

STAFFORD COUNTY PLANNING COMMISSION MINUTES

October 24, 2012

The meeting of the Stafford County Planning Commission of Wednesday, October 24, 2012, was called to order at 6:33 p.m. by Chairman Michael Rhodes in the Board of Supervisors Chambers of the County Administrative Center.

MEMBERS PRESENT: Rhodes, Hiron, Apicella, Boswell, Hazard, Gibbons, and Schwartz

MEMBERS ABSENT: None

STAFF PRESENT: Harvey, Bensten, Zuraf, Blackburn, and Knighting

DECLARATIONS OF DISQUALIFICATION

Dr. Schwartz he would abstain from the discussion and vote of item number 5 because he could be seen as a conflict of interest.

PUBLIC PRESENTATIONS

Mr. Rhodes opened the public comment portion of the meeting.

Paul Waldowski stated he always wondered what he would bring to present to the Planning Commission. On his way to the meeting, he saw 89 acres of land zoned A-1 across from Augustine, and it would be interesting to see what the County puts there. Maybe the County could get 480 condos, class A of course that were HOA centric so that the Garrisonville District would become an HOA. He mentioned he was present on a fact checking exposition because he did not believe in the facts. Too bad the Tigers sleep and the Yankees weep. The Board of Supervisors was elected and Planning Commissioners were selected. He stated we were not making any more land, we can make cars, products, we can do all kinds of stuff, but you cannot make any more land. In 1960, the Stafford County Population Census was 16,876, and in 1970 it was 24,587. In 1974, Stafford High School was built and now we are going to bulldoze that down, maybe we will get the voters to decide on that. The 1980 population census was 40,480, which was the first time that the County's population had more than doubled in 20 years. In 1981, North Stafford High School was built, so there were 2 high schools with only 40,000 people. The 1990 population census was 61,236 and in that decade Brooke Point opened in 1993 and Colonial Forge became a high school. Now, there were 4 high schools within the County. In 2000, the population was 92,446, which was another time that the population more than doubled from 1980 to 2000. In fact, the population had more than doubled the last 50 years, every 20 years since 1960. In 2005, Mountain View High School was built and of course the 2010 Census came about on September 21. He did not want to forget about the 2000 census because that was whengerrymandering began in the County, when we did not use the variance. When we finally got the tools to do some of those aspects, the cell blocks moved, so anyone listening from the School Board, if you live somewhere, that was how the lines were drawn for that aspect. In July 2011, there was an estimate that the population was 132,000. He hoped the County did not build anymore sidewalks to nowhere.

With no one else coming forward to speak Mr. Rhodes closed the public presentation portion of the meeting.

PUBLIC HEARINGS

Planning Commission Minutes
October 24, 2012

1. 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 forestal 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 encourage increased densities in the designated receiving area that can better accommodate this growth.

Proposed Ordinance O12-02 would amend Stafford County Code, Section 28-25, Definitions of specific terms; Section 28-35, Table 3.1, Table of Uses and Standards; and create a new Table 3.1(a) entitled Standards for Transfer of Development Rights (TDRs). Proposed Ordinance O12-02 would also adopt and enact Stafford County Code Article XX, entitled Transfer of Development Rights, which would include Section 28-354, Purpose; Section 28-355, Applicability; Section 28-356, Right to transfer development rights, general provisions; Section 28-357, Sending properties; Section 28-358, Receiving properties; Section 28-359, Calculation of development rights; Section 28-360, Transfer of development rights sending property development limitations; Section 28-361, Sending property certification; Section 28-362, Instruments of transfer; Section 28-363, Transfer process; and Section 28-364, Development approval procedures. In conjunction with the proposed ordinance amendments, the sending and receiving areas for the TDR program are also proposed to be designated in the Comprehensive Plan ("Plan") on the proposed Sending and Receiving Areas Map, which is also a part of this advertisement.

Proposed Ordinance O12-02 would create definitions for the following terms: County Attorney; Determination of Development Rights Document; Development right or rights; Extinguishment of development rights; Receiving area; Receiving property; Retire; Sending area; Sending property; Transfer of development rights (TDRs); Transferable development rights; Transferee; Transferor; Transfer of Development Rights (TDR) Certificate; Urban Development Areas (UDAs), and Urban Services Areas (USA); and would amend the definition of Director. **(Time Limit: November 18, 2012)**

2. Amendment to the Stafford County Comprehensive Plan ("Plan") - A proposal to amend the Plan dated January 17, 2012 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 proposed 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 land designated as the Courthouse Urban Development Area as the receiving area for Transfer of Development Rights. The proposed amendment further describes sending areas as properties zoned A-1, A-2, comprised of existing separate or contiguous parcels that are: (1) twenty (20) acres or larger in size and designated as Agricultural/Rural land use on the Land Use Map in the Plan, or (2) parcels two acres or larger in size and designated as Park on the Land Use Map in the Plan, and (3) in existence on the effective date of the TDR Ordinance. Under the proposed amendment, the sending areas could send up to 913 development rights to the receiving area (Courthouse

Planning Commission Minutes
October 24, 2012

Urban Development Area). The text of the Plan is also proposed to further describe receiving areas as properties which are in the A-1, R-1, PD-1, PD-2, P-TND, or UD zoning districts. For non-residential purposes, the proposed amendment provides that one (1) residential development right severed from a sending area will be deemed the equivalent of the right to construct up to three thousand (3,000) square feet of commercial space in a receiving area, provided that commercial uses are allowed in that receiving area. **(Time Limit: November 18, 2012)**

Mr. Harvey gave the presentation for items 1 and 2. He stated the items dealt with Transfer of Development Rights. The County was considering adopting a Transfer of Development Rights program within a portion of the County pursuant to the recommendations of the Comprehensive Plan. He stated the Comprehensive Plan stipulates that the County should establish a Transfer of Development Rights program. The Commission was to consider proposed Ordinance O12-02, which would amend the County Code and create new definitions, modify permitted uses, and create new zoning regulations to establish a Transfer of Development Rights program. The definition of Transfer of Development Rights was when someone had development rights ascribed to their property based on their existing zoning. An individual could choose to sell those development rights as a commodity but still keep their land in its present agricultural or forestal use. So, they would have the ability to sell the development rights to build future homes to another person who had property in a designated target area where we want to see this type of growth. The individuals that were selling their development rights were located in the sending area and the individuals that would be taking those development rights and building on those properties were in a designated receiving area. He gave a brief overview of the flow chart of the TDR process. The number of development rights would be determined by a standardized formula.

Mrs. Hazard asked under the proposal the Commission had before them, if the deed restrictions or covenants underlying that particular parcel were examined. Mr. Harvey stated it would be in a form that was approved by the County. The County would have standardized forms for deeds, which staff would present to the landowner. Mrs. Hazard asked when examining the applications, were any restrictions examined as well. Mr. Harvey stated yes, they would be looking at title information with regard to power line easements, covenants that abide the use of the property that may or may not affect the ability for that property to be developed. Mr. Harvey gave a brief overview of the sending and receiving area maps and stated the proposed map generally depicts the area south of Aquia Creek, east of the CSX Rail Line, and north of Potomac Creek, that were designated as Agricultural/Rural and Park on the Plan's Land Use Map, as a sending area for TDR, and the land designated as the Courthouse Urban Development Area, as the receiving area for TDR. On September 4, 2012, the Board of Supervisors adopted Resolution R12-284, referring proposed Ordinance O12-02 and the proposed amendments to the Comprehensive Plan including a Sending and Receiving Area Map, to the Planning Commission. Specifically, the Board gave this recommendation for the Planning Commission to get a recommendation to approve or deny the draft proposal. He stated potential sending properties must be zoned A-1, Agricultural or A-2, Rural Residential, and be located in a sending area as designated on the Comprehensive Plan map; designated agricultural, rural, or park in the Comprehensive Plan; and be a separate parcel or contiguous parcels comprised of at least 20 acres, or designated as park comprised of at least two 2 acres. Potential receiving properties must be zoned either A-1, Agricultural; R-1, Suburban Residential; PD-1, Planned Development-1; PD-2, Planned Development-2; P-TND, Planned Traditional Neighborhood Development; or UD, Urban Development, and be located in the receiving area as designated on the map. From previous discussions, the primary zoning categories that are eligible for receiving these development rights currently in today's conditions were the A-1 and R-1 zones. Currently, in the receiving area there was not any planned development or urban development zoning categories in existence. The receiving properties would include in an assessment of the 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 a

Planning Commission Minutes
October 24, 2012

designated receiving area. The receiving area would be located within the Urban Services Area. TDR would be a by-right activity. As described in proposed Ordinance O12-02, no rezoning would be required to achieve higher densities. In order to accommodate TDRs, receiving zone densities would be increased. He stated the density of 3.0 to 6.0 dwellings per acre would accommodate single-family detached homes. The density of 5.0 to 8.0 dwellings per acre could accommodate townhomes. The density of 11.0 to 14.0 dwellings per acre could accommodate multi-family homes. Receiving zone densities would be increased for PD-1 and PD-2 zoned property to 12.0 dwellings per acre. Receiving zone densities would be increased to 15.0 dwellings per acre. With TDR, the densities would increase up to 7.0 dwellings per acre for single-family, 9.0 dwellings per acre for townhomes, and 15.0 dwellings per acre for multi-family. The receiving area capacity must be equal to or greater than the potential number of development rights that may be severed from the sending area, which would be 913 transferred development rights. Based on current estimates, it appears that when applying the increased densities as described above, the existing acreage in the receiving areas would accommodate the potential of 1,003 transferred development rights. He gave a brief overview of the key points of the ordinance features included in the staff report. Staff recommended approval of the Transfer of Development Rights ordinance and Comprehensive Plan amendments.

Mr. Hirons asked how many votes had the Planning Commission taken on TDRs. Mr. Harvey stated this would be the fourth opportunity for the Planning Commission to consider this issue. There had been 2 previous referrals by the Board and an option that was developed by the Planning Commission. Mr. Hirons asked what were the differences between what was currently before the Commission and what the Commissioners voted on previously. Mr. Harvey stated in the spring the Commission developed its own option and the option that was currently before the Commission varies in 3 or 4 specific areas. The receiving property under this proposal included A-1, Agriculture zoned properties, which in the Planning Commission proposal was only limited to A-2 zoned properties. The number of potential units that would come from the sending area to the receiving area also increased to approximately 913. The previous proposal was around 490. There was specific language in this current proposal that would stipulate that existing lots within the park area that are recorded are eligible for at least one development right and that was not clearly stated in the previous version. There were also adjustments to the density and receiving area based on the increased number of units that potentially could be sent. He stated those were the main differences.

Mr. Hirons asked how many acres of A-1 were in the receiving area. Mr. Harvey stated he did not have that number readily available but he would do some research and provide that to the Commission. Based on existing zoning, the A-1 designated property that currently was in the receiving area had more acres ascribed to it than the existing R-1 zoning that was undeveloped, that could receive units.

Dr. Schwartz stated the last time the Commission considered this issue there was a lot of discussion about this being a Pilot Program. Mr. Harvey stated the previous version was a concern of the Commission trying to limit the scope until staff saw this was operating effectively. At the Board level, there was more of a desire to have a broader scope to this particular TDR proposal.

Mrs. Hazard asked if the increase from 490 to 913 was because there was an increase to the A-1 district. Mr. Harvey stated the increase was due to the change to A-1 district. When staff looked at the previous numbers, those A-2 zoned lots that had been platted for a number of years were counted as one development right when calculated.

Mr. Rhodes opened the public comment portion of the public hearing.

Patrick Cody stated he wanted to thank the Planning Commission for their efforts because they had seriously taken up some of the suggestions the community had made. He delivered a short letter which consisted of a map with highlights of Crows Nest Harbour. He noted the blue heron nesting area was a

Planning Commission Minutes
October 24, 2012

priority and responsibility of theirs and they worked to buffer it, some of the neighbors help in way. He stated Crows Nest Harbour protrudes into the reserve into the east, so if that were developed the community had a concern that it would impact the quality of the reserve and public access. Alternatively, if Crows Nest Harbour was preserved they would get more buffering and the preserves would get more geographical integrity and the upper northwest portion. He stated Raven Road and Brooke Road were logical areas for adjunct, public access, camping, and many other things. It was persuasive to them to try to work hard to make it a success.

Nan Rollison stated she had concerns of why the sending properties only located in the Brooke district while the Brooke district had obvious natural resource reasons, the community want to conserve. This TDR program was both conservation and an economic tool, and to limit that ability of landowners to either conserve or develop using this tool, to only those in the Brooke district did not seem to be a good thing. If you are looking at this as a phased implementation program, she suggested including language that stated the program would be expanded to all districts of Stafford County in 1 to 2 years, so there would be a fine timeline and people in other districts would be able to participate. She suggested eliminated the ability to increase the density in the A-1 areas. Increasing A-1 density to allow transferred density rights did not make sense to her, and she believed the County would be circumventing zoning by using this. She suggested making relinquished rights on the sending properties in perpetuity so there would not be the possibility of in the future being able to rezone those same parcels and put development rights back on them. This was important because if the Commission was going to allow tax relief for the individuals that were relinquishing rights, that was funded by the public tax payers. She stated it was a good thing, but we want to make sure it stayed that way. She said the transfer rights processes to transferees should be as public as possible. Real estate tax abatement should be for a full development right not a fraction. Asking the tax payers to relinquish rights for a fraction of developments was too much for tax payers. Implement a provision where conserve sending properties would have restrictions on timbering so that those landowners that have forested parcels could not completely timber them, therefore creating erosion and deteriorating the whole purpose for conserving the property to blend with.

Paul Waldowski stated the Commission discussed 2 items and he believed when it was published he should receive 6 minutes. Many planners thought the TDR program was a way to take the politics out of zoning. Zoning was the first widespread attempt to balance individual property rights against the good of society. With TDR programs, the market values make land use and density allocations plus it compensates property owners whose development rights were limited in order to preserve some societal good, such as open space, farmland, historic preservation, or a large wilderness area like Crows Nest. This TDR program was being initiated and forced by the Board of Supervisors to make such preservation more credible and politically palatable by compensating Crows Nest Harbour lot owners who not only lost the right to develop their property because of no water, sewer, or road build out, but suffered monetary loss over the years. He stated UDAs had become optional on June 1, 2012 under House Bill 1721. So, designating this in the Courthouse UDA as a receiving area in a TDR Ordinance was not a good idea. Furthermore, residents of receiving areas may not want high density development in their neighborhoods. He stated he heard remarks that this was an issue, there were not any issues in this County they were all opportunities. The 5th Amendment of the U.S. Constitution stated, "Nor shall private property be taken for public use without just compensation." In theory, TDR programs could be easier to implement than typical zoning programs. They may develop more predictable in attempt to use the market to compensate land owners for a loss of property. TDR programs did not reduce the need for zoning. Zoning was the one thing that actually helped land ownership because it was one of the first measurements of citizenship in the United States. It was very complex to administer by a Commissioner of the Revenue. He reminded the Commission the word of the month was responsibility.

With no one else coming forward to speak Mr. Rhodes closed the public comment portion of the public

***Planning Commission Minutes
October 24, 2012***

hearing.

Mr. Apicella made a motion to recommend approval of Ordinance O12-02. There was no second.

Mr. Hirons made a motion to recommend denial of proposed Ordinance O12-02. Mrs. Hazard seconded the motion.

Mr. Hirons stated it seems the Commission had considered this before. His biggest issue was having A-1 land in the receiving area because the adjoining property owners in an area with A-1 had certain expectation of what would be developed next to them. It would be irresponsible for the Commission to adopt this measure with A-1 property located inside the receiving area. He stated he would really like to find a way that would enable the Commission to hear from the development community that they would actually make use or want to make use out of TDRs.

Mrs. Hazard stated over the past 3 years the Commission put a lot of time and thought in to develop some good recommendations to try and make this into a better program, and several of those recommendations were not followed. She agreed with Mr. Hirons in regard to the receiving areas. She had concern about the sending areas in general. She did not like creating a development right where there was not one currently available. She would like to see TDRs used in the County but this mechanism was not it. She would rather have more guidance of what the Commission was looking for in a TDR program than a specific drawing of a map. A lot of work was put into this and were not incorporated, so she would not be supporting this project.

The motion failed 2 to 5.

Mr. Apicella made a motion to approve Ordinance O12-02, with comments to the effect that the Planning Commission had concerns and strong reservations of the appropriateness and fairness of the inclusion of A-1 in the receiving area. Mr. Gibbons seconded the motion. The motion passed 4 to 3.

Mr. Apicella made a motion to recommend approval of the proposed TDR related Comprehensive Plan text amendment registering the same concerns with regards to the Ordinance. Mr. Gibbons seconded the motion. The motion passed 4 to 3.

3. Amendment to the Zoning Ordinance – Proposed Ordinance O12-29 would amend Stafford County Code, Section 28-35, “Table 3.1. District Use and Standards” by reinstating a lot width requirement for the A-1, Agricultural Zoning District. **(Time Limit: November 4, 2012)**

Susan Blackburn gave the presentation and stated the Commission was to consider recommending adoption of proposed Ordinance O12-29, to amend the Stafford County, Section 28-35, “Table 3.1, District Use and Standards” by reinstating a lot width requirement for the A-1, Agricultural Zoning District. She stated in June, the Board adopted Ordinance O12-17, which amended the Zoning and Subdivision Ordinances. During an internal review of the Ordinance, an editorial revision accidentally removed the lot width requirement for lots zoned A-1, Agricultural, in a non-cluster subdivision. After consulting with the County Attorney, it was decided that the revision was of a substantive nature and therefore an amendment to the Zoning Ordinance was needed to reinstate the lot width requirement. At the August 21, 2012 meeting, the Board of Supervisors adopted Resolution R12-253, referring proposed Ordinance O12-29, Lot width in the Agricultural District, to the Planning Commission to conduct a public hearing and make recommendations to the Board. She stated this Ordinance amendment was discussed in September and the Commission was in agreement that this was an important item that needed to be taken care of and the Commission voted to conduct a public hearing this evening.

Planning Commission Minutes
October 24, 2012

Mr. Rhodes opened the public comment portion of the public hearing.

With no one coming forward, Mr. Rhodes closed the public comment portion of the public hearing. Mr. Gibbons made a motion to recommend approval of proposed Ordinance O12-29. Dr. Schwartz seconded the motion. The motion passed 6 to 0 (Mr. Apicella was absent).

4. Amendment to the Zoning Ordinance – Proposed Ordinance O12-33 would amend Stafford County Code, Section 28-25, “Definitions of specific terms” to define the terms “Sign, off-premise directional” and “Sign, Place of worship.” The proposed ordinance would also amend Stafford County Code, Section 28-123, “Types permitted in A-1 districts;” Section 28-124, “Types permitted in A-2 districts;” Section 28-124.1, “Types permitted in R-1 districts;” and Section 28-125, “Types permitted in R-2, R-3, AND R-4 districts” to permit signs to support certain uses, including but not limited to places of worship, community, centers, marinas, golf courses, nursing homes, schools and similar uses, in the A-1, A-2, R-1, R-2, R-3, and R-4 Zoning Districts and establish regulations for those signs. **(Time Limit: November 7, 2012)**

Susan Blackburn gave the presentation and stated this item was to amend the Zoning Ordinance by the adoption of Ordinance O12-33, Section 28-25, “Definitions of specific terms” to define the terms “Sign, off-premise directional” and “Sign, Place of worship.” The proposed ordinance would also amend Stafford County Code, Section 28-123, “Types permitted in A-1 districts, in A-2 districts, R-1 districts, in R-2, R-3, and R-4 districts.” This was to permit signs to support certain uses, including but not limited to places of worship, community centers, marinas, golf courses, nursing homes, schools and similar uses, in the A-1, A-2, R-1, R-2, R-3, and R-4 Zoning. This particular request was a result of an inquiry from a pastor of a local church who wanted to relocate an existing sign. After review, it was discovered that the sign was non-conforming and was no longer permitted in the district. Staff also discovered that several uses mentioned as marinas, community centers, and golf courses that were actually approved as conditional use permits, also had lost this sign privilege. In 2009, the Zoning Code was amended concerning general advertising signs and they were the types of signs that were used for these uses. When the Zoning Code was amended one of the biggest issues was that it stated general advertisement signs would only be off premise signs and not on premise signs. The various districts that were affected were the A-2, Rural Residential, R-1, Suburban, R-2, Urban Residential, and the R-3 and R-4 Residential Districts. As stated, the types of uses were the golf courses the nursing homes and places of worship, anything that required a conditional use permit. She stated when this was brought to the Board’s attention, they also thought off premise directional signs should be included, and there were not any provisions for that in the Code. This was the type of sign that would be directing the public to general public places, such as parks, places of worship, something that the general public would be looking for. In this particular amendment, the signs would be 3x5 in size. The Ordinance included the number of signs and the height of signs that would be allowed. Staff tried to use existing signs, primarily subdivision signs that were already allowed in these types of districts and just transfer those sizes for the various types of business and activities that would be allowed by the conditional use. Advertising was considered an important of a business operating plan and signage was a recognized method of advertising and it was used to notify the public of new business or facilities and direct them to their locations. The Zoning Ordinance does devote an entire section to the regulations of signs and the provisions for signage should be available for all of the uses within a zoning district. She stated staff supported recommendation of the item to the Board.

Mrs. Hazard asked about electronic signs and how the Ordinance would impact that and if they were allowed in the districts previously mentioned. Mrs. Blackburn stated there was an entire section within the Zoning Code concerning electronic message signs and it governed all of the districts.

Mr. Rhodes opened the public comment portion of the public hearing.

***Planning Commission Minutes
October 24, 2012***

Paul Waldowski stated we had many new signs with no thru trucks that were non-conforming signs and the County cannot follow their own rules. We were so business friendly here that the businesses were made CUPs, which were not cheap and yet we have no business licensing here or B-Poll Tax, but we were going to come and regulate the sign aspect when businesses were depending on location. He stated in his opinion local government tried to do for public good, but sometimes there were so many regulations on what's going on that he was unsure if they had the good of the general public in mind. He stated the no thru truck signs were all over the place, especially Shelton Shop Road. North of Shelton Shop Road during school time of North Stafford School, there was a sign that had a caution sign that signaled you to slow down, but when you cannot see it because the trees block it, housekeeping in the County should be enforced.

With no one coming forward, Mr. Rhodes closed the public comment portion of the public hearing.

Mr. Gibbons made a motion to recommend approval of proposed Ordinance O12-33. Dr. Schwartz seconded the motion. The motion passed 7 to 0.

5. Amendment to the Zoning Ordinance – Proposed Ordinance O12-37 would amend Stafford County Code, Section 28-35, “Table 3.1. District Use and Standards” to allow medical and dental clinic uses by conditional use permit in the M-1, Light Industrial and the M-2, Heavy Industrial Zoning Districts. **(Time Limit: November 5, 2012)**

Susan Blackburn gave the presentation and stated this item was to consider recommending adoption of Proposed Ordinance O12-37 to amend the Stafford County Code, Section 28-35, Table 3.1 District Use and Standards to allow medical and dental clinic uses by conditional use permit in the M-1, Light Industrial and the M-2, Heavy Industrial Zoning Districts. She stated this particular Ordinance was also a result of a citizen inquiring to the Planning Department about locating a medical clinic in an industrial zoned district. Staff presented this possibility to the Board of Supervisors' Community and Economic Development Committee at the August 21, 2012 meeting. After discussion, the Committee proposed that, after a Conditional Use permit approval, medical and dental clinics be permitted in the industrial zoning districts and forwarded the proposal to the Board of Supervisors. At the September 4, 2012 meeting, the Board of Supervisors discussed the proposal and agreed with the Committee's recommendation. The Board adopted Resolution R12-289, requesting the Planning Commission to develop an amendment to the Zoning Ordinance allowing medical and dental clinics as a conditional use in the M-1, Light Industrial and M-2, Heavy Industrial zoning districts. The Commission discussed the proposed Ordinance amendment at the September 19, 2012 meeting and voted to conduct a public hearing this evening. She stated the zoning ordinance defined a medical and dental clinic as a building or group of rooms used for a medical, dental, or psychiatric practice offering medical services on an outpatient basis which may also include in-house diagnostic testing facilities, medical counseling services, internal surgery, general anesthetics, and similar services. There shall be no overnight stay or treatment. By the nature of it, this use was serving the general public, there could cause potential conflicts with many of the uses permitted in the Industrial zoning districts. The general business uses of an area developed area could be a tractor trailer storage yard, recycling facility or a welding and machine shop. Those normally would not be compatible with a medical or dental clinic. But the uses of a flex office space, a convenience center or store, and a restaurant, could possibly work well with a clinic. Because of this large variation in the uses permitted in the industrial zoning districts, reviewing each location and requiring an approval of a conditional use permit would take all of the items into account to ensure that the location was appropriate for the use. She stated staff recommended adoption of proposed Ordinance O12-37.

Mr. Hiron asked if there was a difference between flex office buildings that was located in M-1 that would be built in B-1 or B-2. Mrs. Blackburn stated not according to the zoning uses. Flex offices would be allowed in B-2 and M-1. Mr. Hiron asked if this were to proceed forward could a medical office be opened in any M-1 zone in the County. Mrs. Blackburn stated no, only with approval of a

***Planning Commission Minutes
October 24, 2012***

conditional use permit. That would allow for each location to be reviewed individually verifying it was an appropriate for that location.

Mr. Apicella asked what the standards were for approving or denying a conditional use permit request. Mrs. Harvey stated it was defined in the Zoning Ordinance as to what the standards of issuance of a conditional use permit were. On the staff report, staff listed the standards and provides narrative as to whether they comply with the standards or not. In general terms, one of the standards would be did it comply with the recommendations of the Comprehensive Plan. Other standards listed were would it adversely affect noise, dust, or smoke emissions, would it be compatible with the existing zoning pattern and other by-right uses in the area.

Mr. Gibbons asked about the price of a CUP. Mr. Harvey stated the application varied based on the acreage of the site, as well as the number of abutting property owners, but generally speaking, a conditional use permit application would be at a minimum \$10,000.

Mr. Apicella asked what would be someone's other route be to be able to accomplish the same results if they wanted to put a medical or dental clinic in an M-2 zoning district. Mr. Harvey stated the other avenue would be to reclassify the property to a commercial zone or an office zone. That would also entail a similar process with public hearings of the Planning Commission and Board of Supervisors. The application fee would be very similar. Mrs. Blackburn gave a brief overview of the standards listed in Section 28-185.

Mr. Rhodes opened the public comment portion of the public hearing.

Paul Waldowski stated psychiatry would be for the crazy ones in industrial and there was previous discussion about the drilling of the dentists, and the medical would be there for the welders who burn their hands off. He reminded the Commission of the CUP where they approved 65 feet on a new school building because the housekeeping was not done and the Impact Analysis was no one took into effect earthquakes, Hurricane Fran or Hurricane Isabel, when they approve CUPs they entice public safety and that was one of the key aspects of changing the Zoning Ordinance. He stated he loved Section 28-185 because of the factors of the adjacent land. The Commission substantiated his aspect about business friendly. Small businesses created jobs and medical and dental facilities should be located where they were needed.

With no one else coming forward, Mr. Rhodes closed the public comment portion of the public hearing.

Mr. Hirons asked if a doctor wanted to open an office in a flex office space that he was leasing from a building owner who would be the applicant for the CUP. Mrs. Blackburn stated both the applicant and the property owner would have to provide signatures. Mr. Hirons asked if that doctor's office was to fail or moved to a larger space, where would the CUP stand. Mr. Harvey stated a CUP was fixed as part of the zoning of the property, so it would continue to go along with the zoning of the property until the CUP was either expunged by a future action of the Board by revoking the CUP or some other change in the zoning. Mr. Hirons asked if it would be feasible to have an expiration condition on the CUP if the lease was terminated. Mrs. Blackburn stated that would be a question for legal staff. Mr. Benstein stated he was unsure if staff could list that as a condition, he would have to do some research. Mr. Hirons stated he did not feel comfortable with the idea of a medical office in the industrial zone, and therefore, made a motion to recommend denial of proposed Ordinance O12-37. Mrs. Hazard seconded the motion. The motion to deny passed 5 to 1 (Dr. Schwartz abstained).

6. Amendment to the Stafford County Comprehensive Plan ("Plan") – A proposal to amend the "Traditional Neighborhood Development Plan" element of the Plan, dated April 18, 2007,

Planning Commission Minutes
October 24, 2012

retitling the section “Neighborhood Development Standards Plan,” dated September 19, 2012, to incorporate traditional neighborhood and architectural design standards. The proposed amendment regarding traditional neighborhood development would apply to new development or redevelopment within area designated as Urban Development Areas and Redevelopment Areas on the Future Land Use map in the Plan. The proposed amendments regarding architectural design guidelines would be recommended for any new residential and/or commercial development inside the Urban Services Area that requires a zoning reclassification. The proposed amendment also recognizes form based code and special areas where the architectural design guidelines may not apply. The proposed architectural design guidelines would include standards for the design and construction of all types of residential dwellings; commercial, mixed use, and civic uses; signage; screening and landscaping; parking; and other amenities, including but not limited to, lighting. The proposed Neighborhood Development Standards Plan would not amend any other element of the Plan. **(Time Limit: November 14, 2012)**

Mike Zuraf gave the presentation and stated the Planning Commission was to consider an amendment to the Traditional Neighborhood Development Plan element of the Comprehensive Plan, to retitle that document to the Neighborhood Development Standards Plan. This would incorporate traditional neighborhood and architectural design standards into the Comprehensive Plan. He stated the Board requested that the Planning Commission provide recommendations on amendments to the Comprehensive Plan, specifically the Traditional Neighborhood Development Plan, to include architectural design guidelines. The Commission directed staff to incorporate as much public input as possible into the development of the Guidelines. This was accomplished through conducting a visual preference survey. The survey was made available during the last two weeks in July. The original TND Plan was developed as the basis for the eventual adoption of the P-TND, Planned Traditional Neighborhood Development Ordinance and provided design recommendations for development in these districts. Since its adoption in 2007, other planning efforts have occurred that further recommended and supported compact, urban, and traditional development patterns, including Urban Development Areas, Redevelopment Plans, Courthouse Area Plan, and RDA-1 and UD zoning districts. He stated the amendments to the TND Plan attempted to serve as a design guide for all of these compact development areas. The proposed Neighborhood Development Standards Plan would not amend any other element of the Plan. He gave a brief overview of the summarized Plan amendments. He stated staff recommended approval of the amendment to the Traditional Neighborhood Development Plan element of the Comprehensive Plan, as proposed in the Neighborhood Development Standards Plan. Staff believed the Plan conformed to recommendations of the recently adopted 2010 – 2030 Plan and would provide an additional level of guidance in the County’s effort to ensure a high-quality, lasting appearance of development in more compact areas of the County.

Mr. Apicella stated he did not see what the final site of TND was. He did not see any pictures or examples of TND developments. Mr. Rhodes suggested maybe that could be something for staff to consider should this item proceed forward to the Board. Mr. Apicella stated staff would not change the policy they would just add a few pictures. Mr. Zuraf stated he was unsure what particular image Mr. Apicella was referring to. Mr. Apicella stated it could be an aerial image. He did not see what the total image of what a Traditional Neighborhood would look like because he only sees the individualized pieces of it. It would help people better understand what it looked like if they had an image of it. He recommended modifications to include TND picture for context, add reference for where the information could be identified in all of the transect zones, and page 36 should have language added about parking structures that blend into the site to make it indistinguishable from the other uses.

Mr. Rhodes opened the public comment portion of the public hearing.

Planning Commission Minutes
October 24, 2012

Paul Waldowski stated neighborhoods that have schools were missing in this project because sometimes in neighborhoods there were existing schools, such as the 5 schools mentioned in a previous comment. He was glad to hear about vertical parking structures. He viewed this as a 21st Century HOA. Citizens need to be made aware of what they really get in the Traditional Neighborhoods because 22 years ago he was a lot more naïve than he was today, but his goal was to educate his children on land ownership to the best of his ability because he proved to them that it was the first measure of citizenship in the United States. He stated he was trying to show them that he had the passion to protect the rights of property owners because they always ask him how he reaped an economic gain. He lived within his economic means to get ahead. He expressed his support of local businesses but he frowned upon the local government who encountered citizen resistance like himself, from land use control in an attempt to provide for public good. The survey was not even close to 128,961 people. The surveys were all subjective and opinionated, not objective. He agreed with comments Mr. Apicella made.

With no one else coming forward to speak, Mr. Rhodes closed the public comment portion of the public hearing.

Mr. Apicella made a motion to recommend approval with the 3 modifications. Mrs. Hazard seconded the motion. Mrs. Hazard expressed her appreciation of the effort put into this project by staff and her support of it. Mr. Rhodes expressed his appreciation of the effort put into this project by staff and his support of it. The motion passed 7 to 0.

UNFINISHED BUSINESS

7. RC1100261; Reclassification – Celebrate Virginia North Apartments - A proposal to (1) amend proffered conditions on a portion of Assessor's Parcel 52-1, zoned RBC, Recreational Business Campus Zoning District, consisting of 36.79 acres, located on the south side of Scotts Ford Lane, 650 feet west of Celebrate Virginia Parkway and (2) reclassify from M-2, Heavy Industrial to RBC, Recreational Business Campus Zoning District Assessor's Parcels 44-90 (portion), 44W-2 (portion), 44W-2A, 44W-2B, and 44W-5E, consisting of 91.56 acres, located on both sides of Celebrate Virginia Parkway, 1,100 feet south of Banks Ford Parkway. The combined parcels, subject to the proffer amendment and reclassification, consist of 128.35 acres and are within the Hartwood Election District. **(Time Limit: December 18, 2012)**
(History – October 10, 2012 deferred to October 24, 2012)

Mike Zuraf gave the update and stated this item was a continuation of reclassification RC1100216, Celebrate Virginia North Apartments. This reclassification request was to amend proffered conditions on a portion of Assessor's Parcel 52-1, zoned RBC, Recreational Business Campus Zoning District, and reclassify from M-2, Heavy Industrial to RBC, Recreational Business Campus Zoning District Assessor's Parcels 44-90 (portion), 44W-2 (portion), 44W-2A, 44W-2B, and 44W-5E. A public hearing was conducted on September 19, 2012 and was continued to the next meeting on October 10, 2012. The Commission closed the public hearing and deferred the request to this meeting. He stated several issues were raised by the Planning Commission regarding the proposed secure housing and training facility. The Commission asked the applicant to provide more details on the length of courses and a profile on the length of time that instructors would be in the area. This information was not included in the mail out, but an additional memorandum was provided to the Commission tonight. He stated Commissioner Gibbons requested information from the Commissioner of the Revenue. Specifically, what the revenue would be for the housing and training facility. In response to this request, the Commissioner of the Revenue provided a memorandum on how they would view this type of use that would be considered multi-family but would be used as a training facility. Mr. Rhodes requested further direction from the Board on the proposed RBC Ordinance amendment since the

Planning Commission Minutes
October 24, 2012

Board took no action on the request to forward it to the Planning Commission. This information was not included in the mail out, but an additional memorandum was also provided to the Commission tonight. Mrs. Hazard noted there were new proffer guidelines that were being considered as a separate item, which may affect how this proposal was viewed. A memorandum from the applicant responding to staff comments regarding the evaluation of the request against the Comprehensive Plan was provided. The proposed ordinance, resolution, and latest proffers, dated October 9, 2012, were provided for reference.

Mr. Gibbons requested the Commission defer this item until the next meeting.

Mr. Apicella asked what staff's recommendations were in regards to the specific points listed in the applicant's letter. Mr. Zuraf stated when the Comp Plan was being developed it was outside of the Urban Services Area and during the evaluation a part of it became a part of the Urban Services Area. It became Suburban Land use Designation and the Suburban Land use Designation was very specific to the types of residential development was recommended in the area, which were only single-family detached housing.

Mr. Gibbons asked if there was a formula used for the tax assessment for Celebrate Virginia Apartments. Mr. Zuraf stated from his understanding there was a formula used. Mr. Gibbons suggested that be provided to the Commission.

Mr. Rhodes asked for the applicant to come forward.

Chris Hornung stated it was their intention that the RBC Amendment request would come to the Commission at the same time as everything else. They were unaware of the procedure or requirement that the Board initiate that action. It was unfortunate that the Board did not act on the request when they received it because he was unaware that the Board was considering it on that particular evening. From the standpoint of timing, the applicant would request the deferral because they have previously asked the Board to reconsider the request in November which would give the Commission 2 meetings to take the request into consideration. If that did not occur, then they would be aware that they would have to make a recommendation and could move forward as they were suggesting with an approval or denial with the modified conditions. He stated he would be willing, if the Commission was able to accept an extension on behalf of the applicant beyond their time limit.

Mrs. Hazard stated she would like to hear the thoughts of the Commission and she would be supporting the applicant's request of deferral. She would like to receive direction from the Board on the RBC zoning category change. Mr. Rhodes stated the Commission had the ability to act on this item regardless. He was more comfortable and supportive of the POD-I area and was less supportive of POD-H. Mr. Apicella stated the Board of Supervisors needed to inform them if they would like to open the RBC area to other uses. Although there was only 1 RBC, making that change may have future impact for apartments in an RBC. Mr. Gibbons suggested the Commission send a request stating their concerns to the Board. Mr. Apicella stated one option was for the applicant to consider withdrawing the request and resubmit it. Mr. Harvey stated the Code stipulated if the application was withdrawn the applicant would have to wait 6 months to resubmit the request and additional fees would occur. Mr. Gibbons suggested the Commission send a request to the Board of Supervisors. Mr. Apicella asked if there was a reason the Board would not be able to consider this request at their next meeting. Mr. Rhodes stated the Board was postponing their next meeting due to the election. Mrs. Hazard stated she would like to get the Commission's concerns to the Board so that they could consider everything. She suggested the Board of Supervisors give the Commission guidance on RBC, road work, and the proffers. The Commission wished to defer making a decision until they found out about the status of the proposed RBC Ordinance amendment to allow multi-family dwellings as a by-right permitted use in the district.

***Planning Commission Minutes
October 24, 2012***

Mrs. Hazard made a motion to defer this item to the November 14, 2012 meeting. Mr. Gibbons seconded. The motion passed 7 to 0.

8. Amendment to Subdivision Ordinance – Proposed Ordinance O12-11 would amend Chapter 22, Section 22-134, “Required Amenities” by allowing the option of posting securities for amenities prior to recording the final plat. Currently, the subdivision ordinance requires that private amenities be constructed prior to recording the final plat. **(Time Limit: January 8, 2013) (History – October 10, 2012 deferred to October 24, 2012)**
(Authorize for Public Hearing by: December 5, 2012)
(Latest Public Hearing Date: January 8, 2013)

Andrea Hornung gave an update and stated she presented proposed Ordinance O12-11 at the last meeting. The proposed Ordinance was to amend Section 22-134, “Required Amenities” by allowing the option of posting securities for amenities prior to recording the final plat. Currently, the subdivision ordinance requires that private amenities be constructed prior to recording the final plat. This would allow it to be an option and either the applicant could complete the amenities prior to the final plat recordation or post a securities at the same time with other infrastructure improvements. There were other localities that allow securities to be posted for the amenities at the final plat stage.

Mr. Apicella asked for a detailed explanation of posting securities. Mrs. Hornung stated an engineer would provide an estimate of the cost to construct an item, by State Code you would be allowed to add an additional 10 percent. The applicant could then post a bond in that amount plus 10 percent. Mr. Apicella asked Mrs. Hornung if she saw any issues with this and were there any unintended consequences. Mrs. Hornung stated there were issues in the past with the amenities not being constructed and then home owners were concerned when the amenity was constructed on their property without notification. She stated the Ordinance was written to state the amenity would be constructed prior to the first occupancy and then there would be full disclosure to the residents in that section of the subdivision.

Mr. Gibbons made a motion to forward this item to public hearing. Mr. Boswell seconded the motion. The motion passed 7 to 0.

9. Urban Development Areas - Discussion of Urban Development Areas to study the future applicability of Urban Development Areas in the County and identify any recommendations that should be considered for amending the Comprehensive Plan. **(Time Limit: January 2, 2013) (History – Scheduled a Committee Meeting at September 19, 2012 for October 10, 2012 at 5:30 p.m.) (Scheduled a Committee Meeting at October 10, 2012 for October 24, 2012 at 5:30 p.m.)**

Mr. Rhodes stated there were a few open questions, but the Commission would discuss those at the November 14, 2012 meeting.

NEW BUSINESS

None

PLANNING DIRECTOR’S REPORT

Mr. Harvey stated at the last Board of Supervisors meeting they approved the Walgreens rezoning on White Oak Road and the two Hilldrup zoning cases in the Griffis-Widewater District.

COUNTY ATTORNEY’S REPORT

Planning Commission Minutes
October 24, 2012

Mr. Bensten stated he had no report at this time.

COMMITTEE REPORTS

10. Proffer Guidelines

Mr. Harvey stated in regards to the Proffer Guidelines, the County Administrator's office was still trying to solicit available dates from Committee members.

Mr. Hirons stated he served as the Planning Commission representative on the ARB, and he recently started a new job and if the meetings remained on Mondays at 3:00 p.m., he would not be able to attend the meetings. Mr. Rhodes asked when they would be deciding on modifications of the meeting schedule. Mr. Hirons stated there was an ARB meeting scheduled for next Monday and it would mostly be decided then.

CHAIRMAN'S REPORT

Mr. Rhodes stated he had no report at this time.

OTHER BUSINESS

11. TRC Information – Meeting November 14, 2012

Andrea Hornung stated there would be a TRC meeting on November 14, 2012. She stated the items were Amber Oaks Section 1 in the Hartwood District. She stated the plan was previously approved as Richland Forest Section 4, for 23 single-family lots, zoned A-1, and consisted of 98.45 acres located near Marsh Run Estates, and for Grafton Village Elementary in the Falmouth District, for a 7,697 square foot addition with interior renovations located off Deacon Road.

APPROVAL OF MINUTES

September 5, 2012

Mr. Gibbons made a motion to approve the September 5, 2012 minutes. Mr. Boswell seconded. The motion passed 7 to 0.

ADJOURNMENT

With no further discussion, the meeting was adjourned 9:04 p.m.