

BOARD OF SUPERVISORS
Agenda Item

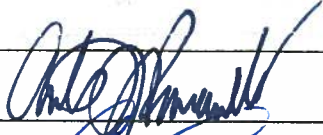

Meeting Date:	September 17, 2013
Title:	Amend Stafford County Code and the Comprehensive Plan Regarding Transfer of Development Rights
Department:	Planning and Zoning
Staff Contact:	Jeffrey A. Harvey
Board Committee/ Other BACC:	Planning Commission
Staff Recommendation:	Approval
Budget Impact:	N/A
Time Sensitivity:	N/A

ATTACHMENTS:

1.	Background Report	6.	Eligible Sending Parcels Map
2.	Resolution R13-199	7.	Eligible Receiving Parcels Map
3.	Planning Commission Minutes dtd 8/28/13	8.	TDR Process Flow Chart
4.	Proposed Comprehensive Plan Amendment	9.	Proposed Ordinance O13-48
5.	Sending and Receiving Areas Map	10.	Proposed Resolution R13-267

Consent Agenda		Other Business		Unfinished Business
Discussion		Presentation		Work Session
New Business	X	Public Hearing		Add-On

REVIEW:

X	County Administrator	
X	County Attorney	

DISTRICT:	Aquia, Garrisonville, and Hartwood
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BACKGROUND REPORT

The Board is asked to consider amendments to the Zoning Ordinance and Comprehensive Plan (Plan) regarding Transfer of Development Rights (TDR). The concept of TDR is discussed in the Plan. Objective 1.6 of the Plan specifies that mechanisms should be established to preserve and protect agricultural and rural areas from development. Policy 1.6.1 states that the County should establish a TDR program. The program should establish areas outside of the Urban Services Area (USA) to be designated as "sending areas." Areas within the USA may be designated as "receiving areas." TDR is a voluntary program for land conservation. Participating properties within sending areas sever development rights and the land is conserved by restrictions that prohibit land development. The severed development rights may be sold and applied to development projects in the receiving areas to increase development densities.

Ordinance O13-21, adopted by the Board on February 19, 2013, identifies administrative procedures for a TDR program. It establishes eligibility criteria for properties in the program, and a process for reviewing applications and determining the number of development rights for any potential sending area property. A process is created to sever development rights, and track development rights, through the use of development rights certificates. Zoning categories for receiving areas are also identified and expanded density ranges are identified for potential receiving properties. Proposed Ordinance O13-48 modifies the existing TDR Ordinance by expanding the number of properties eligible to participate in the program within both the sending and receiving areas. The flow chart (Attachment 8) outlines the TDR process.

Upon adoption of the TDR Ordinance, the County received comments from landowners that the Ordinance, when implemented, may not be applied as widely as intended. The Board, at its April 9, 2013 meeting, requested that the Planning Commission make changes to the TDR program. This request was formalized at the June 4, 2013 Board meeting, when Resolution R13-199 was adopted, requesting that the Planning Commission prepare amendments to the Zoning Ordinance and the Plan for the TDR program. The Planning Commission conducted a public hearing on the amendments at its August 28, 2013 meeting.

Proposed Ordinance O13-48 identifies changes to the administrative procedures for the TDR program, as outlined below:

Sending Areas

Parcels located within the sending area that are eligible for the TDR program, would be expanded to include those parcels that are located within an area designated as Park on the Land Use Map in the Plan, are a minimum of two (2) acres, and were originally created as a building lot. Such parcels would be entitled to a minimum of one (1) development right. This expansion of eligible parcels will effectively add the parcels of the platted Crow's Nest Harbor subdivision into the TDR sending area. Attachment 6 highlights the parcels that are potentially eligible to sever development rights. Many parcels outside of Crow's Nest Harbor are too small, by themselves, to be eligible to sever development rights. However, if those parcels are combined with other parcels to comprise the minimum 20 acres, under the same ownership on the date of application, then they may be able to sever development rights.

Receiving Areas

The boundaries of the designated receiving area would be those of the Courthouse Redevelopment Area (RDA) (approximately 1,900 acres). Zoning Districts within the receiving area that are eligible to receive development rights would also be expanded to include R-4, Manufactured Homes and B-3, Office Zoning Districts. Increases to Floor Area Ratio (FAR) and allowing multi-family residential use would be permitted within the B-3 Zoning District, at up to fifty percent (50%) of lot coverage, to accommodate mixed office/commercial, and residential projects. Development densities within the R-4 Zoning District could be increased up to fourteen (14) dwellings per acre to accommodate townhouses and multi-family dwellings. The proposed Ordinance would also clarify the density in the A-1, Agricultural Zoning District by correcting a clerical error in Table 3.1(a) (adopted in Ordinance O13-21) and setting the A-1 receiving area density with the use of TDR at 2.25 du/acre, matching the density as provided in Table 3.1.

Virginia Code § 15.2-2316.2(B)(10) specifies that the capacity of a receiving area must be equal to, or greater than, the potential number of development rights that may be severed from the sending area. This means that the existing zoning districts within the receiving areas must, through the proposed increased density limits, be able to receive all of the potential development rights under current by-right zoning conditions without rezoning of properties. Based on current estimates, the sending area can sever a potential 1,236 development rights when applying the increased densities, the existing acreage in the receiving areas can accommodate the potential of 2,465 transferred development rights. This compares to 688 potential severed development rights from the sending area and 778 potential transferred development rights to the receiving area in the previous TDR ordinance. Attachment 7 highlights parcels that are potentially eligible to receive development rights. These properties are currently undeveloped or can be readily redeveloped.

COMPREHENSIVE PLAN AMENDMENT SUMMARY:

Proposed Resolution R13-267 modifies Chapter 3 of the Plan to incorporate amendments to the textual document and to adopt a new map entitled, "Figure 3.8, Transfer of Development Rights Sending and Receiving Areas Map" (Attachment 5). The proposed map generally depicts the area south of Aquia Creek, east of the CSX Rail Line and north of Potomac Creek, as a sending area for TDR. The proposed amendments further describe sending areas as (1) property designated as agricultural, rural, or park land(s) in the Plan; (2) located in the designated sending area on the Map; and (3) property zoned A-1, Agricultural or A-2, Rural Residential, and be separate or contiguous existing parcels, comprising at least twenty (20) acres, under common ownership on the date of application; or be an existing parcel, at least two acres in size, and designated as Park on the Land Use Map in the Plan. Under the proposed amendment, the sending areas could send up to an estimated 1,236 development rights to the receiving area. The proposed Map depicts the land designated as the Courthouse RDA as the receiving area for TDR. The text of the Plan amendment further describes receiving areas as properties, which are (1) located in the A-1, Agricultural; R-1, Suburban Residential; R-4, Manufactured Homes; B-3, Office; PD-1, Planned Development-1; PD-2, Planned Development-2; P-TND, Planned Traditional Neighborhood Development; or UD, Urban Development Zoning Districts; (2) located in the receiving area on the Map; (3) located within the USA; (4) designated as part of a RDA; and (5) included in an assessment of the infrastructure of the receiving area. The proposed amendment provides that one residential development right, severed from a sending area will be deemed the equivalent of the right to construct either one dwelling unit or up to three thousand (3,000) square feet of commercial space in a receiving area, provided that commercial uses are allowed in that receiving zoning district.

Staff recommends adoption of the amendments to the TDR Ordinance and Plan, pursuant to proposed Ordinance O13-48 and proposed Resolution R13-267. On August 28, 2013, the Planning Commission voted 5 to 2 (Mr. English and Mr. Hirons voted no) to recommend adoption of proposed Ordinance O13-48 and adopted Planning Commission Resolution PCR13-09, recommending approval of the amendment to the County's Comprehensive Plan.

R13-199

BOARD OF SUPERVISORS
COUNTY OF STAFFORD
STAFFORD, VIRGINIA

RESOLUTION

At a regular meeting of the Stafford County Board of Supervisors (the Board) held in the Board Chambers, Stafford County Administration Center, Stafford, Virginia, on the 4th day of June, 2013:

<u>MEMBERS:</u>	<u>VOTE:</u>
Susan B. Stimpson, Chairman	No
Robert "Bob" Thomas, Jr., Vice Chairman	Absent
Jack R. Cavalier	Yes
Paul V. Milde III	Yes
Ty A. Schieber	Yes
Gary F. Snellings	Yes
Cord A. Sterling	Yes

On motion of Mr. Milde, seconded by Mr. Cavalier, which carried by a vote of 5 to 1, the following was adopted:

A RESOLUTION REQUESTING THE PLANNING COMMISSION PREPARE AMENDMENTS TO THE ZONING ORDINANCE AND COMPREHENSIVE PLAN FOR THE TRANSFER OF DEVELOPMENT RIGHTS PROGRAM

WHEREAS, on May 21, 2013, the Board adopted Ordinance O13-29 as a key component of a Transfer of Development Rights (TDR) Program; and

WHEREAS, the TDR Program is comprised of provisions in the County Code and Comprehensive Plan; and

WHEREAS, the Board requests that the Planning Commission prepare amendments to the County Code and Comprehensive Plan for the TDR Program in accordance with the Board's directions below; and

WHEREAS, the Board finds that the public necessity, convenience, general welfare, and good zoning practices require such an ordinance; and

WHEREAS, the Board finds that such amendments to the Comprehensive Plan are consistent with and promote good planning practices;


NOW, THEREFORE, BE IT RESOLVED by the Stafford County Board of Supervisors on this the 4th day of June, 2013, that it be and hereby does request that the Planning Commission prepare amendments to the County Code and Comprehensive Plan for the TDR Program; and

BE IT FURTHER RESOLVED that the Planning Commission shall include the following in its amendments to the County Code and Comprehensive Plan for the TDR Program:

- Establish a minimum two-acre lot size for eligible sending properties in the area designated for Park Land Use in the Comprehensive Plan;
- Change the Receiving Area zoning densities to (1) accommodate potentially severed development rights with options to change the A-1, Agricultural Zoning District receiving zone densities to a maximum of 3.0 dwellings units per acre; (2) include the R-4, Manufactured Home Zoning District as a receiving zoning district; and (3) include the B-3, Office Zoning District as a receiving zoning district for mixed-use and commercial apartments;
- Expand the boundaries of the Receiving Areas; and
- Do not reduce the boundaries of the Sending Areas.

BE IT STILL FURTHER RESOLVED that the Planning Commission is requested to conduct a public hearing on its proposed amendments to the County Code and Comprehensive Plan for the TDR Program and provide its recommendations to the Board on such amendments to the County Code and the Comprehensive Plan by August 31, 2013.

A Copy, teste:



Anthony J. Romanello, ICMA-CM
County Administrator

AJR:JAH:afs/rmc

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6. Amendment to the Zoning Ordinance - Proposed Ordinance O13-48 would amend Stafford County Code, Section 28-25, "Definition of specific terms;" Section 28-355, "Applicability;" Section 28-356, "Rights to transfer developments rights; general provisions;" Section 28-357, "Sending Properties;" Section 28-358, "Receiving Properties;" Section 28-359, "Calculation of development rights;" and Section 28-360, "Transfer of development rights sending property limitations." (Time Limit: August 31, 2013)

7. Amendment to the Stafford County Comprehensive Plan ("Plan") - The Planning Commission will consider 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 one new map entitled Figure 3.8, Transfer of Development Rights (TDR) Sending and Receiving Areas Map. The proposed Sending and Receiving Areas Map generally depicts the area south of Aquia Creek, east of the CSX Rail Line, and north of Potomac Creek as a sending area for the TDR program and the proposed Map designates the Courthouse Redevelopment Area (RDA) as the receiving area for the TDR program. The proposed amendments describe sending properties as parcels which are: (1) designated agricultural, rural, or park in the Plan; (2) located in a sending area, as designated on the Sending Area Map; and (3) zoned A-1, Agricultural or A-2, Rural Residential on the Zoning Map, and be either (a) a separate parcel, in existence on the effective date of the Ordinance, that is at least twenty (20) acres; (b) contiguous parcels, in existence on the effective date of the Ordinance, comprised of at least twenty (20) acres, and under the same ownership on the date of the application; or (c) a separate parcel, in existence on the effective date of the Ordinance, that is at least two (2) acres and designated as Park on the Land Use Map in the Plan. Under the proposed amendments, the sending areas could send up to approximately 1,236 development rights to the receiving area and the receiving area could accept approximately 2,367 development rights. The proposed amendments describe receiving properties as parcels which are: (1) zoned A-1, Agricultural; R-1, Suburban Residential; R-4, Manufactured Homes; PD-1, Planned Development-1; PD-2, Planned Development-2; P-TND, Planned Traditional Neighborhood Development; UD, Urban Development; or B-3, Office; (2) located in a receiving area, as designated on the Receiving Area Map; (3) located inside the Urban Services Area (USA); (4) designated as part of a RDA; and (5) included in an assessment of the infrastructure in the receiving area to accept increased density and plans to provide necessary utilities. For non-residential purposes, the proposed amendment provides that one 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 the zoning district of the receiving area. (Time Limit: August 31, 2013)

Mr. Harvey: Thank you, Mr. Chairman. Please recognize John Harbin for the presentation.

Mr. Harbin: Good evening, Mr. Chairman and Commissioners. My name is John Harbin. This is item 6 and 7, Transfer of Development Rights, proposed Ordinance O13-48, Comprehensive Plan Amendment. Could I have the computer, please? For the purpose of this presentation we'll combine both of them. The background on this, that you are probably well familiar with, the Ordinance was originally passed February 2013. We received public comments to expand the TDR eligibility and so in response the BOS requested the Planning Commission to research and prepare amendments to the TDR program. And the June 26th meeting the Planning Commission voted to schedule a public hearing for amendments to the

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TDR. So the Ordinance amendments can be broken up into 2 categories, the first being the “sending area”. This amendment will expand eligible parcels to those that are designated as park on the land use map, that are a minimum of 2 acres in size and were originally created as a building lot. Such parcels would be entitled to 1 development right and this amendment would effectively expand the “sending” area, to include the Crow’s Nest Harbor neighborhood adjacent to Crow’s Nest Natural Area Preserve. It is estimated that the “sending” area with this addition could send 1,236 development rights.

So the second category of the Ordinance amendments apply to the “receiving area” for TDR. It expands it to the boundaries of the Courthouse Redevelopment Area. It adds R-4 and B-3 zoning districts to the list of eligible “receiving” zoning districts. It would set the A-1 zoning district density to...it would actually remain as unchanged and I’ll defer to Mr. Harvey to clarify on that point at this time.

Mr. Harvey: Thank you Mr. Harbin. The advertisement for this particular amendment referenced the change in density for the A-1 receiving zones from 5 units per acre to 3 units per acre. However the current adopted ordinance references 2 density figures – 2.25 dwelling units per acre and 5 dwelling units per acre for the A-1 receiving zones. And going back and looking at the minutes and the information in the staff report, it is clear that the Ordinance was intended to be adopted at 2.25 dwelling units per acre density. The concept behind reducing the density to 3 units an acre was to minimize or further produce the potential impact of development in A-1 zones that are receiving TDRs. Therefore, if the Commission decides to keep the 2.25 as it is, that would be acceptable, because the receiving area can still, with that reduced density from 3 to 2.25, could still accommodate all the potential sending units plus some for the receiving area.

Mr. Rhodes: So if we set those to just 2.25 that still allows it to function as a receiving area. There’s enough space and capacity to be able to do that.

Mr. Harvey: That’s correct.

Mr. Rhodes: And that adjustment does that complicate or compromise the public notice that we did here, Ms. McClendon?

Ms. McClendon: No, Mr. Chairman, it does not.

Mr. Rhodes: Okay, so if we just stick with the 2.25 that’ll satisfy all of our requirements we have?

Mr. Harvey: Correct.

Mr. Rhodes: Okay.

Mr. Harbin: In addition to the Ordinance amendment there is also a Comprehensive Plan amendment. This will modify Chapter 3 of the Comprehensive Plan to incorporate amendments to the textual documents that outlines the TDR program. It will also adapt a new map entitled, “Figure 3.8, Sending and Receiving Areas Map”. This is an image of that map that will be included in the Comprehensive Plan. It shows the “sending” and “receiving” areas, including the “expanded receiving” area that matches the Courthouse re-development area. Staff supports the adoption of the amendments to the TDR Ordinance and the Comprehensive Plan. We believe it will produce a well-functioning TDR program and the TDRs have a strong potential to serve as a key growth management tool for the future. This is just a map, in case you were wondering, of the eligible “sending” parcels within the “sending area” and then the map of

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the “receiving area” and the eligible parcels as well. Are there any questions from the Commission at this time?

Mr. Hirons: Mr. Chairman.

Mr. Rhodes: Yes please, Mr. Hirons.

Mr. Hirons: John, can you talk to some of the uses of B-3 and R-4 in particular zonings, because there is concern about...it does allow for commercial apartments.

Mr. Harbin: Correct. It was discussed at a previous Planning Commission meeting that the B-3 zone would allow up to 50% residential, based on floor area ratio and so you can provide some residential within the B-3 zone. The R-4 would remain strictly residential, but you would be able to construct townhomes, apartments, that sort of residential style buildings as opposed to what it's currently slated for, which is a mobile home.

Mr. Hirons: Alright. If a developer comes in and builds a project in one of those zones using TDRs, what review is there by the County?

Mr. Harbin: Well the County will go through their standard site plan review process. Depending on what kind of development it is, whether it's major site plan for commercial or...

Mr. Hirons: But there wouldn't be any public review by the Planning Commission or Board of Supervisors, correct?

Mr. Harbin: I don't believe so.

Mr. Hirons: And within those zoning districts, is there any sort of architectural guidelines that kind of determine the types of materials, etc. outside of just your standard building requirements.

Mr. Harbin: No.

Mr. Hirons: Okay. And this entire Courthouse area, the entire receiving area is within the Courthouse re-development area, correct?

Mr. Harbin: Correct. Those boundaries are...

Mr. Hirons: And we do have plans of the re-development areas that include some architectural guidelines. They're not necessarily set in stone obviously; they're just guides of types of buildings, types of streetscapes, etc.?

Mr. Harbin: That is correct.

Mr. Hirons: Okay. Thank you.

Mr. Rhodes: Okay. Mr. English?

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Mr. English: Right now R-1 regular doesn't allow any of the multi-family zoning by-right, but the TDR says it's allowing. Is that kind of contradicting itself by doing that?

Mr. Harbin: If I understand your question correctly, the R-1 does not permit multi-family development.

Mr. English: Right, TDR R-1 allows that.

Mr. Harbin: Correct.

Mr. English: So is that kind of contradicting what we're doing?

Mr. Harbin: I don't believe so. I think that's kind of the purpose of the TDR program, to allow you to achieve a higher level of density using the TDRs and by doing so you would have to allow for townhouses, apartments, that sort of development.

Mr. Rhodes: Are the questions for staff?

Mr. Apicella: Let's go back to why we have redevelopment areas and urban development areas in the first place and why Courthouse was picked as the "receiving area", because at the end of the day the long term plan is to move density to places where we would prefer to have it versus places we would prefer not to have it and the places we want to put it towards is in places where we have more infrastructure. So that's one of the reasons why the Courthouse area was picked for "receiving area", is that correct?

Mr. Harbin: Yes.

Mr. Apicella: And this would help achieve that?

Mr. Harbin: Correct.

Mr. Apicella: With regards to the R-4 and the B-3 areas designated to be "receiving" destinations, the reason I believe those were picked was to comply with the requirements to have enough "receiving" density. So we had to achieve a certain number in the Courthouse area to make this program work, right?

Mr. Harbin: Right. State Code dictates that your "receiving area" must be able to accommodate all potential "sending" development rights.

Mr. Apicella: Again, so the way to make this program work was to add some additional areas...

Mr. Harbin: ...as "receive".

Mr. Apicella: Okay. We have a TDR Ordinance on the books today, right? The Board had some pause based on reaction it got after approving its Ordinance based on the deletions it had made to the one that we sent to them, is that correct?

Mr. Harbin: Yes.

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Mr. Apicella: So in large part what they've asked us to do is to add back in virtually everything that they took out with the exception of adding those few areas that weren't previously in the Ordinance, again, to make the numbers work.

Mr. Harbin: Correct.

Mr. Apicella: So that, in summary, is what we're trying to potentially achieve here and what's in front of us today.

Mr. Harbin: That is correct.

Mr. Apicella: Okay. Thank you.

Mr. Rhodes: Any other questions for staff?

Mr. Gibbons: I want to thank for the history lesson.

Mr. Rhodes: It's always helpful. Alright. Thank you very much. Now I'll open this to the public comment portion of the public hearing. Any member of the public that would like to speak on item number 6 or 7, any aspect of that, may come forward and do so at this time. Again, I'll ask you to state your name and address. A green light will come on. You'll have 3 minutes, yellow light – you have 1 minute, red light – if you could wrap up. Thank you, Sir.

Mark Jenkins: Mr. Chairman, members of the Commission, my name is Mark Jenkins. I appeared before you in June and I represent the owners of 284 of the lots in Crow's Nest Harbor out of approximately 346. We support these amendments. We think they solve some of the impediments that cropped up in the Ordinance that was enacted in February. I was looking at the map from the previous approval and it circles the portions of Crow's Nest Harbor that were then eligible. And it was, by my count, probably less than 30%, maybe 25%, whereas these amendments will allow all of these Crow's Nest Harbor lots to be eligible and since they are in an area where you call for this kind of preservation it seem to us to make a lot of sense and we think these amendments have focused on simple corrections that we hope will then make this pilot program really work and we can get it going. We have reason to think that there really is a market out there for these TDRs and we would like...these owners would like to really proceed with them. You may recall that when I was here before I mentioned that we had been in conversations with the Northern Virginia Conservation Trust. We had a conversation or a dialog about the ultimate uses of these lots. Should, for example, our lot owners, 284, sever their rights and use the development elsewhere, a cooperative agreement to perhaps put them into some sort of public or private ownership, but for conservation purposes. And we did follow up. We did speak further with Mr. Coady, who is here this evening and I prepared an agreement, as we said, and they considered it. They decided for their own reasons, Mr. Coady can explain, that they didn't think that their organization could enter into an agreement and so we've not pursued this any further, but that thinking is something my owners reiterate they were interested in and we're reaching out in other ways to address that, so we think that might be...it's kind of a singular situation that it might be an ultimate piece of an ultimate puzzle, but I think these simple amendments will hopefully get this process started. So I thank you for consideration and I hope that you can recommend approval of these amendments.

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Mr. Rhodes: Thank you very much. Anyone else what like to speak on this, on one of these items? Welcome back to the Chambers Mr. Brito.

Joe Brito: Oh thank you. I'm Joe Brito. Anyway, normally I'd be here supporting preservation, but this Ordinance isn't about preservation. This Ordinance is about creating more density, putting apartments on both sides of Route 1. This Ordinance actually increases density. Now is this Ordinance was about preservation, the timber rights would be severed from the homeowner or the owners of the property, but in this case, you have land that your claiming to be preserving, but the owners of the land can clear cut it. So what kind of preservation is that? There are a number of things wrong with the TDR Ordinance, but the one issue that disturbs me the most is the impact it could have on people that weren't notified. The residents of Paradise Estates Trailer Park were not notified about the Zoning change. They could have their land and homes taken from them without know how it happened or being able to speak at a public hearing. Rezoning don't require tenants to be notified by mail, but the law does require the posting of signs on the property that states there will be 2 public hearings. Many of the residents of Paradise Estates are elderly. They pay a lot rent between 400 and 500 a month. Most of them can't afford to pay \$2,000+ to move their trailers or pay \$1,000 month rent to live somewhere else. If this was a normal rezoning the County could compel the landowner to proffer funds to mitigate the relocation cost on the residents. But this rezoning is far from the normal process. Paradise Estates has large amounts of open space. It has 94 trailers on 34 acres of land, about 2.6 units per acre. Apartments are not currently allowed in the R-4, but the landowner can transfer as little as one development unit to trigger the TDR 4 which would allow 260 apartments on 37 acres. That's 7 units an acre. The current proffer guidelines for 260 apartments equaled 6.2 million dollars, but the TDR Ordinance exempts developers from paying proffers. Even if the 94 trailers were deducted from the proffers of the 260 apartments, there would still be a proffer giveaway of 4 million dollars. It's clear there will be winners and losers if this TDR Ordinance is approved and the winners will not be the people at Paradise Estates or Stafford County tax payers. This Ordinance circumvents the rezoning process and all the public notifications, proffers, public hearings are not valid under this Ordinance. Thank you.

Mr. Rhodes: Thank you, Sir.

Elaine Callender: I'm Elaine Callender. I'd like to thank Mr. Brito for all his good research. There aren't a whole lot of people in the County who have the time and the expertise to really study the kind of details that we have in the complex TDR Ordinance and I know that I don't have the technical expertise, but I am very, very concerned about whether this is really doing what it was initially intended to do. Transfer of Development Rights sounds good, but so did Waste to Energy. The thing is, what are the real...the devil is in the details, as they say. You guys have been studying TDRs. Hopefully you have a complete understanding, though I have a feeling you may be vague on a lot of this as well as the public. I'm certainly not comfortable with you passing this this evening. I think that more likely, the developers and their attorneys know precisely what's in this and they know they're maximizing their profit at the expense of the citizens of Stafford. Thank you.

Mr. Rhodes: Thank you very much. Is there anyone else who would like to speak?

Patrick Coady: Chairman Rhodes and fellow Commissioners, Patrick Coady, Chairman of the Northern Virginia Conservation Trust. I'd like to thank Mark Jenkins and the lot owners to take the effort to prepare an agreement. Just to kind of give you background from our side; we retained 2 separate counsel of quite relevant standing to advise the Board about the terms of the agreement and I guess, somebody

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said, the devil's in the details, as we work the substance, the essence of, I think, what the agreement was, was to restore what was proposed in early February and we had other issues which weren't taken forth in an agreement. There was also a tax angle which is kind of our arcane, but to the extent that the trust promotes something with the anticipation there might be donation and then you get in the way of a weird IRS quid pro quo which might actually disadvantage the lot owners going forward. So having looked at all that, it appeared to us that the representations made by the lot owners up to this point were about as good as what it was going to be in the agreement, so given other disadvantages in the agreement we thought that the Board decided that that was not a useful think for us to do. We've also, as you know, suggested changes that we thought would facilitate the preservation of lots from a mechanical and procedural point of view in Crow's Nest Harbor, but assessing the mood of the Board, my phone has not been ringing off the hook from Board members and the Commission about how this could come about. So I think we are kind of back where we were in February. We're going to play the hand that's dealt us and our interest is in preserving the lots in Crow's Nest Harbor and we're going to make efforts, we have 4 lots, we have moneys and trust for Crow's Nest. We hope we can work with the County and others to the extent there's money needed to buy lots that could be transferred. So we are going to make our best efforts, going forward, to fulfill our mission with, as I say, with the hand we're dealt. The trust has a new executive director. She just started August 5th. I drug her down. Peggy Stevens. So I'd like to introduce her to you and she'd like to say a few words.

Mr. Rhodes: Thank you very much.

Ms. Peggy Stevens: Good evening all. I hope this is the first of many trips to Stafford County to work with organizations in the County that are interested in creating a great place to live for all the citizens of Stafford County.

Mr. Rhodes: If you could restate name and address please?

Peggy Stevens: Yes. My name is Peggy Stevens. I'm the executive Director of the Northern Virginia Conservation Trust.

Mr. Rhodes: Thank you.

Ms. Stevens: In 1997 Northern Virginia Conservation Trust acquired 70 acres of land. Blue Heron nesting habitat land. I'm very proud to say, that that was the very first fee acquisition of the Northern Virginia Conservation Trust in all of Northern Virginia. That was the first, right here in Stafford County. And now a bit about our future. We're building on our 1997 acquisition you heard Pat Coady make reference to that. We aspire to be a regular voice in support of open space to benefit Stafford County and to close our ultimate vision is to see that the Crow's Nest Harbor become part of the existing Crow's Nest Natural Preserve. We are deeply committed to making that happen in the coming future. Thanks very much.

Mr. Rhodes: Thank you. Is there anyone else who would like to come forward to speak on these items?

Tom Gregory: My name is Tom Gregory. I am opposed to you changing the Ordinance to allow the transfer of the rights, because I think it's an elimination of due process. I echo what Mr. Brito says about the transferring of rights for development, which, while some people think it was a good idea to have a development area around the Courthouse area, I think that we've reached the point where the density is

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almost overwhelming. I mean, y'all come down here, you know, once every couple of weeks to a meeting and you come down here at other times, I come down here to the Stafford area. There's plenty of density already. I can appreciate what the conservationists want to do, but that's what the conservations want to do. I don't want to see any more density in the area where I have to come to the Courthouse, or I have to come to the Administration Building with what would be hundreds and hundreds of more dwellings, because you're now circumventing the ability for public hearings and...I mean changes for the zoning when you allow these Transfer of Rights over here, so that we can do these things as you were talking about. I think you said with R-4 or whatever the numbers are. I didn't write them down and I don't have a presentation, but I'm certainly opposed to the changes that are going to make density worse. I'm not opposed to fixing the Ordinance if it's broken, but I'm not sure it's broken. I'm trying to understand it. I read a little bit about it tonight. I came down here for another reason, but as I listened to speakers and I know that some of y'all know me, I know that Mr. Gibbons knows me, I'm opposed to development and increasing of the number of people in Stafford County. I think we have enough people in Stafford County. I think we have enough children in our schools and we need to devote more time and energy educating the ones we have, before we bring some more in and certainly the changes in the Ordinance that are being proposed by staff to you, makes it so we can just bring some more people in here and we can overcrowd the school some more. The middle school here, the high school here...I'm sure that those people that own that property up there, they can get some schools built up there when they move into those pieces of property up there in Crow's Nest, but I really don't think they're going to move in there. So why are we going to force them to move down here. So I'm opposed to it and I would like you to vote at least to table this for further studies so you can correct this Ordinance correctly without a lot of questions in it. Thank you.

Mr. Rhodes: Thank you, Sir. Is there anyone else who would like to come forward to speak? Okay, I will close the public comments portion of the public hearing and bring it back to the Planning Commission on items number 6...

Mr. Hirons: Mr. Chairman?

Mr. Rhodes: Yes, Mr. Hirons.

Mr. Hirons: Maybe a follow up question for staff, if I could?

Mr. Rhodes: Please.

Mr. Hirons: One of the speakers mentioned some specific concerns that were raised. Were there any specific concerns raised to staff of the way the Ordinance exists?

Mr. Harbin: Could you be more specific? I'm not quite sure...

Mr. Hirons: What public comments were made to staff about the existing Ordinance, the Ordinance as it currently exists and what are these fixes trying to fix, based on public comment.

Mr. Harbin: Well it is my impression that we received comments from the owners of the Crow's Nest Harbor neighborhood, that they would be willing to participate in this program and would like to be included in the "sending area".

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Mr. Hirons: So the comments were just based around: We weren't included, we want to be included?

Mr. Harbin: I think that the original Ordinance was to include the Crow's Nest Harbor as a method of preserving that neighborhood and allowing the owners to get some equity on their undevelopable lots. So that's why this program was drawn up and then, as Mr. Apicella noted, that area was excluded when the amendment passed in February 2013...

Mr. Hirons: Right. And early on in the discussion of these TDRs in general...probably before your time with the County and if you have to defer to someone else...didn't the original drafts include Crow's Nest Harbor?

Mr. Harbin: That's my understanding.

Mr. Hirons: And didn't this Commission specifically vote and pass this Ordinance, recommending removal of those or a "sending area" that did not include those lots?

Mr. Harbin: I would defer to Mr. Harvey on that.

Mr. Harvey: Yes, Mr. Hirons. There has been multiple iterations of TDR, some of which the Planning Commission has not supported, some of which the Planning Commission has supported. I believe there was one iteration that did not include Crow's Nest Harbor.

Mr. Hirons: So we, as the Commission, have already passed an Ordinance with considerable debate on it that did not include these lots. Now that you fix, that's being requested here is really, as it comes down to it, to include these lots and then adjust the "receiving area" to create enough space for those potential "sending" TDRs. Is that correct, Mr. Harvey.

Mr. Harvey: Yes. By adding additional eligible properties, we have to adjust the "receiving area" zoned into these and or expand the "receiving area" to make accommodations. This proposed amendment does both. It expands "receiving area" from the Courthouse UDA to the Courthouse re-development area, which provides more land which could potentially receive development rights. It also includes changes to allow the R-4 and B-3 zones to accommodate development rights.

Mr. Hirons: So the root problem we're trying to fix is lots that weren't included that want to be included. They are represented by a lawyer.

Mr. Apicella: Mr. Chairman? I completely disagree with the statement Mr. Hirons just made. The version that we did send to the Board did include these lots. For whatever reason, the February version that they ultimately voted on took those lots out. So we did, as a body, not unanimously, Mr. Hirons voted against it, at that point in time the last version that we sent did include the Crow's Nest Harbor lots in their entirety. We are now being asked by the Board that took these lots out, to add them back in, based on the concerns that the vast majority of lot owners in Crow's Nest Harbor would be adversely impacted and were not included and therefore this would not be as viable a program if they were not included. That's why they've asked us to re-visit this and to reinsert the provisions that they took out. So I don't agree with Mr. Hiron...respectfully, I don't agree with the insertions that this body did not want this Crow's Nest Harbor and in fact voted we voted to keep those Crow's Nest Harbor lots in the "sending area" in our version that we sent them.

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Mr. Rhodes: Okay, any other questions for staff? Other discussion? I would just share that the TDR process has had a long and imperfect road. What it does represent at the end of the day, in my opinion, is one of very few, very few tools that a County has, based on the structure of the governance in the State of Virginia, a County has very few tools to help guide and direct growth. It's not to pull in growth, it's to guide and direct the growth that we're going to have. We've got people coming. The population keeps growing. Every 20 years it almost doubles. It hasn't stopped. It's continuing even with the last low that we've had. And so how can we help direct it into areas where we want to see the growth go, versus the by-right growth that's just going to sprawl throughout the County. That's what this is an attempt at. And our TDR Ordinance, as we've been trying to get forward, has been one to be a pilot. It's been one "sending area" and one "receiving area" to try to target an approach and see how we can make this work best for the County and then off that model maybe something bigger. The Board of Supervisors can do as they wish on behalf of the citizens of the County or maybe not do it any further, if they find that they don't believe that we can modify it or adjust it in a manner best serves the County. But it's an attempt. It's one of the few tools we have to try and direct growth into areas that we would prefer to see it if it's going to happen anyways, versus not just have it continue to spread out and further strain and challenge our road networks and other things that we have here. I haven't been fully for all the areas of the "sending area" either, but it is clearly what the majority has held for and what has come through the process of trying to coalesce an approach to this and I do believe the County ought to test an approach of this one limited authority that we've been given by the state, to be able to try and go forward and help better manage our growth and for that reason I'm supporter of trying to step forward.

Mr. Apicella: Mr. Chairman if I may?

Mr. Rhodes: Please.

Mr. Apicella: I would like to recommend approval of Ordinance O13-41 "Amending the Transfer Development Rights program" with the exception that no change be made in the maximum density for the A-1 district that currently exists.

Mr. Rhodes: Okay, a motion to recommend approval, but no density increase associated with the A-1 and that was, I think, consistent with our technical change we talked about earlier.

Mr. Apicella: Yes, Mr. Chairman.

Mr. Rhodes: Is that represented, Mr. Harvey.

Mr. Harvey: Yes, Mr. Chairman. I also would like to suggest that the Ordinance reference number be Ordinance 48.

Mr. Rhodes: Ordinance reference number O48?

Mr. Harvey: Yes, that's what advertised in the agenda, however in your packets it says 41.

Mr. Rhodes: Yes, the packet says 41, but what's in our packet is 48, right. Okay, I got you. That's consistent with your intent, Mr. Apicella?

Mr. Apicella: Yes, Mr. Chairman.

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Mr. Rhodes: Okay, is there a second?

Mr. Gibbons: Second.

Mr. Rhodes: Second by Mr. Gibbons. Further comment, Mr. Apicella?

Mr. Apicella: Mr. Chairman, one of the speakers said that we should spend our time researching this issue. We have spent our time researching this issue. We've been at this for over 2 years now and I think we've made a lot of adjustments, heard a lot of the concerns and made a lot of readjustments. As you eloquently indicated, there are not a lot of tools in the toolbox. This is one of the few that's available to us. A big goal of this County has been to preserve Crow's Nest. I think we're 70 percent of the way there. Part of it has not yet been preserved. This allows us to do that at minimal to no cost to the tax payers. It merely moves existing density, one for one, from the "sending area" to the "receiving area". It doesn't increase density, it doesn't adversely impact the County's proffer situation. Again, it just merely moves density from one location to another and in the place where we would like to have that density. I agree with you, we are going to grow as a County. We want to stir growth into places where it makes the most sense. This helps us achieve that end. It's a smart way forward and it's a small test given the total number of units that we have in Stafford County. I think with this change it becomes a more viable program and we'll have greater participation. We have a commitment from the vast majority of lot owners at Crow's Nest to preserve this property and potentially make it part of a public conservation easement. So for those reasons and many that I've stated over the last two years, I think we should move forward with this, with the changes that the Board asked us to make.

Mr. Rhodes: Any further comments, Mr. Gibbons? Any other member?

Ms. McClendon: Mr. Chairman, before you vote on this issue, I would like to point out that it's after the 10 o'clock limit imposed by the by-laws.

Mr. Rhodes: I apologize. I was tracking it up till 9:57 and then I failed. Yes, we have to halt at this point. Our by-laws do identify that meetings will go until 10 o'clock and after that it can continue only by a motion of the Board. So therefore I would entertain a motion to continue.

Mr. Gibbons: I so move.

Mr. Hirons: Second.

Mr. Rhodes: Okay. So I'm going to give that one to Mr. Gibbons and the second to Mr. Hirons. Any other comment? All those in favor of continuing the meeting beyond 10 o'clock signify by saying aye.

Mr. Apicella: Aye.

Mr. Hirons: Aye.

Mr. English: Aye.

Mr. Boswell: Aye.

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Mr. Gibbons: Aye.

Mr. Rhodes: Aye. Any opposed?

Dr. Schwartz: Nay.

Mr. Rhodes: None opposed. Okay 6-1. We will continue to move forward. Thank you very much for that clarification. So further comments on the motion, Mr. Hirons?

Mr. Hirons: Yes, Mr. Chairman. I'll correct Mr. Apicella again. We've been at this for almost 4 years. So the TDR is...my entire time on this Planning Commission I have not supported, I think, a single Resolution related to TDRs and I won't be supporting the Resolution tonight. These fixes that were pushed down to us, so we can debate, well we'd have to go back to the record and Mr. Apicella, I can see that you're probably right, that we had those included when we send it up to the Board of Supervisors. So now they're coming back and trying to fix their problem, which doesn't make it any better, and to fix their problem that they apparently created, they want us to add options for multi-family apartments to B-3 and R-4, which there is...it's not a huge amount of land within the Courthouse area, but there is some...and we could potentially have development that we have not input on, no public review of from a legislative body level in an area that we have spent a significant amount of money to say what types of developments we want. In fact I have the gostaffordva.com website open which is related to the master re-development plans and in it it says "The Board of Supervisors adopted these visions, the visions of the re-development plans, which includes the Courthouse area, which includes the receiving area, these visions falling unprecedented public involvement. The ultimate goal is to spur economic development and encourage and opportunity to create positive, initial impression to visitors and inviting pedestrian environment for workers." If we don't have any ability to have input on what this area is going to be, which is the initial thought and desire with the re-development area and the urban development area, we designated this area and urban development area as well and this body also sent up to the Board of Supervisors as the Courthouse being recommended as an area to continue as a targeted growth area or whatever the future of urban development areas become. So there is definitely a will to have some input on what this area ends up looking like. We have an application before us that I think may still be in our agenda later tonight for a little bit of discussion. The Abberly at South Campus. That's an apartment complex just south of the Courthouse area. I believe it's just outside of the actual re-development area. We've spent I believe at least one session, if not two sessions, talking about that project and we've gotten down to the point of talking about the type of siding, the color of siding, the color of roof, the types of shrubs that are going to go in. A developer comes into B-3 and has development rights, we have absolutely no review in an area that's much closer to our town center, you know, what the Courthouse area is envisioned by many citizens and elected officials and appointed officials here in the county. If we go forward with this, and I would really, strongly urge each of you to think about this vote and hopefully join me in opposing this motion. If we go forward we're really saying to the citizens we don't care about your input on this particular area. We are wasting a lot of money that we put into these re-development plans having them developed. A lot of time an effort that went into the urban development areas and it's just a real shame to me that we're trying to fix a problem that was now apparently created somewhere else, that is just making it worse. To the Chairman's point, we have a TDR Ordinance in place. It is a pilot program. The "sending area" was made smaller to make it even more of a pilot program. Let's see how that works before we start expanding and going forward. I completely agree. TDR is a program that could have potential to save a lot of open space, to conserve some area. I don't think this is the right place. I don't think this is the right place. I don't think this is the right program for it here in Stafford County. I don't think we're at the point

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where we need this tool yet. Although we have an Ordinance in place, there's nothing I can do about giving it completely appealed and off the books. Hopefully the Board of Supervisors will eventually see the error of their ways and go for it that way. But this fix does not fix anything. It just makes a bad program even worse. So, I don't typically do this, but I would ask my fellow Commission members to really think about this vote and I would ask you to join me in opposing it.

Mr. Rhodes: Okay. Thank you. Any other member? I would just add to earlier discussion part to the motion, the fact that this is a tool. We've always intended this to go forward to the Board of Supervisors, to be a tool. That they would adjust and modify at time and as they deemed appropriate. They have come back with a recommendation that we conduct a public hearing with just one of those adjustments that they deemed appropriate and I think it's important that we try and find the fullest potential from this and I think it is not necessarily...I will very openly say, I don't think it's perfect, but it's something we have yet to try and I believe we just need to get it going forward to try. As they've looked at it they've asked us to reconsider some of the elements of it and they have sent it back to us and I for one will be voting in support of recommending this forward. So with that, I will call for the vote. All those in favor of the motion to recommend approval of the proposed Ordinance 013-48 as modified in the motion by Mr. Apicella, especially dealing with the no-growth in A-1 signify by saying aye.

Mr. Apicella: Aye.

Dr. Schwartz: Aye.

Mr. Boswell: Aye.

Mr. Gibbons: Aye.

Mr. Rhodes: Aye. All those opposed signify by saying nay.

Mr. Hirons: Nay.

Mr. English: Nay.

Mr. Rhodes: Okay, it passes 5-2. That one moves on. Now we're on to item number 7.

Mr. Rhodes: Now we're on to item number 7 which is the amendment to Comprehensive Plan, consistent with what we just did on the Zoning Ordinance.

Mr. Apicella: Mr. Chairman?

Mr. Rhodes: Yes, Mr. Apicella.

Mr. Apicella: I move to recommend approval of the Comprehensive Plan amendment as presented to us in the staff package.

Mr. Rhodes: Okay, I'll motion in a second. Might I just ask for a clarification, Mr. Harvey? Were there any inconsistencies in there dealing with the A-1 and the 3 versus 2.25 units?

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Mr. Harvey: I don't believe so, Mr. Chairman.

Mr. Rhodes: I'm not aware. I just wanted to ask that. Okay. I know we had that one little, technical question we need to make before. Okay, there is a motion by Mr. Apicella, second by Mr. Gibbons. Any further comment, Mr. Apicella?

Mr. Apicella: No, Sir.

Mr. Rhodes: Okay. Any further comment, Mr. Gibbons? Any other member?

Mr. Hirons: Just to say one last time, because I think I have spoken on every single TDR motion that's been in front of us, I won't be supporting it.

Mr. Rhodes: Very good. All those in favor of the motion for the amendment to the Stafford County Comprehensive Plan, consistent with the changes to TDR signify by saying aye.

Mr. Apicella: Aye.

Dr. Schwartz: Aye.

Mr. Boswell: Aye.

Mr. Gibbons: Aye.

Mr. Rhodes: Aye. Any opposed say nay.

Mr. Hirons: Nay.

Mr. English: Nay.

Mr. Rhodes: 5-2. We're on to item number 8.

The Land Use Plan

Without the upgrades, approval should not be given for rezonings because the impact of the development would not be sufficiently mitigated by the developer.

Locations

In order to meet the state mandate for the creation of UDAs, encourage smart growth, and reduce the impact of unintended and negative impacts upon I-95 and commute times for Stafford residents, Stafford County has included seven (7) UDAs (or urban villages) within the comprehensive plan at residential and commercial densities that meet the state legislation.

Two of the UDAs (Courthouse and Southern Gateway) are the central portions of existing Stafford Redevelopment Areas encompassing 2,532 dwelling units (1/2 of the planned units within the RDAs should be developed in substantial conformance with the requirements of State Code Section 15.2-2223.1). The UDAs should follow the same model as that which is envisioned within the redevelopment plans with specific standards and features to enhance quality of life and reduce environmental impacts.

Two of the UDAs (Leeland Town Station and Brooke Station), encompassing 1,870 of the required dwelling units, are located at existing rail stations. The Eskimo Hill UDA, consisting of 879 units, is located nearby with required road and VRE lot upgrades to facilitate access. In order to reduce the impact of those who commute north but choose not take rail, the Comprehensive Plan provides for the construction of 3,400 new commuter parking spaces at three new locations and one existing location serving the UDAs, which together with VRE lot upgrades provides an additional 3,900 commuter parking spaces.

Furthermore, ~~1,835 units within the UDAs (all of the 870 units in Brooke Station and 7 % of the other UDAs)~~ up to an estimated 1,236 units should could be made possible by the transfer of development rights from properties outside the UDAs if a TDR program is adopted. For residential purposes, 1 residential development right in the sending area is equivalent to one residential development right in the receiving area. For non-residential purposes, 1 residential development right in the sending area is equivalent to the right to construct 3,000 square feet of commercial space in the receiving area.

Form-Based Codes

The use of Form-based Code will be necessary as Stafford County continues it's evolution. For the purposes of this 20 year view, Form Based Code will be defined by the following:

Form-based codes address the relationship between building facades and the public realm, the form and mass of buildings in relation to one another, and the scale and types of streets and blocks. The regulations and standards in Form-based codes, presented in both diagrams and words, are keyed to a

Chapter 3

regulating plan *that designates the appropriate form and scale (and therefore, character) of development rather than*

Transfer of Development Rights

The Board of Supervisors adopted the Transfer of Development Rights Ordinance, O13-21, on February 19, 2013, establishing a Transfer of Development Rights (TDR) program in Stafford County. The Board of Supervisors then adopted Ordinance O13-48 to amend Ordinance O13-21, further enabling the TDR program.

The purpose of the TDR program is to provide a mechanism by which a property owner can transfer residential density from sending areas to receiving areas and/or to a transferee without relation to any particular property through a voluntary 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 intended to encourage increased residential and commercial density in areas that can better accommodate this growth with less impact on public services and natural resources.

Sending Areas are 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. Figure 3.8, Sending and Receiving Areas Map, shows the sending area, outlined in blue, which is land located east of the CSX rail line, north of Potomac Creek, and south of Aquia Creek. In order to qualify as a sending area, property shall be:

- (1) Designated for agricultural, rural, or park land use(s), in the Comprehensive Plan;
- (2) Located within areas designated as sending areas on the map entitled "Sending and Receiving Areas Map" in the Comprehensive Plan;
- (3) Zoned A-1 (Agricultural) or A-2 (Rural Residential) on the Zoning Map; and meet one of the following criteria:
 - (i) A separate parcel in existence on the effective date of the Transfer of Development Rights ordinance that is at least twenty (20) acres; or
 - (ii) Contiguous parcels in existence on the effective date of the Transfer of Development Rights Ordinance comprising at least twenty (20) acres and are under the same ownership on the date of application.

The Land Use Plan

- (iii) A separate parcel in existence on the effective date of Transfer of Development Rights Ordinance that is at least two (2) acres and designated as Park on the Land Use Map in the Comprehensive Plan.

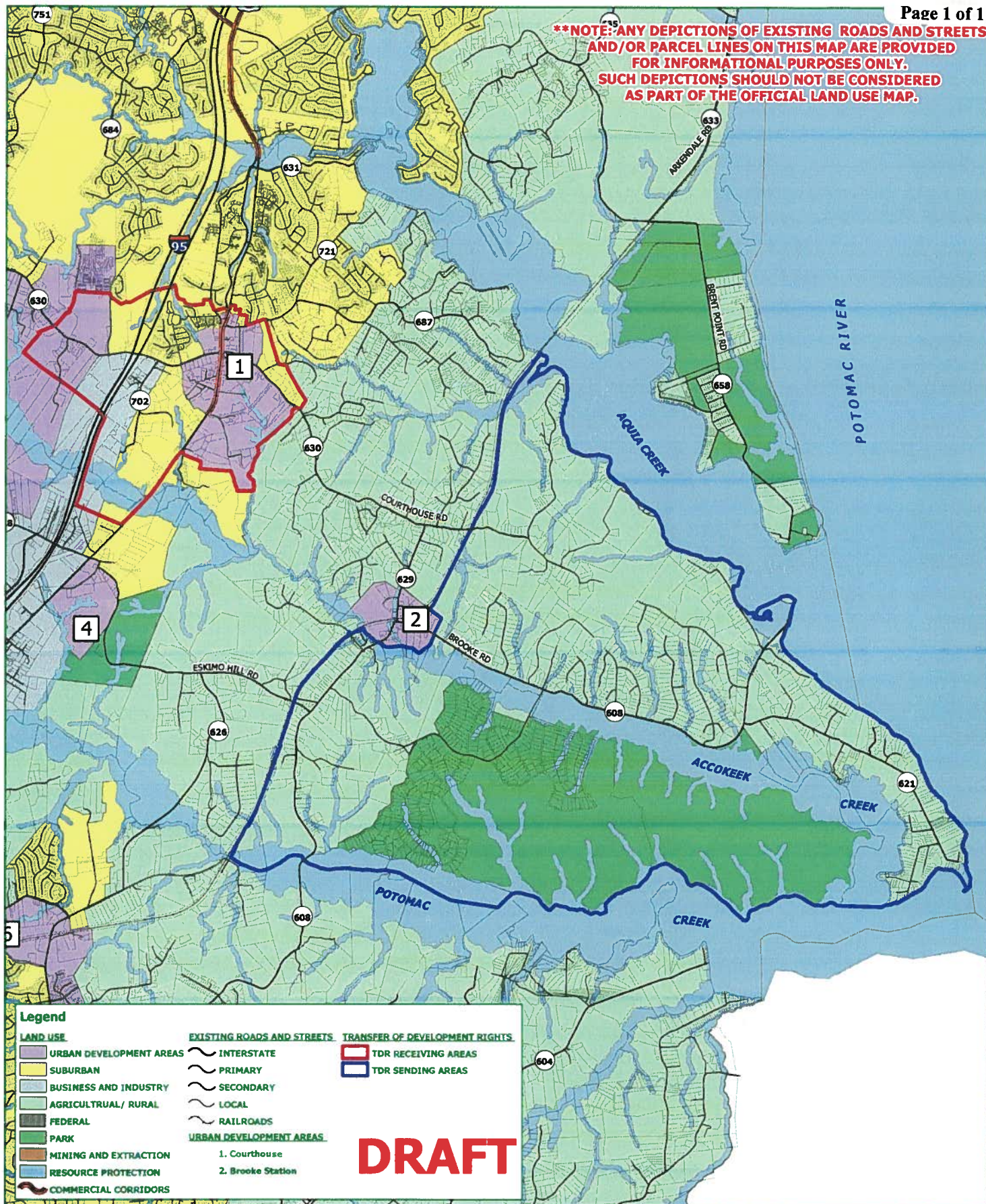
Receiving Areas are defined as areas authorized to receive development rights transferred from a sending area. Figure 3.8, Sending and Receiving Areas Map, shows the receiving area, outlined in red, which is the Courthouse Redevelopment Area (RDA). In order to qualify as a receiving area, property shall be:

- (1) Located in one of the following zoning districts: A-1, Agricultural, R-1, Suburban Residential; R-4, Manufactured Homes; PD-1, Planned Development -1, PD-2, Planned Development -2, PTND – Planned Traditional Neighborhood Development; UD, Urban Development; and B-3, Office;
- (2) Located within a receiving area on the Sending and Receiving Areas Map;
- (3) Located within the USA by the Comprehensive Plan;
- (4) Designated as part of a RDA by the Comprehensive Plan; and
- (5) Included in an assessment of the infrastructure in the receiving area that identifies the ability of the area to accept increases in density and the plans to provide necessary utility services within any designated receiving area.

Under the TDR program, the sending area could send up to an estimated 1,236 units and the receiving area could accommodate up to an estimated 2,465 future units. The success of the TDR program may alter the number of units built in the rural areas but it will not change the number of units in the overall Comprehensive Plan.



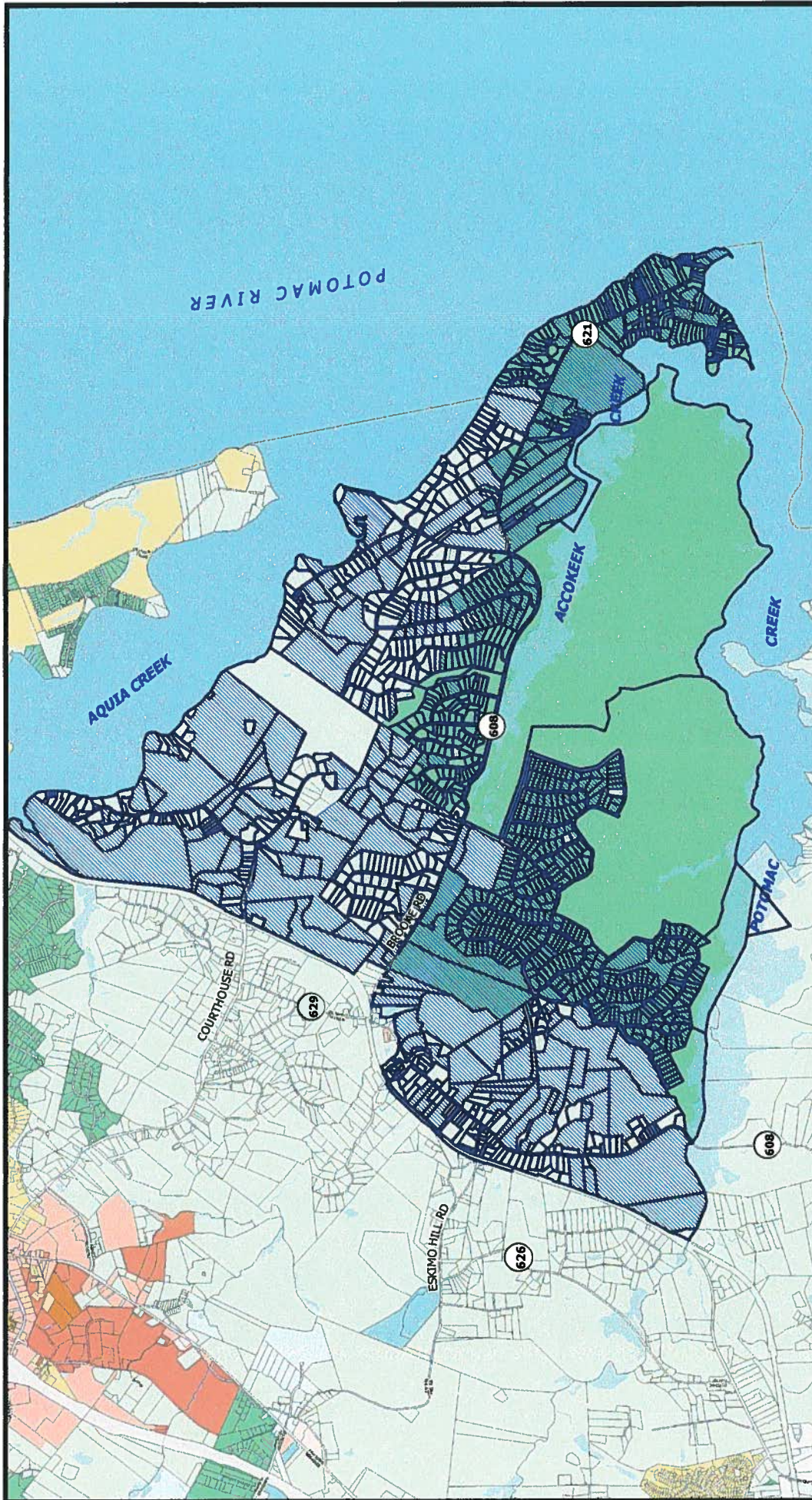
****NOTE: ANY DEPICTIONS OF EXISTING ROADS AND STREETS AND/OR PARCEL LINES ON THIS MAP ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY. SUCH DEPICTIONS SHOULD NOT BE CONSIDERED AS PART OF THE OFFICIAL LAND USE MAP.**



**Figure 3.8
TRANSFER OF DEVELOPMENT RIGHTS
SENDING AND RECEIVING AREAS**

Stafford County Comprehensive Plan
Stafford County, Virginia
August 8, 2013





- PD1 - Planned Development 1
- PD2 - Planned Development 2
- PTND - Planned-Traditional Neighborhood
- QMB - Quantico Marine Base

- SC - Suburban Commercial
- HI - Heritage Interpretation
- HP - Heritage Protection
- RC - Rural Commercial
- RBC - Recreational Business Campus

- B1 - Convenience Commercial
- B2 - Urban Commercial
- B3 - Office
- M1 - Light Industrial
- M2 - Heavy Commercial

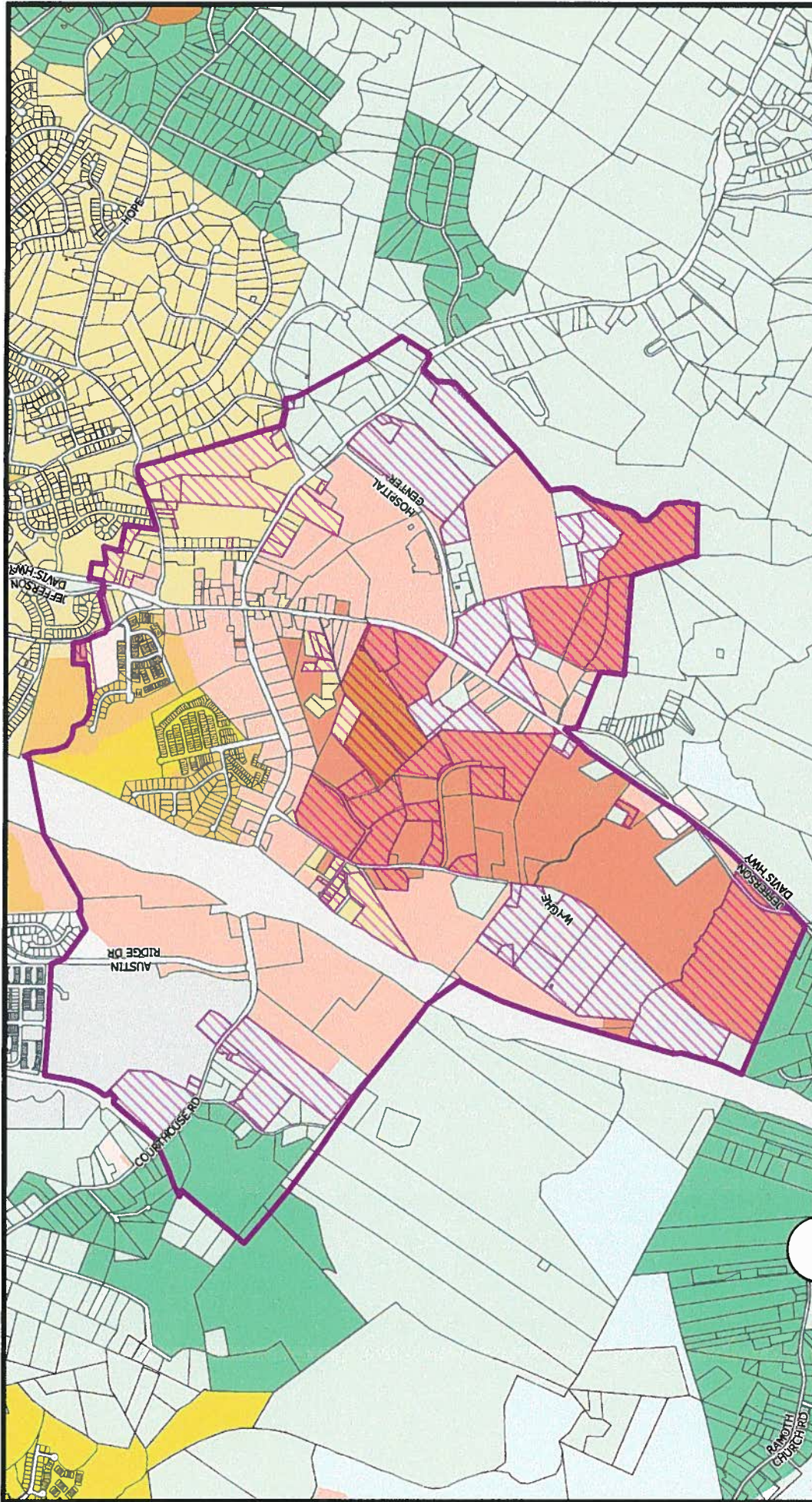
- R1 - Suburban Residential
- R2 - Urban Residential - Medium Density
- R3 - Urban Residential - High Density
- R4 - Manufactured Homes
- LC - Life Care/Retirement

- TDR Sending Area Boundary
- Currently Eligible Parcels
- Zoning
 - A1 - Agriculture
 - A2 - Rural Residential

TDR Sending Area
Stafford County, Virginia
August, 2013



DATE: 10/20/13
 BY: [Illegible]



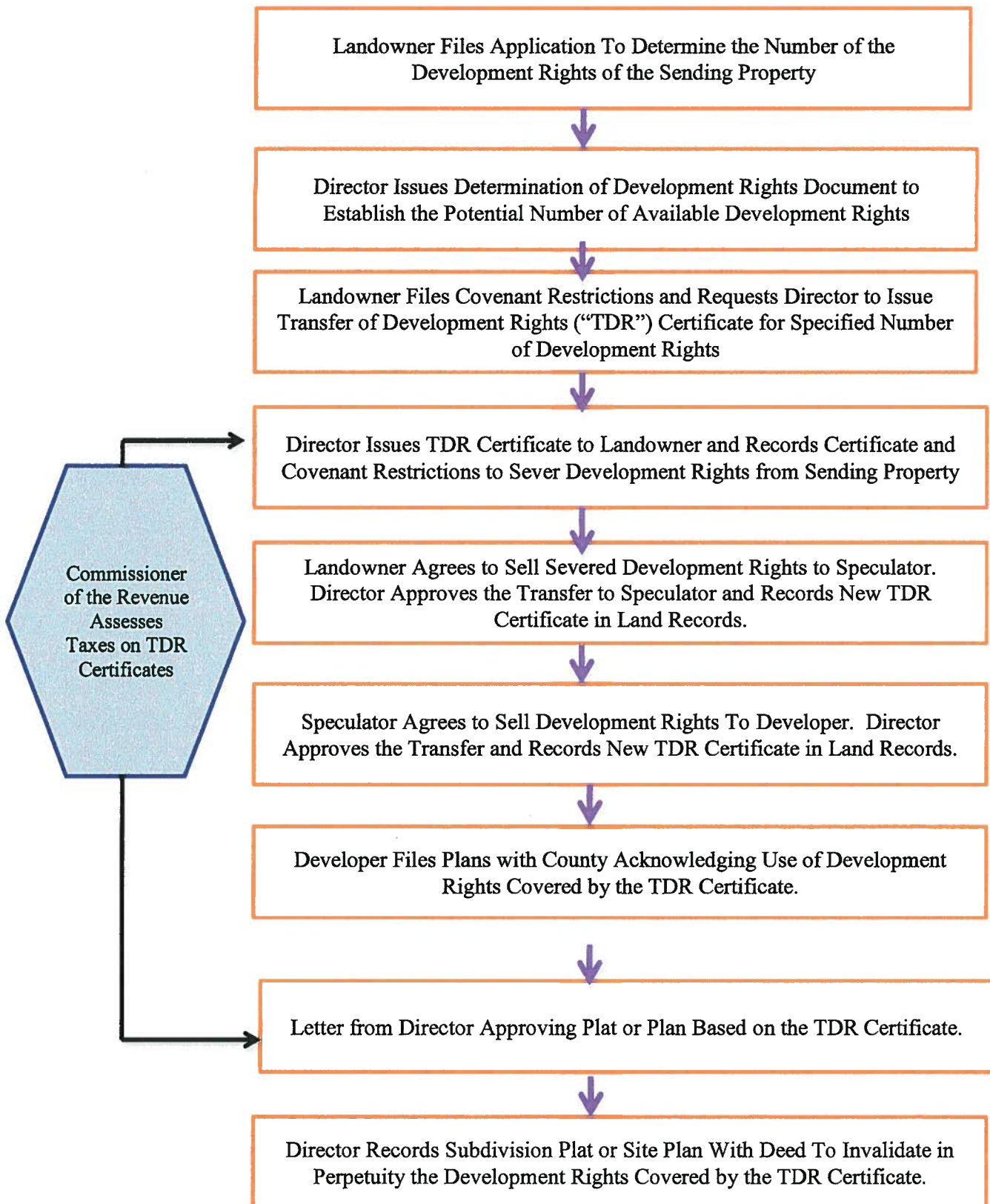
- TDR Receiving Area Boundary
- Currently Eligible Parcels
- Zoning
 - A1 - Agriculture
 - A2 - Rural Residential
 - R1 - Suburban Residential
 - R2 - Urban Residential - Medium Density
 - R3 - Urban Residential - High Density
 - R4 - Manufactured Homes
 - LC - Life Care/Retirement
 - B1 - Convenience Commercial
 - B2 - Urban Commercial
 - B3 - Office
 - M1 - Light Industrial
 - M2 - Heavy Commercial
 - SC - Suburban Commercial
 - HI - Heritage Interpretation
 - HP - Heritage Protection
 - RC - Rural Commercial
 - RBC - Recreational Business Campus
 - PD1 - Planned Development 1
 - PD2 - Planned Development 2
 - PTND - Planned-Traditional Neighborhood
 - QNB - Quamboo Marine Base

DATE: 10/20/13
FILE: www.staffordva.gov/StaffordCountyVA



TDR Receiving Area
Stafford County, Virginia
August, 2013

TRANSFER OF DEVELOPMENT RIGHTS FLOWCHART



PROPOSED

**BOARD OF SUPERVISORS
COUNTY OF STAFFORD
STAFFORD, VIRGINIA**

ORDINANCE

At a regular meeting of the Stafford County Board of Supervisors (the Board) held in the Board Chambers, Stafford County Administration Center, Stafford, Virginia, on the 17th day of September, 2013:

MEMBERS:

- Susan B. Stimpson, Chairman
- Robert "Bob" Thomas, Jr., Vice Chairman
- Jack R. Cavalier
- Paul V. Milde III
- Ty A. Schieber
- Gary F. Snellings
- Cord A. Sterling

VOTE:

On motion of , seconded by , which carried by a vote of , the following was adopted:

AN ORDINANCE TO AMEND AND REORDAIN STAFFORD COUNTY CODE SECTION 28-35, TABLE 3.1, "DISTRICT USES AND STANDARDS" AND TABLE 3.1(A), "STANDARDS FOR TRANSFER OF DEVELOPMENT RIGHTS (TDR);" SECTION 28-355, "APPLICABILITY;" SECTION 28-357, "SENDING PROPERTIES;" SECTION 28-358, "RECEIVING PROPERTIES;" SECTION 28-359, "CALCULATION OF DEVELOPMENT RIGHTS;" AND SECTION 28-360, "TRANSFER OF DEVELOPMENT RIGHTS SENDING PROPERTY DEVELOPMENT LIMITATIONS"

WHEREAS, under Virginia Code §§ 15.2-2316.1 and 15.2-2316.2, the Board may adopt a Transfer of Development Rights (TDR) ordinance and establish a TDR program; and

WHEREAS, the Board desires to amend the County Code to modify the TDR Ordinance and program; and

WHEREAS, the Planning Commission conducted a public hearing on the proposed amendments and provided its recommendations to the Board on such proposed amendments; and

WHEREAS, the Board carefully considered the recommendations of the Planning Commission and staff, and the public testimony, if any, received at the public hearing; and

WHEREAS, the Board finds that these amendments to the TDR Ordinance serve and promote the public health, safety, and general welfare of the County and its citizens; and

WHEREAS, the Board finds that public necessity, convenience, general welfare, and good zoning practices require adoption of these amendments to the Ordinance;

NOW, THEREFORE, BE IT ORDAINED by the Stafford County Board of Supervisors on this the 17th day of September, 2013, that Stafford County Code, Section 28-35, Table 3.1, "District Uses and Standards" and Table 3.1(a), "Standards for Transfer of Development Rights (TDR)," Section 28-355, "Applicability;" Section 28-357, " Sending properties;" Section 28-358, "Receiving properties;" Section 28-359, "Calculation of development rights;" and Section 28-360, "Transfer of Development Rights sending property development limitations" be and they hereby are amended and reordained as follows, all other portions remaining unchanged; and

BE IT FURTHER ORDAINED that these amendments be and they hereby are adopted and ordained as follows, and shall become effective upon adoption.

Chapter 28 – Zoning Ordinance

Sec. 28-35. – Table of Uses and Standards.

Table 3.1, District Uses and Standards, sets forth the uses and standards for each zoning district in Stafford County. No land or structure shall be used, occupied or developed except in accordance with the standards set forth therein.

Table 3.1. District Uses and Standards

R-4, Manufactured Homes.

(c) Requirements:

- (1) **Intensity:**
 - Allocated density.....7.0 du/ac
 - Open space ratio.....0.30 ratio

Maximum density with TDRs **14.0 du/acre, TDR developments may include townhouses at up to 6.0 du/acre and multi-family dwellings at up to 14.0 du/acre**

B-3, Office.

(c) Requirements:

- (1) *Intensity: Ratio*
Maximum floor area ratio.....0.65
Maximum floor area ratio with TDR.....1.3
Minimum Open space ratio.....0.30
Minimum Open space ratio with TDR.....0.15

Table 3.1(a) Standards for Transfer of Development Rights (TDRs), sets forth the uses and standards for all development utilizing (TDRs) for each zoning district in Stafford County that is permitted by Article XX to serve as a receiving area. No land or structure shall be used, occupied, or developed except in accordance with the standards set forth therein.

Table 3.1(a). Standards for Transfer of Development Rights (TDR's)(TDR)

A-1, Agricultural.

(d) Requirements:

- (1) *Intensity:*
Maximum Density....5-0 2.25 du/gross acre

R-4, Manufactured Homes.

(a) Uses permitted by right:

- Community facility.
Dwelling, multifamily
Dwelling, townhouse.
Home occupation.
Park and playground.
Public facilities/utilities but not including generating facilities, substations, switching stations and wastewater treatment facilities which are permitted by a conditional use permit and not including propane and heating fuel distribution facilities.

(b) Requirements:

- (1) *Intensity:*
Allocated density.....14.0 du/ac
Open space ratio.....0.20 ratio

- (2) Minimum yards: Feet

Multifamily Front.....15
Multifamily Side.....15
Multifamily Back.....20
Townhouse Front.....8
Townhouse Side15

Townhouse Back.....25

(3) Maximum height (in feet).....65

(4) Minimum lot width (in feet)

Townhouse.....18

Multifamily.....0

B-3, Office.

(a) Uses permitted by right:

Apartment, commercial.

Bank and lending institution.

Clinic, medical and dental.

Dwelling, multifamily.

Farmers market (in accordance with subsection 38-39(v)).

Flex office.

General office use.

Low intensity commercial retail.

Medical/dental office.

Professional office.

Public facilities/utilities but not including generating facilities, substations, switching stations and wastewater treatment facilities which are permitted as a condition use permit and not including propane and heating fuel distribution facilities.

Public works excluding wastewater treatment facilities.

Restaurant without drive-through.

School.

School, vocational.

(b) Conditional use permit:

Child care center.

Hospital.

Hotel/motel.

Laboratory research and testing facility.

Printing, publishing, engraving.

Public facilities/utilities for generating facilities, substations, switching stations and wastewater treatment facilities (except for the expansion or

(c) Requirements:

(1) Intensity: Ratio

Maximum floor area ratio.....1.3

Minimum open space ratio.....0.15

Maximum tract coverage for multifamily.....50%

(2) Minimum yards: Feet

Front.....25

Side.....10

Back.....20

(3) Maximum building height (in feet).....90

(4) Minimum gross tract area with TDRs 10 acres

Article XX. – Transfer of Development Rights

Sec. 28-355. – Applicability.

This Article shall apply to the transfer of development rights from land in sending areas to land in receiving areas and/or to a transferee without relation to any particular property. Land utilizing transferred development rights may be subdivided or developed in receiving areas at the maximum density specified by County Code section 28-35, Table 3.1 and Table 3.1(a), above the base density for the applicable zoning district.

Sec. 28-356. - Right to transfer development rights; general provisions.

(d) No development rights may be transferred from a sending property if those rights are materially restricted from development by covenant, easement, and/or deed restriction; provided, however, that for any sending property located within an area designated as Park on the Land Use Map in the Comprehensive Plan, no such restriction will be deemed to exist if it arose out of a subdivision approval or note on a subdivision plat requiring the provision of public water and sewer to the subdivision.

Sec. 28-357. – Sending properties.

(a) For the purposes of this Article, a sending property must be an entire tax map parcel or lot that complies with all requirements of this Article. Sending areas shall be limited to those areas designated as sending areas on the map entitled, “Transfer of Development Rights (TDR) Sending and Receiving Areas,” in the Comprehensive Plan, zoned A-1 (Agricultural) or A-2 (Rural Residential).

(b) In order for a property in a sending area to qualify as a sending property eligible for a transfer of development rights, such property shall be:

- (1) Designated for agricultural, rural, or park land use(s), in the Comprehensive Plan;
- (2) Located in areas designated as sending areas on the Map entitled "Transfer of Development Rights Sending and Receiving Areas" in the Comprehensive Plan; and

- ~~(3) Zoned A-1 (agricultural) or A-2 (rural residential); and either:
 - a. A separate parcel in existence on the effective date of this article XX (Transfer of Development Rights) that is at least twenty (20) acres; or
 - b. Contiguous parcels in existence and under common ownership on the effective date of this article XX (Transfer of Development Rights) comprising at least twenty (20) acres that are under the same ownership on the date of the application; or~~

- ~~e. Contiguous parcels that:
 1. Comprise at least twenty (20) acres; and
 2. Exist and are under common ownership on the effective date of this article XX (Transfer of Development Rights); and
 3. Are under common ownership on the date of the application; provided that the owner(s) on the effective date of this article XX (Transfer of Development Rights) are not required to be the same as the owner(s) on the date of the application. (For example, if one party (owner A) owns contiguous parcels comprising at least twenty (20) acres on the effective date of this article XX (Transfer of Development Rights), owner A can sell those parcels to a second party (owner B), who may then file a TDR application for those parcels.)~~

(3) Zoned A-1, Agricultural or A-2, Rural Residential and meet one of the following criteria:

- (i) A separate parcel in existence on the effective date of this Article XX (Transfer of Development Rights) that is at least twenty (20) acres;
- (ii) Contiguous parcels in existence on the effective date of this Article XX (Transfer of Development Rights) comprising at least twenty (20) acres that are under the same ownership on the date of the application; or

(iii) A separate parcel in existence on the effective date of this Article XX (Transfer of Development Rights) that is at least two (2) acres and designated as Park on the Land Use Map in the Comprehensive Plan.

Sec. 28-358. – Receiving properties.

(a) In order for a property in a receiving area to qualify as a receiving property eligible for a transfer of development rights to said property, such property shall be:

- (1) Located in one of the following zoning districts: A-1, Agricultural; R-1, Suburban Residential; R-4, Manufactured Homes; PD-1, Planned Development-1; PD-2, Planned Development-2; PTND–Planned Traditional Neighborhood Development; ~~or~~ UD, Urban Development; or B-3, Office;
- (2) Located in areas designated as receiving areas on the map entitled “Transfer of Development Rights Sending and Receiving Areas” in the Comprehensive Plan;
- (3) Located within the Urban Services Area (USA) by the Comprehensive Plan;
- (4) Designated as part of a UDA Redevelopment Area (RDA) by the Comprehensive Plan; and
- (5) Included 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 any designated receiving area.

(c) A receiving property may accept development rights from one or more sending properties, but the density allowed on the receiving property may not exceed the maximum applicable density specified in County Code Section 28-35, Table 3.1 and Table 3.1(a).

Sec. 28-359. – Calculation of development rights.

(b) Any parcel in existence on the effective date of this Article XX (Transfer of Development Rights) that: (1) was created as a building lot; (2) is larger than two acres; and (3) is designated as Park on the Land Use Map in the Comprehensive Plan, shall be entitled to a minimum of one development right for purposes of this Article.

(b)(c) Any fraction of development rights resulting from the calculations shall not be included by the Director in the final determination of total development rights available for transfer.

(e)(d) Development rights from a sending property may be allocated to more than one receiving property and/or transferee. However, fractions of development rights shall not be transferrable.

(d)(e) A receiving property and/or transferee without relation to any particular property may accept development rights from more than one sending property.

(e)(f) The determination of the number of residential development rights a sending property has available for transfer to a receiving property and/or a transferee without relation to any particular property shall be documented in a Determination of Development Rights Document issued by the Director.

(f)(g) A Determination of Development Rights Document shall be used by the Director as the basis for the issuance of a TDR Certificate if there has been no material change in the criteria used by the Director in relation to the sending property to issue the Determination of Development Rights Document.

(g)(h) The decisions of the Director in the Determination of Development Rights Document shall be considered final determinations for purposes of the TDR program, except that if there is any material change in the criteria, in relation to the sending property, used by the Director to issue the Determination of Development Rights Document, then a new Determination of Development Rights Document must be issued for the sending property before a TDR Certificate may be issued for that sending property.

(h)(i) Any determination made in a Determination of Development Rights Document shall be valid only for purposes of the TDR program and for no other purpose.

(i)(j) A transferor may extinguish development rights, sever and hold development rights, sever and sell development rights, or apply severed development rights to a receiving property to allow development of that receiving property at a density greater than would otherwise be allowed on such land, up to the maximum density specified for the applicable zoning district in County Code § 28-35, Table 3.1.

Sec. 28-360. – Transfer of development rights sending property development limitations.

(e) Unless otherwise specified in this Article XX, the severance of development rights from a sending property shall not deprive the owner of such sending property of the right to use that portion of the property from which development rights have been severed for parks, campgrounds and related camping facilities, provided that such uses were permitted by right on the sending property prior to the transfer of such development rights. Any buildings or structures that exist on a sending property at the time development rights are severed shall be allowed to remain to support any such existing park, campground, and related camping facilities.

(e) Unless otherwise specified in this Article XX, the severance of development rights from a sending property shall not deprive the owner of such sending property of the right to use that portion of the property from which development rights have been severed for parks, campgrounds and related camping facilities, provided that such uses were permitted by right on the sending property prior to the transfer of such development rights. Any buildings or structures that exist on a sending property at the time development rights are severed shall be allowed to remain to support any such existing park, campground, and related camping facilities.

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New buildings and structures comprising up to a cumulative total of 2,000 square feet shall be allowed to be constructed on a sending property to support any such existing park, campground, and related camping facilities. No new buildings shall be allowed on sending properties less than 20 acres in size. Any building constructed as a lawful nonconforming use under the provisions of this Article XX shall not count against the allowance of up to 2,000 cumulative square feet for new buildings on any such sending property. For purposes of this section, the term “campgrounds” does not include any use by travel trailers, motor homes, and similar vehicular type structures.

AJR:JAH:jmh

PROPOSED

BOARD OF SUPERVISORS
COUNTY OF STAFFORD
STAFFORD, VIRGINIA

RESOLUTION

At an annual meeting of the Stafford County Board of Supervisors (the Board) held in the Board Chambers, Stafford County Administration Center, Stafford, Virginia, on the 17th day of September, 2013:

MEMBERS:

VOTE:

- Susan B. Stimpson, Chairman
- Robert "Bob" Thomas, Jr., Vice Chairman
- Jack R. Cavalier
- Paul V. Milde III
- Ty A. Schieber
- Gary F. Snellings
- Cord A. Sterling

On motion of , seconded by , which carried by a vote of , the following was adopted:

A RESOLUTION TO AMEND THE STAFFORD COUNTY COMPREHENSIVE PLAN IN ACCORDANCE WITH VIRGINIA CODE SECTION 15.2-2229, BY ADOPTING THE PROPOSED AMENDMENT, AS ADVERTISED, TO CHAPTER 3 OF THE TEXTUAL DOCUMENT ENTITLED, "STAFFORD COUNTY, VIRGINIA COMPREHENSIVE PLAN, 2010-2030," DATED JANUARY 17, 2012

WHEREAS, as per Virginia Code Section 15.2-2229, the Board may amend the Comprehensive Plan (the "Plan"); and

WHEREAS, the proposed amendments to the Plan would amend Chapter 3 of the Plan to incorporate amendments to the textual document regarding the Transfer of Development Rights (TDR) program, including but not limited to, the purpose of a TDR program, eligibility criteria for sending and receiving properties delineation of sending and receiving areas, determining the use of transferred development rights, and adoption of a new map entitled, "Figure 3.8, Transfer of Development Rights Sending and Receiving Areas" Map; and

WHEREAS, the Planning Commission conducted a public hearing on the proposed amendments and provided its recommendations to the Board on such proposed amendments; and

WHEREAS, the Board carefully considered the recommendations of the Planning Commission and staff, and the public testimony, if any, received at the public hearing; and

WHEREAS, the Board finds that the adoption of the proposed Plan amendments will guide and accomplish a coordinated, adjusted, and harmonious development in Stafford County, Virginia, which will, in accordance with the present and probable future needs and resources of the County, best promote the health, safety, morals, order, convenience, prosperity, and general welfare of the citizens of the County, including the elderly and persons with disabilities; and

WHEREAS, the Board finds that the proposed amendments to the Plan are consistent with good planning practices; and

WHEREAS, the Board believes that the proposed amendments to the Plan should be adopted;

NOW, THEREFORE, BE IT RESOLVED by the Stafford County Board of Supervisors on this the 17th day of September, 2013, that the Board be and it hereby does adopt the proposed amendments to the Stafford County Comprehensive Plan, as advertised.

AJR:JAH:jmh