allow to facilitate local mobility so that you don't... local folks don't have to get onto U.S. 1 with all of the outsider traffic. So we're not looking at diverting everybody or amounts of through traffic off of Route 1. So yes some traffic is going to be diverted off of Route 1 and we assume that. That's included in the study, that's the Levels of Service D that we got at the intersections with our recommended land configurations assume that you have some traffic diverted off. But we don't want to encourage any additional traffic to be diverted off of Route 1; that also defeats the purpose of the grid network and what you're trying to achieve with the Urban Development Area.

Ms. Kirkman: So, is then what you're saying that... because I'm trying to understand the planning concept here... that there's no way to... with the build-out of the UDA there's no way to get to a Level of Service C at the intersections in terms of wait times unless you divert traffic into the surrounding areas?

Mr. Parker: With the lane configurations that we've recommended.

Ms. Kirkman: Right.

Mr. Rhode: Or unless you over design significantly so at the busiest intersections... because the level of service he's identifying is the lowest level of service during the most peak times and there are some of the busiest intersections you're going to take significant over design in order to facilitate a Level of Service C. And at the most significant intersections it's just really not worth the great additional amount of design through an intersection or as you were stating redirecting it through other areas.

Mr. Parker: That's correct. And we are talking about peak periods here so we're talking about designing an intersection for Level of Service C for two or three hours out of the day when Level of Service D still provides adequate throughput, especially when you look at the arterial level of service as I mentioned. If you're looking at throughput overall for the corridor, we're actually getting Level of Service C for the overall corridor traffic. It's just at the specific intersections we recommended a design for Level of Service D.

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Ms. Kirkman: So... and I'm reaching back to one of our previous transportation planners who described to me in very simple terms that there are various assumptions that go into the traffic modeling. And you have to pick which set of assumptions that you're going to work with. And as I understand it when we did all that traffic, when Sara... and I'm referring to Sara... when all that traffic modeling was done earlier, they used like a... the way I understood it was sort of like a water gravity flow model. And it assumed that cars would take the path of least resistance.

Mr. Parker: That's correct.

Ms. Kirkman: So if there are longer wait times at the intersections on Route 1 and it takes longer to get through on Route 1, isn't the tendency the cars going to be to divert out onto those connectors anyway?

Mr. Parker: That is the tendency of traffic, yes, that it would divert onto those connectors. The idea is that these connectors are going... if they're to be used as through routes to go completely around the UDA that they would be designed with a narrower cross section, on-street parking, things like that that would discourage and make them feel slower if not actually make them actually slower than staying on Route 1 for through traffic. But if you're a local person utilizing the development in the area, you most likely not going to use these grids, the grid system to go throughout the entire area. So it would still benefit that person. If you're just trying to move around in one quadrant of the UDA it's still faster than you getting out on Route 1 to have to do all of your shopping or work. But if that person was to try to use the grid system to go completely across the UDA as a bypass they might as well get on Route 1 because Route 1 even at Level of Service D with the design, overall design should be... you want to make sure that it's still slower than, or rather... yeah, slower than... or rather faster, I'm sorry, faster than using the grid. You want the grid to be worse for through traffic, you want the grid to be worse for through traffic. You don't want through traffic to use your grid.

Ms. Kirkman: Thank you.

Mr. Rhodes: Other comments? Questions? Okay, very good. Thank you sir.

Mr. Parker: Thank you.

Mr. Rhodes: We will now open this to the public comment portion of the public hearing. Anybody who has a comment they'd like to address to the Planning Commission dealing with item number 6, the Amendment to the Stafford County Comprehensive Plan, Courthouse Urban Development Area Plan, please come forward at this time. It will not be an interactive discussion but it does give us an opportunity to hear and entertain other comments for consideration and for further discussion. Anybody who's coming forward just state your name and your address and you have three minutes to address the Planning Commission. Is there anyone who would like to come forward at this time? Thank you sir. Again, if you'd state your name and address and again after you do so the green light will come on meaning you have three minutes, yellow light is one minute, red light please conclude comments, thank you.

Mr. Brown: My name is Doug Brown. I've been following this process for four or five years. I've been actively involved in a lot of cases. I want to commend the staff and the Planning Commission for the amount of time and hard work that you've put in, staff, over this many years. I'm a Planner by

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education and I really want to encourage you to approve the plan that you've worked on tonight. I think that in general after listening to the discussion earlier with all the public involvement it's obvious that the more public participation you have the more complex it gets and the devil is always in the details. But... so, for that reason alone I would like to encourage you to be flexible in... as the concept plan moves toward... evolves to a more concrete plan. But I think the work you've done is good. Again, just in general, I support the plan because I really believe in smart growth. I think that density in the growth area is the definition of smart growth. You should do anything you can to discourage sprawl in the ag areas. I think that hopefully, eventually TDRs will play a role in that as well. As you encourage you know density in the growth area and find a way to you know take some of those houses out of the rural area and give some credit where they can go; incentivize it so that you take development rights out of the ag area and put it where it belongs in the development area. I think that ideally in my world, I mean you know there almost should be a public/private kind of partnership to implement the goals that you're trying to achieve here. And the County can incentivize things by doing what you're doing now. And outline in the vision for what you say the future should be, you've done the public participation and gotten buy-in from that and by approving that, that gives the development community the map to move forward. And so again, I think that you're on the right track, it's taken a long time. I hope we can conclude this here pretty quickly. Those are just some general comments. I guess the one specific recommendation I have is as I look at this plan, I don't have a computer but... but basically the idea of the grid system I think works. The South Campus Boulevard that my company is involved with should be part of a southern bypass around... southern half of the county so I think there should be a connection all the way from Courthouse Road through what was South Campus Boulevard back over to where Venture Drive is across Route 1 and around. And right now you've kind of got two or three legs of a bypass around the Courthouse area. I think you should complete that and I think that that will do something to divert some of that traffic off of Route 1. But anyway, thank you very much.

Mr. Rhodes: Thank you very much. Are there other comments? Seeing no one come forward, we'll close the public comment portion of the public hearing and I'll bring it back to the will of the Planning Commission. Any other following comments to staff or positions or motions?

Ms. Kirkman: Can we just get clarification?

Mr. Rhodes: Yes Ms. Kirkman.

Ms. Kirkman: There was some discussion at some point about requesting additional time on this or doing a joint public hearing in order to give the Planning Commission more time. What happened with those discussions with the Board?

Mr. Zuraf: I recall when that discussion took place that I think the legal advice was that during the months of November, December that that was an issue that couldn't be raised by the Board because it was a land use issue.

Ms. Kirkman: But I thought there was also a discussion that they could vote to suspend their by-laws?

Mr. Rhodes: I just... I mean certainly if somebody... I just didn't recall that. I recall the time limit associated with the grant and that we needed to move forward and we would just have the one other opportunity to take something to the Commission as it... or Supervisors as it stood.

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Mr. Apicella: I was I think the lone voice in trying to get an extension on this one. And I think we did it at the last meeting; it may have been the one prior to that. So I think the path forward that was recommended was a joint public hearing with the Board of Supervisors and just because of the way the calendar worked, it was decided and plus the fact that there would be some new Planning Commissioners and new Board members that it just wasn't going to be worthwhile to get it done in time to comply with the grant requirement.

Mr. Rhodes: Right.

Ms. Kirkman: I couldn't remember.

Mr. Rhodes: Any other comments? Entertain a motion?

Mr. Hirons: Mr. Vice-Chair, I think our... the motion we're looking to present is the one that's been prepared so I will move that the Planning Commission adopt PCR11-16, recommending approval of adoption of the Courthouse Urban Development Area Plan.

Mr. Apicella: I'll second that.

Mr. Rhodes: Motion is seconded. Motioner comments?

Mr. Hirons: You guys have really done fantastic work here. It's a good plan in my opinion; I think it's a good thing to have it part of our Comprehensive Plan as we talk about UDAs so we really get a good sense of what we expect within these UDAs. And Mike, I appreciate you working with Economic Development folks to ensure... I saw the language that was included talking about how the two plans match up and how they work together. I would like to see at some point possibly those redevelopment plans just be really examined and really tweaked but it's not an overall massive concern of mine. So with that I look forward to voting in favor of this.

Mr. Rhodes: Thank you Mr. Hirons. Mr. Apicella?

Mr. Apicella: I have no comments Mr. Chairman.

Mr. Rhodes: Thank you. Other comments?

Ms. Kirkman: Mr. Chair?

Mr. Rhodes: Ms. Kirkman.

Ms. Kirkman: Mr. Chair, I'm going to be opposing the motion to recommend approval. I want to state I actually support a UDA in the courthouse area. I think it is one of the areas in the County that really is appropriate for a UDA. My concern is that this process which is a complex planning process has really been rushed through the Planning Commission and there has been a desire expressed to work further on this. So I'm disappointed that that did not occur. My primary concerns with what we've got in front of us have to do with the traffic impacts. I'm very concerned about the level of service, the delays that exist now, the even greater delays that it appears could exist with build-out of the UDA. And in particular, I'm concerned that the consequence of adoption of this small area plan means that

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there will not be specific traffic impact analyses done that comply with Chapter 527 when individual applications for development come in for the UDA, which will make it very difficult for future Planning Commissioners to assess the traffic impacts of that particular project.

Mr. Rhodes: Thank you Ms. Kirkman. Other comments? Okay. I'll just say that I will be supporting the motion for this Planning Commission Resolution. With that, all those in favor of Planning Commission Resolution... of recommending supporting Planning Commission Resolution PCR11-16 signify by saying aye.

Mrs. Hazard: Aye.

Mr. Apicella: Aye.

Mr. Hirons: Aye.

Mr. Rhodes: Aye. Opposed nay?

Mr. Fields: Nay.

Ms. Kirkman: Nay.

Mr. Rhodes: That passes 4-2. Thank you. Mr. Harvey, item number 7.

7. Amendment to Zoning Ordinance - Proposed Ordinance O12-01 would amend the Stafford County Code by establishing a new zoning district, Urban Development (UD). The purpose of the UD Zoning District is to provide for areas of the County that are suitable for an urban approach to land-use planning and urban design that promotes the development or redevelopment of pedestrian-friendly, walkable neighborhoods with a mix of uses and housing types served by an interconnected network of streets.

Mr. Harvey: Again please recognize Mr. Zaraf.

Mr. Zuraf: May we have the computer please? Item 7 is an amendment to the Zoning Ordinance to adopt Ordinance... recommend Ordinance 12-01. This would be the adoption of a new Zoning District entitled UD Urban Development. This includes amendments to several sections of the Zoning Ordinance as listed on the screen. To provide some background, on October 18<sup>th</sup>, Resolution R11-294, which is in your package, that the Board approved that resolution which referred the amendments to this Zoning Ordinance to the Planning Commission. This also is a product of the Urban Development Area Grant as I previously described. It was developed in conjunction with the Courthouse Urban Development Area Plan as a tool to implement that Courthouse Urban Development Area Plan. And the Courthouse Urban Development Area Plan does provide specific recommendations for a development of a new zoning district; that is what you have before you. To get into some of the details of this district... that should say UD... the UD District follows a format that you've seen in the previous zoning districts that we've had recently, similar to the P-TND District. It utilizes a transect zone or in this case is a sub-district concept. You have five sub-districts under this zoning district that range from UD-1 through UD-5. The first sub-districts 1 through 3 are residential districts; 1 being a single-family detached units, UD-2 is townhomes primarily and UD-3 primarily multi-family units.

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UD-4 and 5 are mixed use districts. UD-4 is a village district with lower... typically lower intensities. And UD-5 is an urban downtown district that would mainly apply in that new downtown that's recommended in the Comp Plan. These sub-districts would be established upon a rezoning that would come in in the Plan as mentioned earlier. There is a zoning concept that is provided that provides... gives us an idea of how the sub-districts would apply to the land use plan that is recommended. And that I guess is good information then to inform citizens and property owners as to what potential that might happen on different properties. This zoning district is a little different than the P-TND district in that there's no minimum gross tract size. Looking at the Courthouse area you have a lot of smaller properties so requiring one larger consolidation of properties might be more difficult and make it more prohibitive for this zoning district to actually happen. So there's no minimum tract size. Also an important thing to note, there is no maximum residential density in this zoning district. The code... actually it does list minimum densities based on unit type and all those densities basically correspond with the Urban Development Area densities that are recommended in the State Code and recommended in our Comprehensive Plan. Those densities go by the unit type so for single-family detached units you need to meet the four dwelling unit per acre requirement. For townhomes there's a six acre per unit minimum and for multi-family units, 12 units per acre and a minimum floor area ratio of 0.4 FAR for commercial development.

Ms. Kirkman: Excuse me, could you explain that? Do we have any other land use district that has no maximum density?

Mr. Zuraf: No we do not.

Ms. Kirkman: And... so that means that with this land use designation there's the right to build as many units as you want.

Mr. Zuraf: If the zoning was approved that way.

Ms. Kirkman: If the zoning was approved...and in the Comprehensive Plan for the Urban Development Areas didn't we recommend...when it was adopted weren't there maximum densities included?

Mr. Zuraf: Basically the Comprehensive Plan recommends a level basically at that four, six and 12 dwelling units per acre. So it's almost worded where the minimum is the maximum so...

Ms. Kirkman: Right and I remember those discussions about the minimum equaling the maximum.

Mr. Zuraf: And so just setting... well, setting one number at... basically just setting a maximum at that number that would be very difficult then for development to achieve that actual density you know at the four, six and 12. And we believe that the other design criteria, the maximum building heights, the parking requirements, open space requirements, all those other design features and design requirements, those things alone will act to really limit the ultimate density that would... could really occur on a property.

Ms. Kirkman: But in approving this ordinance neither... or recommending approval... neither the Planning Commission or the Board in adopting this would know what the ultimate maximum development potential could be if there's no maximum density.

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Mr. Zuraf: Well, typically when a zoning request comes in that type of information is provided and often through proffers the developer would typically proffer a maximum number of dwelling units and that's something that can be evaluated through the rezoning process.

Ms. Kirkman: The voluntary proffer process.

Mr. Zuraf: Right.

Ms. Kirkman: So there's no ability of the Board to impose a limit if that limit does not exist in the Zoning Ordinance itself.

Mr. Zuraf: Well, it would... there's the limit that can be measured against the Comprehensive Plan so you do have the Comprehensive Plan as a...

Ms. Kirkman: But my colleague established earlier that's a guide and not prescriptive.

Mr. Zuraf: But the Comprehensive Plan is one of the tools in determining whether a proposal would, you know... is in conformance or not and can be a basis for a denial of a request.

Ms. Kirkman: Thank you.

Mr. Rhodes: Other questions?

Mr. Zuraf: Computer please.

Mr. Rhodes: Thank you.

Mr. Zuraf: Okay so... I think we went over a lot of this, the other design criteria and the Comp Plan would kind of serve as a guide for evaluating the rezoning cases against what density is ultimately proposed and under a rezoning request to this district. The district also does include graphic illustrations which is a little different than other districts that we have. It more clearly represents some of the intent of some of these regulations. Two of the images are some of the images that illustrate some of those representations. On the left is a building that reflects transparency. There's a... one of the requirements is... establishes the maximum or minimum amount of transparency which is basically the amount of windows and openings that are required along the façade. It's more of a design feature, a design guideline feature, and then blank wall area that might be required along a façade. Also, there are use and intensity standards in this district. There are tables included in Section 28-39 under Special Regulations for this district that would list permitted and conditional use permit uses. And they are listed out by sub-district through a matrix table. Also, the district does include some unique parking standards, standards that are unique from other districts. There are also some provisions for some parking requirements to be reduced and there are some standards for bicycle parking which is similar to what we have in the P-TND district. Now regarding landscaping, transitional buffers are required around the perimeter of the district. Many of the development standards are based on the type of use as they relate to building setbacks; lot width, lot coverage and façade regulations within the Zoning Ordinance. There are several illustrations on the different uses and how those setbacks are applied. In this district there are no neighborhood design standards that you have in the P-TND district. A lot of these standards basically would apply and serve as the design standards in this case. Building height is

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based on uses and sub-districts. For example, for apartment buildings, three stories is the limit in the UD-3 and 4 sub-districts, but you have a five-story max in the UD-5 district. For a general commercial building you have a three story max in the UD-4 sub-district but five stories in the UD-5 sub-district.

Ms. Kirkman: Excuse me, could you translate what that means in feet?

Mr. Zuraf: Yes, there are also... the ordinance identifies equivalent feet for those and...

Ms. Kirkman: Do you cover that later in the presentation?

Mr. Zuraf: No. For the apartment building, the maximum height for three stories is 50 feet; for five stories 65 feet. For apartment buildings... for general commercial buildings in the UD-4 district...

Ms. Kirkman: Could you tell me what page you're on?

Mr. Zuraf: Page 19...

Mr. Rhodes: Under principal building height A.

Mr. Zuraf: ... in the ordinance.

Ms. Kirkman: Okay.

Mr. Rhodes: So stories then /feet.

Mr. Zuraf: So you have stories and then it does have equivalent maximum feet for the structure.

Ms. Kirkman: So 50 feet and 65 feet?

Mr. Zuraf: 65. And for the general building that's on page 21, 40 feet and 65 feet.

Ms. Kirkman: What zoning districts do we have now in the County that allow building heights for that?

Mr. Zuraf: The B-2 zoning district allows 65 feet. I think the B-3 also is... is B-3 65 feet as well?

Mr. Harvey: I believe so, as well as the industrial zones, our RBC zone allows 120 feet.

Mr. Zuraf: And the residential districts R-1 is like 35 feet but then R-2 and R-3 I think those go up similar to the 50 and 40... I'm not certain what those are.

Ms. Kirkman: Okay, thank you.

Mr. Zuraf: Some of the other standards that are unique to this district are... what are referred to as build-to zones. They basically describe the minimum and maximum setback ranges for buildings in this area. So, basically that would ensure a more urban setting so buildings can't be set back too far and ultimately end up just being more of like a typical suburban development where you might have

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parking that could fit in front of that building. So you have smaller setback and maximum setback requirements actually established. Also with buildings there are some specific floor height requirements for internal to the building and then the façade transparency and blank wall area requirements which are more getting to the design of the building. This district also includes street standards. There are specific dimensional street standards established that promote narrow urban street types. There's a whole catalog of street types that are provided in the ordinance and these streets and the dimensions do conform to the VDOT State Secondary Road Standards. And the dimensional standards are illustrated; here's one example for a neighborhood local street which identifies the required lane widths, parking widths for on-street parking and planting and sidewalk areas that would apply. In this case and this district, each project would be based on its individual merit; somebody coming in to rezone to this district. Requests for this district would need to be measured against recommendations in the Comprehensive Plan. The proposal does serve to implement the adopted Courthouse UDA Plan and staff recommends approval contingent on adoption of the Courthouse UDA Plan. We'll take any questions at this time.

Mr. Rhodes: Questions of staff? Mrs. Hazard?

Mrs. Hazard: Just one general one. Just to clarify, even though this is tied to the passage of the small area plan, this UD District is not the Courthouse UD district. It can be applied to any of the UDAs. It doesn't have to but the concepts were pulled from the Courthouse. Is that correct?

Mr. Zuraf: Right. Yeah, the concepts were based on the Courthouse and so that in the future say if other small area plans are developed that might lead to some evaluation of this district and maybe need to make further modifications. Maybe to create additional sub-districts so this can be applied to other Urban Development Areas.

Mr. Rhodes: Okay. Mr. Apicella?

Mr. Apicella: Mr. Chairman, can you explain for the layman what form based code is? How it's different than the traditional way of doing business and how it would work here; maybe an example might help. Mrs. Hazard mentioned that before it's a good way to understand (inaudible).

Mrs. Hazard: Us visual learners.

Mr. Zuraf: Well, I guess the current... I guess you know the typical suburban type of zoning is kind of referred to as Euclidian zoning where you have zoning that is based on the... more so on the use. So it's a... you have residential uses, commercial uses, industrial uses and, you know, never shall the two meet. And you'd have buffering that is required between the different uses. Typically there are minimum set back requirements; there are no maximum setback requirements. You might have parking areas you know given the parking requirements, parking areas will typically surround the use and so the standards basically get at separation of uses and making sure there is enough parking and open space. With form based zoning it I guess worries less about the use of the building but more of what the building looks like and how it functions and the design of the building regarding establishing height restrictions, setback restrictions and... but whether if there's... it's mixed with retail and office or if it's only office or retail and residential, that's less of a concern. I don't know if that answers your question.

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Mr. Apicella: Somewhat. Can you just from a planning expert's perspective what do you see are some of the primary pros and cons of form based code?

Mr. Zuraf: The pro of form based code is that it provides I guess a little more flexibility in how a building might be used. It promotes more pedestrian accessibility in allowing more of a mix of uses so people can potentially actually live within walking distance of where they might work and may not need a car. It consolidates use, it allows maybe some higher density of uses and concentration of uses so I guess on a larger scale it might provide more... ultimate of environmental benefit in that you're concentrating more development in a smaller area as opposed to sprawling out. As far as negatives, do you have any negatives Jeff?

Mr. Harvey: Well, mainly related to the newness of the concept for Stafford County. Will development embrace this concept? Will we see people that will want to move forward with form based code developments? We don't know. Also from the zoning administration side, looking at as of uses change in the projects and also we see complaints from residents, we get all the time with all the types of development so and so my neighbor's doing this or not doing that. How is that going to get enforced? We haven't experienced that yet so it'll all be a new trial for us.

Mr. Apicella: So being new in Stafford has it been applied elsewhere in Virginia? And what has been their experience? In terms of it being a positive thing.

Mr. Zuraf: Yeah, there are several projects out there and you know a lot of them north of us but there are some on a smaller scale even south that's being developed around the courthouse in Spotsylvania. They've got basically a concept that's developing around their courthouse that's more of an urban scale. And Caroline... there's Ladysmith Village; it's maybe more of a lower density but that's kind of on that same concept of more pedestrian accessibility and... but then other locations further to the north you have it happening on more of an urban scale. To a higher degree in areas like Ballston and Arlington, areas like Reston that have been around for a while so there's... I hear good things about them but maybe our planning consultant can speak more to that.

Ms. Rhoadside: Perhaps one of the oldest form based codes that's very successful has been along Columbia Pike in Arlington County which was an older mixed use area and has, since the adoption of the form based code, has encouraged many millions of dollars of development to happen. One of the advantages of form based code is that for many, many years when communities participated in the planning process and said we would like the community to look like this and they envisioned a community of the future, the zoning that was in place never ensured that what you were going to end up with was what you were envisioning in the beginning. And so the major attempt at form based code and the reason that form based code was originally adopted was to set standards that would be form standards and functional standards that would encourage people to walk more and live in a comfortable way in some greater density than they had in the past, etcetera, but in a way that you could envision and direct in your zoning so that you had fewer unexpected outcomes so that you can predict more accurately what the end product will look like from the beginning.

Mr. Rhodes: Any other questions?

Mr. Apicella: I'm sorry, just a couple more.

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Mr. Rhodes: Yes, please.

Mr. Apicella: I'm sorry to labor this.

Ms. Rhodaside: No, go right ahead... labor it.

Mr. Apicella: Was there a model or a template that you used in developing the specific ordinance that's before us?

Ms. Rhodaside: The people who developed this were Code Studio. Code Studio... I believe... I don't know if you all had met Leon Swyler from Code Studio. Code Studio is a company that has worked throughout the country on zoning, including various forms of form based code. And so they are very adept and experienced at understanding the various implications of requirements. And they spoke and coordinated very carefully with the staff in Stafford to understand the county's needs and then adopted... adapted their knowledge of form based to Stafford County.

Mr. Apicella: Okay, and just one last question for both the consultant and the staff. Based on your experience and your knowledge and ultimately what we're trying to get out of this, do you think it's a good product and good policy for Stafford County?

Ms. Rhodaside: Oh I think it's...

Mr. Apicella: In alignment with the whole UDA regime.

Ms. Rhodaside: I think we feel very comfortable with it and we think it is a good option. Particularly in Stafford County where you've already been trying form based. And this is sort of a refinement of some earlier attempts that the County has made at form based code.

Mr. Apicella: Okay, thank you.

Mr. Rhodes: Other questions?

Ms. Kirkman: Ma'am...

Mr. Rhodes: Ms. Kirkman?

Ms. Kirkman: ... if you could remain at the podium. That was Code Studio? How do you spell?

Ms. Rhodaside: Code Studio... c - o - d - e, Code Studio and they're based in Austin.

Ms. Kirkman: And among professional planners what are the critiques of either the theory of form based code or the actual implementation of it?

Ms. Rhodaside: The discussions in among planning practices are really which form based code to follow more than not. There are a range of approaches to doing form based codes; some are more rigid than others. The approach that Code Studio is suggesting for Stafford County is one of the least rigid approaches. It does not try to... it tries to dictate or the form itself, without getting into what should

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each building look like, what should a style be, etcetera, and there are some form based codes that actually get into that level of detail. And it's Code Studio's belief that that's something that needs to evolve over time with good designers, etcetera, but that there were certain parameters like setbacks, and lot width, and building height, and window treatments, etcetera, that are critical and other than those that there should be an allowance for free expression and design.

Ms. Kirkman: So you're saying there's no... among the planning community there's no critique of form based code versus more traditional kind of Euclidian zoning approaches?

Ms. Rhodeside: There's a lot of discussion about form based code versus Euclidian zoning. And the general trend at all the conferences and in the literature now is toward the form based approach rather than the traditional Euclidian approach because of the virgidity of the Euclidian approach and the fact that it has separated uses which in fact has allowed for the kind of sprawl that many communities are seeing right now.

Ms. Kirkman: Thank you.

Mr. Rhodes: Okay, other questions? Okay, thank you.

Ms. Rhodeside: Thank you.

Mr. Rhodes: I now open this to the public comment portion of the public hearing for item number 7, Amendment to the Zoning Ordinance dealing with the proposed ordinance that would amend the Stafford County Code by establishing a new Urban Development Zoning District. Anyone who would like to come forward to comment to the Planning Commission on this item may do so at this time. Seeing no one come forward I will close the public comment portion of the public hearing and bring it back to the Planning Commission for either any final questions of staff or direction or motion.

Ms. Kirkman: I do have a question.

Mr. Rhodes: Ms. Kirkman, please.

Ms. Kirkman: So if staff could explain again why it's not possible to put a maximum density in this ordinance.

Mr. Zuraf: I don't know if it's not possible, I guess the question is you know... if you just set it at the level of four, six, and 12 then development that occurs wouldn't meet the UDA kind of standard. I guess the question would be...

Ms. Kirkman: Why wouldn't it? If that's the standard in the UDA, why wouldn't it?

Mr. Zuraf: Likely, in our experience we rarely see projects that actually get to that maximum level and maximum density level. You know, if you have a maximum I think then they're going and developing right up to the max then there's the challenge of not going over that level and... but typically what we see in the other zoning districts is the projects that we see are typically not at that... they ultimately don't get up to that level.

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Ms. Kirkman: Well if they don't ultimately get up to that level then why is there a need for unlimited density?

Mr. Zuraf: I guess that... I guess getting right to that point would be a challenge given that all lots are different and conditions are different, as opposed to...

Ms. Kirkman: Well, if that's the concern couldn't it be addressed by putting a maximum density that includes some buffer over what the Comprehensive Plan has? So instead of four you have five, and instead of 12 you have 14?

Mr. Zuraf: Yes, that or a range and I guess the question is what level then do we set the cap at? We kind of kept it at that number because that's kind of where the Comp Plan was and we didn't propose any max that might be above what's recommended in the Comp Plan but... so that's I guess a question that we would have then is what maximum level of a range or cap do you set it at?

Ms. Kirkman: Thank you.

Mr. Rhodes: Other questions for staff? Will of the Commission? Mr. Hirons?

Mr. Hirons: Well we can sit here and stare all night but I'm ready to move forward on it so I'll go ahead and make a motion to recommend I believe it's...

Mr. Rhodes: Ordinance O12-01.

Mr. Hirons: ... recommend approval of proposed Ordinance O12-01.

Mr. Rhodes: There's a motion, is there a second?

Mrs. Hazard: I'll second.

Mr. Rhodes: Second, Mrs. Hazard. Comment by the motioner?

Mr. Hirons: I think some of the concerns that some of the folks are thinking about right now are probably fairly legit... I'm sorry, very legitimate. However, I think this gives us the tools to implement the plans and the visions of the UDAs; in particular, a vision very similar to what we just approved or recommended approval within the courthouse small area plan.

Mr. Rhodes: Okay. Thank you. Mrs. Hazard?

Mrs. Hazard: I guess similar comments I am encouraged by the implementation finally or at least some real solid discussion on the form based code that we have been talking about for a while. And this does seem to meet that. I do have some reservations and some of the comments about the density and the maximum. But I do believe it gives us a good framework to move forward and it does appear that certainly a lot of work was put into it that we would like to make sure that we get the benefit of what has been accomplished so far.

Mr. Rhodes: Thank you, other comments? Thank you.

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Ms. Kirkman: Mr. Chair?

Mr. Rhodes: Yes, Ms. Kirkman.

Ms. Kirkman: I'm going to oppose the motion. First, I want to express disappointment at the way in which this is being rushed through given the complexities of the legislation. Secondly, I hardly know where to begin given that we have an ordinance in front of us that allows unlimited density. That is what our county has come to. We're not talking about a limit of 25 residential units per acre, 60 residential units per acre, 200 residential units per acre; we're talking about no limit whatsoever. That's pretty incredible to me.

Mr. Rhodes: Okay, any other comments? With that I'll... all those in favor of the motion to recommend approval of the proposed Ordinance O12-01 signify by saying aye.

Mrs. Hazard: Aye.

Mr. Apicella: Aye.

Mr. Hirons: Aye.

Mr. Rhodes: Aye. All those opposed nay?

Mr. Fields: Nay.

Ms. Kirkman: Nay.

Mr. Rhodes: It passes 4 to 2. Thank you very much and thank you for all who came out for the public hearings and the portions of the discussions and stayed here and to the... Mr. Howard would have had us out much earlier than this but I have failed so it is late so thank you for being here with us. Having modified the agenda earlier to have taken care of the various reports and the minutes, we are now at the end of the session. I would like to take a little bit of time, this will be the last Planning Commission of 2011. And I know I had afforded Mr. Harvey the opportunity to circle back on some comments out of his Planning Director's Report and certainly would allow him to present those on behalf of himself and the staff, so Mr. Harvey.

Mr. Harvey: Thank you Mr. Chairman. I would like to first congratulate the Planning Commission on a job well done this year. The Commission's taken on a lot of cutting edge issues this year. We had the revision to the Comprehensive Plan which we tackled the UDA question and adopted UDAs. We were one of the first localities to certify and ratify an approved plan to the State. Also we've talked about form based code like we did tonight. We've adopted at least one form based code for a Redevelopment Area and we're looking at another one for the Urban Development Areas. And we've also talked a lot about TDRs this year which again, there's only one other locality in the Commonwealth that's adopted TDRs and we're potentially proceeding in that direction. Ultimately we'll see what the Board has to say about it but it's been a lot of good hard work on the Commission's part as far as I'm concerned. Mr. Rhodes said this will probably be that last meeting for Ms. Kirkman and Mr. Fields on the Planning Commission. Ms. Kirkman, thank you very much for your hard work on the Commission and all the good detailed questions you've asked over the years. I think that's

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helped the staff improve our reports as well as our presentations to the Commission. I think it's also helped the Commission and the general public get a better understanding of the various issues that have gone before the Planning Commission. I look forward to working with you in some other capacity in the future and I appreciate again the five years you've served on the Board of Zoning Appeals as well as the four years that we've worked with you on the Planning Commission. And likewise Mr. Fields, working with you over the last 12 years, eight on the Board and four on the Commission, I really appreciate your forward thinking and your philosophical view of sustainability. You've used that is I think and underpinning for all your discussions and decisions about various policy issues. I think it's very important that you keep that long range vision for the County in your deliberations and will carry that forward. Thank you.

Mr. Rhodes: Thank you Mr. Harvey. We will have two members who will not be here, I assume in January, so as has long been the tradition at least that I know of the last six years so I'm going to forward all the members for this final of the year to make any comments they'd like to make. But I'd like to extend that first to Mr. Fields and Ms. Kirkman. So Mr. Fields if you'd like.

Mr. Fields: Sure, yeah, this is an end of a long time, 12 years is a lot of time to be here. And...

Mr. Rhodes A long time.

Mr. Fields: A long time, a long long long time! But I can't even really begin to say what an honor and a privilege it's been to attempt to serve the best interest of the citizens of Stafford County. And most especially not to be parochial but the true honor is to serve the citizens of the George Washington District. I think that's the beauty of the system that has what we have is that in local government if you... even in a County at the size of Stafford now, you can get to know the people particularly over 12 years you get to know the people you represent. Either as the Supervisor or the Planning Commission, you get to know the land particularly for the purposes on land use decisions. You not only understand the people, you understand the land. You understand the soil and the topography and the water and the watersheds and what goes on and how it works. Most of all you get a chance to meet so many wonderful, tremendous, interesting, vital, caring, concerned people that live in your community. And no matter what you think... particularly if you run for office I can tell you... no matter how big you think your circle of people that you know is, you have no idea. It's about one-tenth of one percent of the people you actually live in the community with. You'll never get to know those people; very rarely will you get to know those people otherwise. And that has truly been a gift to me beyond measure to get to know so many people so you can understand life from so many different directions and perspectives. Particularly in a county, like a lot of counties in Virginia, we are blessed with an unbelievable richness of time and tradition. Certainly in areas, some of the areas that I represent, some of the families you know trace their European ancestors to the 1630's and the 40's and many of them of course are partly descended from the Potawamak tribe that lived here for thousands of years. Same people on the same land doing much of the same things. It's a treasure beyond estimation. And so that has been an incredible privilege. I would like to thank for 12 years, Mr. Harvey, all of the staff people I have worked with in Planning. I wish you know under... of course when I was on the Board I got to thank all of those people but over 12 years it's also been all the County Admin people, Utilities, Code, everybody. The Sheriff's Department, the fire department, I mean what a wonderful group of people and what amazing dedication they have. You know, it was always tough... budgets are tough and the County has taken a lot of... has struggled a lot through the economic times. It's remarkable that the work these people do. Remember you know in this kind of

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public service you know for the work you do you always make a compromise between the private sector and everybody that works for the County is choosing for some degree to serve the County over and above just their paycheck. Because believe me, the conditions and the paychecks are you know, I hope they're adequate but I would never claim that they're excessive or lavish as I'm sure that staff would readily attest to. I'd really like to thank in the departments, I don't want to leave anybody out but I've known... I've worked with Jeff for 12 years. We really started working together the day... from day one that I was on the Planning Commission. Particularly, Jeff and Mrs. Baker, Mr. Zuraf, and I'm not necessarily saying I'm casting blame in the plan... world of professional planning it is not an uncommon thing for people to work in the public sector and then transition to the private sector. I've always had a deep and abiding respect for those of you, particularly Mr. Harvey, Mrs. Baker and Mr. Zuraf, who have chosen to serve the community that your vision of planning and what your job is as a Planner is to serve the community and that you stuck with being with the County all these years when I'm sure at many junctures I'm sure you've all had probably many offers from the private sector and it's hard pressed in this region to find any of the Planners that have been in their jobs in the public sector that long. They've tended to move in a revolving door. So for that I think you're to be commended and congratulated and you've never gotten I think the credit you deserve for making those choices to serve the County like that. So I thank all of the staff you know the more time you've been on here the less you realize you know and the more dependent you are on those decisions and those choices. To all my colleagues on the Planning Commission, my former colleagues on the Board of Supervisors, again it's been a privilege and an honor to serve with all of you, the thoughtful, intelligent people who care deeply about the County. And I wish you all the very very best in the future and I hope that our lives are not separate and that they cross on some other process. Thank you very much.

Mr. Rhodes: Thank you very much Mr. Fields. Ms. Kirkman?

Ms. Kirkman: Yes, first and foremost I want to thank the constituents and residents in the Griffis-Widewater District who entrusted Supervisor Woodson and by his appointment me to the Planning Commission with the honor of serving you. I've done my best to do so and thank you. I also would like to recognize and thank staff, Planning, Zoning, Commissioner of Revenues office; it's really throughout the building who have worked to approach their jobs as a way to make a difference in the lives of the citizens of Stafford County. And finally I would also like to thank the many citizen activists who came before me, who stood with me, and who will come after me to speak truth to power and to stand up for what is right and just.

Mr. Rhodes: Thank you Ms. Kirkman. Mrs. Hazard?

Mrs. Hazard: Sure. I guess I would just like to say to all those who have served this year, it has been a great experience for me certainly learning from all those around us. I know that many of our discussions sometimes we have disagreed but I believe we all are moving towards trying to get a better product for the people that we serve. And I really do appreciate the dedication of serving on certain committees with several of you and also just the great discussions here. It's hard to... it sounds funny to end the year but also just to say to staff it has been a long year. We have really tackled some huge issues and believe me we couldn't sit up here every week and look at the issues that we do without the great background planning and responses to emails when I had questions. I truly appreciate your dedication as well.

Mr. Rhodes: Thank you. Mr. Hirons?

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Mr. Hirons: Mr. Fields and Ms. Kirkman, thank you, thank you for your service. I kind of whispered in Ms. Kirkman's ear a little while ago talking about the minutes or something. I said I know this is your last meeting for the time being but there's no real doubt you know politics and anywhere in particular here in this County is pretty fluid and knowing Ms. Kirkman's activism and will I don't doubt she may end up back up on this dais. I'm certain we'll hear from her down there in the well from time to time over the coming year and I look forward to it. Cecelia really... there's always struggles and there are a lot of disagreements but I think you've made this Planning Commission a better Commission, you've made me a better Planning Commissioner because you've always challenged it. As Mr. Harvey said you always ask the tough questions. I think all staff would probably agree you ask the tough questions and the end result is a better product for Stafford County, so thank you. Mr. Fields, thank you for your wisdom and years of experience. That has certainly helped. I've really enjoyed opportunities we've had to work together on a few committees. You most certainly have a lot of knowledge of the area, a lot of knowledge of the people and I really thank you for sharing that with us. You are one of the elders now by the way. We most certainly look forward to hearing from you from time to time down here in the well and perhaps back up here again, hopefully not because again you're one of the elders who's supposed to give us advice. So thank you, thank you both and thanks to staff for another year, we got another one to go. There will probably be many challenges to come over the coming 12 months.

Mr. Rhodes: Thank you Mr. Harvey.

Mr. Fields: Thank you Scott, if you'd said elder one more time I was actually going to come up, cut your mike off.

Mr. Rhodes: Mr. Apicella?

Mr. Apicella: Mr. Chairman... or Mr. Vice Chairman as the case may be... I just want to say as a short timer it's been a pleasure working with both Cecelia and Pete for these past few months and I really, from the bottom of my heart, thank you for your service to this Commission and to the County. Thank you. And also to the staff it's also been a pleasure working with you and I've learned a lot and hope to learn that much more over the coming year and hope you have a great holiday season.

Mr. Rhodes: Thank you Mr. Apicella. Certainly I know Mr. Howard is very... he's doing something good with his boys down at a soccer tournament opportunity that they are all able to participate in and it was an opportunity that came up that he couldn't miss. It's one of those things you can't miss in life but I know he was disappointed to not be here... certainly to be here to participate in the process but also to share some comments to all on the end. So, on his behalf I want to thank... I want to certainly target comments to the staff; just another amazing year and you know the challenges as Mr. Fields eluded to that it is tighter times and that means that you get more restrictions but you keep doing everything. You keep getting everything done and you are truly to be commended. I think we have a tremendous asset in the staff that we have here and as I've said before I think we've got a tremendous asset in the Director, in Mr. Harvey; you do a phenomenal job there. You always provide a solid and steady leadership no matter what we're throwing at you and your staff does a great job. So thank you, thank you for all you do for the County. I certainly want to extend my personal gratitude, appreciation and thanks to Mr. Fields for your extended 12 years. I've only had interaction here for not all 12 of those but I've had a few opportunities back and forth. Especially for your thoughtful and reasoned approach to issues. Your depth of knowledge that you apply to all that you're doing and your

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commitment. Thank you, it has been truly a pleasure working with you these past four years and getting to know you during that time. So I thank you for all you've done. And then for the eight years prior and just your general commitment that is represented by the fact that you would participate for that extended time. And I know Mr. Harvey would send those same exact thoughts... I mean Mr. Howard. Ms. Kirkman, thank you for the energy and the commitment that you put in to all that you're doing and the time and effort that is clearly evident in every time you come forward here. The extreme preparation that you put into what you do and your commitment and passion that's into that and it makes everyone better just as Mr. Harvey mentioned. And I know Mr. Howard would want me to share those same thoughts as well when I talked to him a few days ago so thank you for that. I know we'll be seeing all again. And to all the peers here, you know the interesting dynamic is the fact that you know it keeps changing. And that's it and I think the last thing I'll comment on is what... is alluding to a building on a comment of Mr. Fields and that is that it is about making the County better. We are not individuals that were elected; we are individuals that were appointed. Appointed with the thought and the intent that we would be the individuals to help represent the citizens of the various districts and help make the County as a whole grow better within the construct that we're supposed to be working in. And so we certainly have a privilege here to be able to take forward that opportunity. So for however one will tend to spend them and enjoy them and celebrate them, I wish everyone the most wonderful of holiday seasons. And thank you all for all you're doing and I look forward to seeing you back here in 2012. Call it adjourned!

ADJOURNMENT

With no further business to discuss the meeting was adjourned at 11:27 p. m.