



County of Fairfax, Virginia

June 6, 2007

STAFF REPORT ADDENDUM

APPLICATION RZ/FDP 2006-PR-017

PROVIDENCE DISTRICT

APPLICANT:	Prospect Development Company, Inc.
PRESENT ZONING:	R-2
REQUESTED ZONING:	PDH-2
PARCEL(S):	48-2 ((17)) 1
ACREAGE:	2.59 acres
FAR/DENSITY:	1.93 du/ac
OPEN SPACE:	53%
COMPREHENSIVE PLAN:	Residential, 1-2 du/ac
PROPOSAL:	Rezone from the R-2 District to the PDH-2 District to permit the development of five (5) single family detached dwelling units

STAFF RECOMMENDATIONS:

Staff recommends that RZ 2006-PR-017 and the Conceptual Development Plan be denied; however, if it is the intent of the Board of Supervisors to approve RZ 2006-PR-017, staff recommends that such approval be made subject to the execution of proffers consistent with those contained in Attachment 3 of the Staff Report Addendum.

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Department of Planning and Zoning
Zoning Evaluation Division
12055 Government Center Parkway, Suite 801
Fairfax, Virginia 22035-5509
Phone 703 324-1290
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www.fairfaxcounty.gov/dpz/

Staff recommends that FDP 2006-PR-017 be denied; however, if it is the intent of the Planning Commission to approve RZ 2006-PR-017, staff recommends that such approval be made subject to development conditions consistent with those contained in Attachment 4 of the Staff Report Addendum.

It should be noted that it is not the intent of staff to recommend that the Board, in adopting any conditions proffered by the owner, relieve the applicant/owner from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

It should be further noted that the content of this report reflects the analysis and recommendation of staff; it does not reflect the position of the Board of Supervisors.

The approval of this rezoning does not interfere with, abrogate or annul any easement, covenants, or other agreements between parties, as they may apply to the property subject to this application.

For information, contact the Zoning Evaluation Division, Department of Planning and Zoning, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035-5505, (703) 324-1290



Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice.
For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

BACKGROUND

The applicant, Prospect Development Company, Inc., requests approval of a rezoning of 2.59 acres from the R-2 District to the PDH-2 District. The purpose of the application is to permit the development of five (5) single family detached dwelling units, including preservation of the existing house located on the subject property. This results in an overall density of 1.93 dwelling units per acre (du/ac), with approximately 53% of the site being retained as open space. The subject property is identified as Tax Map Parcel 48-2 ((17)) 1 and is located within Section 2 of the existing Hideaway Park neighborhood, on the north side of Mears Street, and east of Elsmore Street and south of Interstate 66. The Comprehensive Plan map shows the area in which the subject property is located to be developed with residential uses at 1-2 du/ac.

At the time of Subdivision Plan Review the applicant must also seek the following modification:

- Modification of the Public Facilities Manual (PFM) minimum site distance requirement.

On March 21, 2007, the Staff Report for RZ/FDP 2006-PR-017 was published. In this report, staff concluded that the development of the subject property is not in keeping with that of the adjacent residential neighborhoods, which are developed as R-2, Cluster, and R-2, or within the context of the setting of the existing dwelling located on site, due to the size and scale of the proposed dwelling units and the smaller lots on which they will be located. Since the layout proposed by the applicant is most similar to that of a conventional R-5 development, it has been staff's position that development of the subject property by right as an R-2, Cluster, would be more appropriate given the context of the existing dwelling on site and the established development pattern in the community. For these reasons, staff concluded that the proposal does not fulfill the Residential Development Criteria, and is, therefore, not in substantial conformance with the Comprehensive Plan. As such, staff recommended denial of this application.

The Planning Commission public hearing for RZ/FDP 2006-PR-017 was held on April 4, 2007. At this hearing, several issues were raised regarding the proposed development and its impact on the adjacent community and the existing dwelling unit on the site, as well as concerns with respect to the proposed stormwater management (SWM) plan. To address these concerns, County staff met with the applicant on site on April 13, 2007, and a subsequent meeting was held at the Providence District Supervisor's Office on April 24, 2007, to discuss any outstanding issues of the Commission and staff.

As a result of these meetings, the applicant submitted a revised Conceptual/Final Development Plan (CDP/FDP), dated May 15, 2007, included as Attachment 2 of the staff report addendum. In addition, revised draft proffers have been provided and are dated May 30, 2007. This addendum discusses these changes.

ANALYSIS**Conceptual/Final Development Plan** (Reduction included as Attachment 2)**Title of CDP/FDP:** Lot 1 – Section 2 Hideaway Park**Prepared By:** TRI-TEK Engineering**Original and Revision Dates:** February 16, 2006, as revised through
May 15, 2007

In order to mitigate the impact of the proposed development on the existing dwelling located on the site, the applicant has made several revisions to the CDP/FDP and the proposed proffers. First, the proposed lot sizes for Lots 1 and 2 have slightly changed, with 270 square feet taken from Lot 2 (now 5,680 square feet) and added to Lot 1 (5,500 square feet). As a result, side yard setbacks for Lots 1, 2, and 3 have been altered accordingly, and the minimum separation distance between the units proposed on Lots 1 & 2 and Lots 1 & 3 has been reduced from 17 feet to 15 feet. The side yard setback between Lot 1 and the proposed outlot for the SWM facility has been slightly increased to 10 feet. In addition, the unit proposed for Lot 5, adjacent to the existing dwelling unit, has been reduced in overall square footage in order to accommodate an increase in the front yard setback, from 6 feet to 14 feet, from the proposed private street.

The purpose of these changes is to provide a less obstructed view of the existing dwelling unit from points along Mears Street. To this end, the applicant has also proposed new proffer language in order to facilitate this effort. A public access easement has been proposed for the portion of the proposed sidewalk along the western side of the private street, extending from Mears Street to the southern property line of Lot 1. A historical marker shall be placed in this area describing the significance of the existing dwelling unit, and the applicant has added specific proffer language regarding the future preservation of the dwelling. In addition, a proffer has been added to restrict the planting of trees or other tall shrubs within a triangular area formed by the northwest corner of the existing dwelling, the southwest corner of the SWM outlot, and the eastern side of the private street at its intersection with Mears Street. However, the CDP/FDP is still showing a number of deciduous and evergreen trees proposed for planting in this area. Furthermore, the proposed single story garage on Lot 4 has been moved back further to the rear of the existing dwelling unit, and partially within the 200-foot setback area from Interstate 66, which staff believes is more appropriate.

In addition, several changes have been made to the proposed proffers since the publication of the staff report. As follows:

- Under Proffer 1, Conceptual Development Plan/Final Development, Part C, the applicant has specifically proffered to the setbacks for each of the units, as shown on the current version of the CDP/FDP.

- New provisions have been added to Proffer 3, Tree Preservation, Landscaping and Open Space, establishing the conservation easement as shown on the CDP/FDP, which is to be recorded prior to site plan approval and will run to the benefit of the Homeowners' Association (HOA), and requiring the use of structural soils in those areas that do not meet the minimum planting area requirement of the Public Facilities Manual (PFM).
- Under Proffer 4, Recreational Facilities, the applicant has proffered an additional \$3,180 to the Fairfax County Park Authority, in order to help offset the additional impact caused by the proposed development. However, the Park Authority has determined that a proffered contribution of \$3,975, based on \$265 per estimated resident, is appropriate.
- For Proffer 5, Stormwater Management/Best Management Practices, the maintenance contribution for the SWM facility has been doubled from \$10,000, or the equivalent of 10 year's worth of maintenance, to \$20,000, or the equivalent of 20 year's worth of maintenance. This increase fulfills the recommendation made by County staff during the initial review of the application.
- A provision has been added to Proffer 7, Design, Part E, requiring that fences along the rear property lines of Lots 1, 2, and 3, be constructed at least 4 inches off the ground in order to allow the flow of groundwater in this area. In addition, Part F has been amended to add a provision allowing the possible addition of a stormwater easement in the area located between Lots 2 & 3.
- Proffer 9, Homeowners' Association, Notification and Review, was amended to include a provision requiring that HOA documentation, disclosure packages, and all initial sales material be reviewed for compliance with this proffer by the Office of the County Attorney.
- Under Proffer 10, Heritage Resources, the applicant has proffered to nominate the existing dwelling unit on the subject property for listing on the Fairfax County Inventory of Historic Sites. In addition, the applicant is proffering to allow the Cultural Resource Management and Protection Section (CRMP) of the Park Authority, or its designee, access to the site for a specified period of time in order to conduct an archeological survey of the subject property.

Although the revisions identified above successfully address previous staff concerns regarding stormwater management, they only partially address the larger issues relating to the proposed development and its relationship with the both the adjacent residential neighborhoods and existing dwelling located on site. As noted in the published staff report, the proposed lot sizes and design of the infill development is inconsistent with that of the surrounding developments and does

not provide an appropriate transition throughout the area; therefore, staff believes that the request does not meet the General Standards for a Planned Development District as set forth in the Zoning Ordinance. In addition, due to their large bulk and mass, the proposed dwellings for Lots 1, 2, 3, and 5 are inappropriate in the context of the existing dwelling on site. The incompatible scale, when combined with the smaller lot sizes proposed by the applicant, creates a layout that dominates the existing dwelling as opposed to one that blends into the fabric of its surroundings. For these reasons, staff believes this request for rezoning to the PDH-2 District is not appropriate and that the development of the property would be more appropriate as a conventional zoning district or as an R-2, Cluster, in that more appropriate lot sizes and design would result if the property were developed conventionally.

CONCLUSIONS AND RECOMMENDATIONS

Conclusions

While the revisions above make some improvements to the overall application, staff continues to believe that the development of the subject property is not in keeping with that of the adjacent residential neighborhoods, or within the context of the setting of the existing dwelling located on site. The layout proposed by the applicant is most similar to that of a conventional R-5 development, as opposed to an R-2, Cluster, or R-2 development. Therefore, development of the subject property by right as an R-2, Cluster, would be more appropriate. For these reasons, staff concludes that the proposal still does not fulfill the Residential Development Criteria, and is, therefore, still not in substantial conformance with the Comprehensive Plan. As such, staff continues to recommend denial of this application.

Recommendations

Staff recommends that RZ 2006-PR-017 and the Conceptual Development Plan be denied; however, if it is the intent of the Board of Supervisors to approve RZ 2006-PR-017, staff recommends that the approval be subject to proffers consistent with those contained in Attachment 3 of the Staff Report Addendum.

It should be noted that it is not the intent of the staff to recommend that the Board, in adopting any conditions proffered by the owner, relieve the applicant/owner from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

It should be noted that the content of this report reflects the analysis and recommendation of staff; it does not reflect the position of the Board of Supervisors.

ATTACHMENTS

1. Locator Maps
2. Reduction of CDP/FDP Plat
3. Draft Proffers
4. Proposed Development Conditions

PROFFERS

**Prospect Development Company, Inc. – Lot 1, Section 2, Hideaway Park
RZ 2006-PR-017**

May 30, 2007

Pursuant to Section 15.2-2303(a) of the Code of Virginia, 1950, as amended, the owners and Prospect Development Company, Inc. (hereinafter referred to as the “Applicant”) for themselves, their successors, and assigns in RZ 2006-PR-017 filed for property identified as Tax Map 48-2 ((17)) 1 (hereinafter referred to as the “Application Property”) hereby proffers to the following, provided that the Board of Supervisors (“BOS”) approves a rezoning of the Application Property from the R-2 District to the PDH-2 District in conjunction with a Conceptual Development Plan/Final Development Plan (“CDP/FDP”) for residential development.

1. CONCEPTUAL DEVELOPMENT PLAN/FINAL DEVELOPMENT PLAN

- a. Subject to the provisions of Section 16-204 of the Fairfax County Zoning Ordinance (hereinafter referred to as the “Zoning Ordinance”), development of the Application Property shall be in substantial conformance with the CDP/FDP, consisting of nine (9) sheets prepared by Tri-Tek Engineering, dated February 16, 2006, as revised through May 15, 2007.
- b. Pursuant to Paragraph 4 of Section 16-403 and Section 18-204 of the Zoning Ordinance, minor modifications from the CDP/FDP may be permitted, as determined by the Zoning Administrator. The Applicant reserves the right to make minor modifications to the layout shown on the CDP/FDP, without requiring approval of a Proffered Condition Amendment (“PCA”)/Final Development Plan Amendment (“FDPA”), provided such changes are in substantial conformance with the CDP/FDP as determined by the Zoning Administrator, so long as such changes do not increase the total number, type, or general location of units; decrease the number of access points, amount of open space, or peripheral setbacks; or reduce the limits of clearing and grading.
- c. Notwithstanding the fact that the CDP/FDP is presented on nine (9) sheets and is the subject of Paragraph 1(a) above, it shall be understood that the CDP shall be limited to the points of access; the location and amount of open space; the limits of clearing and grading; the location and limits of the Conservation Area; setbacks of the single family homes on Lots 1, 2, 3 and 5, and the tree preservation areas. The Applicant has the option to request FDPAs for elements other than the aforementioned CDP elements from the Planning Commission for all of, or a portion of, the CDP/FDP in accordance with the provisions set forth in Section 16-402 of the Zoning Ordinance.

2. TRANSPORTATION

- a. Subject to Virginia Department of Transportation (“VDOT”) and Fairfax County Department of Public Works and Environmental Services (“DPWES”) approval, the Applicant shall construct frontage improvements along the Application Property’s frontage, as shown on the CDP/FDP. Specifically, the Applicant shall construct the following improvements: a five (5)-foot wide concrete sidewalk along the frontage of the Application Property and an off-site extension of that sidewalk along the frontage adjacent to Tax Map 48-2 ((13)) 38; and curb, gutter and pavement on the development side (north side) of Mears Street. The frontage improvements shall be completed prior to the issuance of the first (1st) Residential Use Permit (“RUP”) for the Application Property or at such later time as may be administratively approved by the Zoning Administrator, based upon demonstration of diligent efforts to satisfy the above-referenced deadline. The Applicant acknowledges that a sight distance waiver is required in order to construct the entrance as shown on the CDP/FDP, and that if such a waiver is not granted, and if a redesign is required for the entrance that is not in substantial conformance with the CDP/FDP, then a PCA/FDPA may be necessary in order to develop the Property.
- b. Subject to VDOT and DPWES approval, the Applicant shall dedicate and convey in fee simple to the BOS right-of-way up to twenty-five (25) feet from the centerline of Mears Street, as shown on the CDP/FDP, for the construction of improvements as listed above. Dedication shall be made at the time of subdivision plan approval or upon demand of either Fairfax County or VDOT, whichever should first occur. The Applicant reserves density credit, as may be permitted by the provisions of Paragraph 4 of Section 2-308 of the Zoning Ordinance, for all such dedications, whether such dedications occur prior to or at the time of subdivision plan approval.
- c. The Applicant shall construct a five (5)-foot wide concrete sidewalk within the residential development, as shown on the CDP/FDP.
- d. A public access easement shall be granted as part of site plan approval over that portion of the five (5)-foot wide concrete sidewalk that is located between the Mears Street right of way and the southern property line of Lot 1. A marker shall be placed at the terminus of this easement near Lot 1 that identifies the end of the public access easement and the beginning of private property-owner only access. The public access easement shall include one (1) area that is of sufficient size to place a historical marker, as described in Proffer 10b. The purpose of the easement is to permit unobstructed views of the historical farmhouse on Lot 4. This historical farmhouse is further described in Proffer 10.

- e. The private street shown on the CDP/FDP shall be constructed of materials and with a pavement depth consistent with the Public Facilities Manual (“PFM”) standards for public streets. Initial purchasers shall be advised of the requirement to maintain private streets and estimated costs prior to entering into a contract of sale. This requirement to maintain the private streets as constructed and the estimated maintenance costs shall be included in the Homeowners’ Association (“HOA”) documents for the Application Property. Further, the developer shall establish an initial reserve fund for the maintenance of private streets in the amount of \$1,000.00 with the HOA prior to the conveyance of the first dwelling unit on the Application Property.
- f. A portion of the “hammerhead” at the terminus of the private street, as shown on the CDP/FDP shall be paved with pervious pavers, such as grasscrete.

3. TREE PRESERVATION, LANDSCAPING, AND OPEN SPACE

- a. Tree Preservation Plan. The Applicant shall submit a tree preservation plan as part of the first and all subsequent subdivision plan submissions. The tree preservation plan shall be prepared by a professional with experience in the preparation of tree preservation plans, such as a certified arborist or landscape architect, and shall be subject to the review and approval of UFM, DPWES.

The tree preservation plan shall consist of a tree survey that includes the location, species, size, crown spread and condition rating percentage of all trees ten (10) inches in diameter and greater, including the twenty-six (26) inch holly tree located on Lot 5, and all trees located within 25 feet to either side of the limits of clearing and grading shown on the CDP/FDP for the entire site. The tree preservation plan shall provide for the preservation of those areas shown for tree preservation, those areas outside of the limits of clearing and grading shown on the CDP/FDP and those additional areas in which trees can be preserved as a result of final engineering. The condition analysis ratings shall be prepared using methods outlined in the latest edition of the Guide for Plant Appraisal published by the International Society of Arboriculture. Specific tree preservation activities that will maximize the survivability of any tree identified to be preserved, such as: crown pruning, root pruning, mulching, fertilization, and others as necessary, shall be included in the plan.

- b. Protection of Existing Understory Vegetation and Soil Conditions in Tree Preservation Areas. The Applicant shall clear the proposed open space of dead trees and invasive plant materials, as approved by the UFM, DPWES.

All tree preservation-related work occurring in or adjacent to tree preservation areas shall be accomplished in a manner that minimizes damage to vegetation to be preserved, including any woody, herbaceous or vine plant species that occurs in the lower canopy environment, and to the existing top soil and leaf litter layers that provide nourishment and protection to that vegetation. Removal of any vegetation, if any, or soil disturbance in tree preservation areas, including the removal of plant species that may be perceived as noxious or invasive, such as poison ivy, greenbrier, multi-floral rose, etc. shall be subject to the review and approval of UFM, DPWES.

The use of equipment in tree preservation areas shall be limited to hand-operated equipment such as chainsaws, wheel barrows, rakes, and shovels. Any work that requires the use of motorized equipment, such as tree transplanting spades, skid loaders, tractors, trucks, stump-grinders, etc., or any accessory or attachment connected to this type of equipment shall not occur unless pre-approved by UFM, DPWES.

- c. Tree Preservation Walk-Through. The Applicant shall retain the services of a certified arborist or landscape architect, and shall have the limits of clearing and grading marked with a continuous line of flagging prior to the walk-through meeting. During the tree preservation walk-through meeting, the Applicant's certified arborist or landscape architect shall walk the limits of clearing and grading with an UFM, DPWES representative to determine where adjustments to the clearing limits can be made to increase the area of tree preservation and/or to increase the survivability of trees at the edge of the limits of clearing and grading, and such adjustment shall be implemented. Trees that are identified specifically by UFM in writing as dead or dying may be removed as part of the clearing operation. Any tree that is so designated shall be removed using a chain saw and such removal shall be accomplished in a manner that avoids damage to surrounding trees and associated understory vegetation. If a stump must be removed, this shall be done using a stump-grinding machine in a manner causing as little disturbance as possible to adjacent trees and associated understory vegetation and soil conditions.
- d. 1) Limits of Clearing and Grading. The Applicant shall conform strictly to the limits of clearing and grading as shown on the CDP/FDP, subject to allowances specified in these proffered conditions and for the installation of utilities and/or trails, as determined necessary by the Director of DPWES, as described herein. If it is determined necessary to install utilities and/or trails in areas protected by the limits of clearing and grading as shown on the CDP/FDP, they shall be located in the least disruptive manner necessary as determined by UFM, DPWES. A replanting plan shall be developed and implemented, consistent with the installed utilities and/or trails and any easements associated therewith, subject to approval by UFM, DPWES, for any areas protected by the limits of clearing and grading that must be disturbed for such trails or utilities.

- 2) Tree Protection Fencing. All trees shown to be preserved on the tree preservation plan shall be protected by tree protection fencing. Tree protection fencing in the form of four (4) foot high, fourteen (14) gauge welded wire attached to six (6) foot steel posts driven eighteen (18) inches into the ground and placed no further than ten (10) feet apart or super silt fence to the extent that required trenching for super silt fence does not sever or wound compression roots which can lead to structural failure and/or uprooting of trees shall be erected at the limits of clearing and grading as shown on the demolition and phase I & II erosion and sediment control sheets, as may be modified by the proffer pertaining to "Root Pruning" below. All tree protection fencing shall be installed after the tree preservation walk-through meeting, but prior to any clearing and grading activities, including the demolition of any existing structures. The installation of all tree protection fencing shall be performed under the supervision of a certified arborist, and accomplished in a manner that does not harm existing vegetation that is to be preserved. Ten (10) days prior to the commencement of any clearing, grading, or demolition activities, but subsequent to the installation of the tree protection devices, the UFM, DPWES shall be notified and given the opportunity to inspect the site to ensure that all tree protection devices have been correctly installed. If it is determined that the fencing has not been installed correctly, no grading or construction activities shall occur until the fencing is installed correctly, as determined by UFM, DPWES.
- e. Root Pruning. The Applicant shall root prune, as needed to comply with the tree preservation requirements of these proffers. All treatments shall be clearly identified, labeled, and detailed on the erosion and sediment control sheets of the subdivision plan submission. The details for these treatments shall be reviewed and approved by UFM, DPWES, accomplished in a manner that protects affected and adjacent vegetation to be preserved, and may include, but not be limited to the following:
- Root pruning shall be done with a trencher or vibratory plow to a depth of 18 inches.
 - Root pruning shall take place prior to any clearing and grading, or demolition of structures.
 - Root pruning shall be conducted with the supervision of a certified arborist.
 - An UFM, DPWES, representative shall be informed when all root pruning and tree protection fence installation is complete.
- f. Demolition of Existing Features and Structures within the Limits of Clearing and Grading. A two (2) story wood barn, a wood shed, a gravel drive and a concrete sidewalk are existing and are located within areas protected by the limits of clearing and grading as shown on the CDP/FDP. These structures

may remain. However, if demolished, the demolition of these existing features and structures within areas immediately adjacent to or protected by the limits of clearing and grading areas shown on the CDP/FDP shall be done by hand without heavy equipment and conducted in a manner that does not impact individual trees and/or groups of trees that are to be preserved as reviewed and approved by UFM, DPWES.

- g. Site Monitoring. During any clearing or tree/vegetation/structure removal on the Application Property, a representative of the Applicant shall be present to monitor the process and ensure that the activities are conducted as proffered and as approved by UFM. The Applicant shall retain the services of a certified arborist or landscape architect to monitor all construction and demolition work and tree preservation efforts in order to ensure conformance with all tree preservation proffers and UFM approvals. The monitoring schedule shall be described and detailed in the Landscaping and Tree Preservation Plan, and reviewed and approved by UFM, DPWES.
- h. Tree Value Determination. The Applicant shall retain a professional arborist with experience in plant appraisal to determine the replacement value of all trees 10 inches in diameter or greater located within twenty-five (25) feet of the outer edge of the limits of clearing and grading, as shown on the CDP/FDP. These trees and their value shall be identified on the tree preservation plan at the time of the first submission of the subdivision plan. The replacement value shall take into consideration the age, size and condition of these trees and shall be determined by the so-called "Trunk Formula Method" contained in the latest edition of the Guide for Plant Appraisal published by the International Society of Arboriculture, subject to review and approval by UFM, DPWES.
- i. Tree Bonds. At the time of subdivision plan approval, the Applicant shall both post a cash bond and a letter of credit payable to the County of Fairfax to ensure preservation and/or replacement of the trees for which a tree value has been determined that die or are dying due to unauthorized construction activities. The letter of credit shall be equal to 50% of the replacement value of the bonded trees. The cash bond shall consist of 33% of the amount of the letter of credit.

At any time prior to final bond release, should any bonded trees die, be removed, or are determined to be dying by UFM due to unauthorized construction activities, the Applicant shall replace such trees at its expense. The replacement trees shall be of equivalent species and ten (10) year canopy cover as approved by UFM. At the time of approval of the final RUP, the Applicant shall be entitled to request a release of any monies remaining in the cash bond and a reduction in the letter of credit to an amount equal to 20% of the total amounts originally committed.

Any funds remaining in the letter of credit or cash bond will be released two (2) years from the date of release of the Application Property's conservation escrow, or sooner, if approved by UFM, DPWES.

- j. Tree Transplanting Plan. The Applicant shall provide a tree transplanting plan as part of the first and all subsequent submissions of the subdivision plan for review and approval by the UFM, DPWES. The plan shall be prepared by a professional with experience in the preparation of tree transplanting plans, such as a certified arborist or landscape architect. The plan shall address the transplanting of the existing trees on the site. The use of motorized equipment, such as tree transplanting spades, skid loaders, tractors, trucks, stump grinders, etc., or any accessory or attachment connected to this type of equipment, shall be permitted with the approval of UFM, DPWES.
- k. Retaining Walls. Retaining walls shall be permitted in the locations as shown on the CDP/FDP, or as may be required by UFM, DPWES in order to preserve specific trees identified in the tree preservation plan. However, no retaining wall shall be permitted to exceed five (5) feet in height and no retaining wall not already depicted shall be permitted without a formal determination by Zoning Evaluation Division that it is in substantial conformance with the CDP/FDP.
- l. Use of Open Space. That area of Parcel A which is located outside of the limits of clearing and grading shall remain as undisturbed open space.
- m. A conservation easement, in the location as generally shown on the GDP, shall be recorded prior to site plan approval. This easement shall run to the benefit of the HOA.
- n. Use of Structural Soil. Structural Soil shall be provided for all trees that do not meet the minimum planting area required by the Public Facilities Manual ("PFM"), as determined by UFM, DPWES. If it is determined that structural soil is required, then geotextile fabric shall be provided between the structural soil and a layer of organic material shall be located on top of the structural soil. Written documentation, including information about the composition of the structural soil shall be provided to UFM, DPWES indicating that a qualified and appropriately licensed company shall provide the structural soil at the time of site plan submission. The Applicant shall provide 72 hour notice to UFM, DPWES and the Providence District Supervisor's Office prior to installation of the soil to allow verification of the composition of the structural soil and verification that the structural soil is installed correctly. The Applicant shall provide written confirmation from a certified arborist and/or landscape architect demonstrating and verifying installation of structural soil.

- o. In order to preserve lines of sight from Mears Street to the historic farmhouse on Lot 4, no trees or tall shrubs shall be planted within the triangular area created between the northwestern corner of the historic farmhouse, the southwestern corner of the Application Property and the eastern boundary of the private street at its intersection with the Mears Street right-of-way.

4. RECREATIONAL FACILITIES

The Applicant shall comply with Paragraph 2 of Section 6-110 and Paragraph 2 of Section 16-404 of the Zoning Ordinance regarding developed recreational facilities for the residential uses. The Applicant proffers that the minimum expenditure for the recreational facilities shall be \$955.00 per new residential unit. The balance of any funds not expended on-site shall be contributed to the FCPA for park improvements to Hideaway Park, located in close proximity to the Application Property on the east side of Glenvale Drive.

The Applicant shall also contribute an additional \$3,180.00 to the FCPA in order to offset any additional recreational impact generated by this development. These funds shall be used for park improvements to Hideaway Park.

5. STORMWATER MANAGEMENT/BEST MANAGEMENT PRACTICES

- a. Stormwater detention shall be provided in an innovative underground stormwater facility, as approved by the Director, DPWES. In the event that an innovative underground Stormwater facility is not approved, thereby requiring a facility that is not in substantial conformance with the CDP/FDP, then a PCA/FDPA may be necessary in order to develop the Property.
- b. Best Management Practices (“BMP”) shall be provided by the preservation of land designated as a conservation easement on the CDP/FDP. In the event that minimum BMP requirements are not satisfied with the use of the proposed conservation easement alone, additional methods, as determined by DPWES, shall be used to satisfy the minimum requirements set forth in the Public Facilities Manual (“PFM”). Any methods that are not in substantial conformance with the CDP/FDP may require a PCA/FDPA in order to develop the Property.
- c. Initial purchasers shall be advised of the requirement to maintain the innovative underground SWM facility and the estimated costs prior to entering into a contract of sale. This requirement to maintain the innovative underground SWM facility as constructed and the estimated maintenance costs shall be included in the Homeowners’ Association (“HOA”) documents for the Application Property. Further, the developer shall establish an initial

reserve fund for the maintenance of the innovative underground SWM facility in the amount of \$20,000.00 with the HOA prior to the conveyance of the first new dwelling unit on the Application Property, which is the approximate cost of the SWM maintenance for twenty (20) years.

6. HOUSING TRUST FUND

The Applicant shall contribute a monetary amount equal to 0.5% of the value of the new units approved on the Application Property. This percentage shall be based upon the aggregate sales price of all of the units subject to the contribution, as if all of those units were sold at the time of the issuance of the first (1st) building permit, and shall be estimated through comparable sales of similar type units, as determined by the Department of Housing and Community Development, in consultation with the Applicant and DPWES. This contribution shall be made prior to the issuance of the first (1st) building permit.

7. DESIGN

- a. The architectural design of each of the new units shall be in substantial conformance with the design as shown on the CDP/FDP for each lot, which have been designed to compliment elements of the existing "colonial" style farmhouse that is located on Lot 4. Design elements of each new home shall include brick and/or stone water tables and chimneys, white Hardie-Plank lapped siding, dark colored shutters, double hung windows, and a residential scale, metal standing-seam roof over the front porches. Setbacks and façade elements for each new unit are depicted on the CDP/FDP, and shall be maintained.
- b. The historical farmhouse on Lot 4 shall be preserved.
- c. All new homes constructed on the Application Property shall comply with the Council of American Building Officials ("CABO") Model Energy Code for energy efficient homes, or its equivalent, for either electric or gas energy systems, as applicable.
- d. All homes shall contain a two (2)-car garage and driveways, as shown on the CDP/FDP. All driveways shall be a minimum of eighteen (18) feet in length, measured from the face of the sidewalk nearest the adjacent unit, if applicable, or the private street.
- e. A covenant shall be recorded in the land records of Fairfax County which provides that garages shall only be used for a purpose that will not interfere with the intended purpose of garages (i.e., the parking of vehicles). This covenant shall be recorded among the land records of Fairfax County in a

form approved by the County Attorney prior to the sale of any lots and shall inure to the benefit of the HOA (which shall be established by the Applicant pursuant to these proffers) and Fairfax County. Said use restriction for garages shall be included in the HOA documentation prepared in conjunction with the proposed development. Initial purchasers shall be advised of the use restriction prior to entering into a contract of sale.

- f. In order to create a visual barrier between existing off-site development and the proposed development, board-on-board fences, which are six (6) feet in height, shall be installed on the Application Property along the rear property lines of Lots 1, 2, 3 and 5. An exception shall be a section of shorter fencing to be constructed on top of the retaining wall along the rear property line of Lot 5, so that the combined height of the retaining wall and fence does not exceed six (6) feet in height, as measured from the grade of Lot 5.

Along the rear property lines of Lots 1, 2, 3, the fences shall not be constructed flush to the ground, but shall be constructed so that at least a four (4) inch high area is unobstructed from the grade to the bottom of the fence so as no to impede the flow of ground water in the area.

Owners of off site property identified as Tax Map 48-2 ((13)) 33-38 and Tax Map 48-2 ((17)) 2 - 4 may tie into these required board-on-board fences and shall not be responsible for the cost of installing these required board-on-board fences.

- g. Privacy fences, which are six (6) feet in height and board-on-board construction, may be constructed along the common side property lines of Lots 2 and 3, and Lots 3 and 4; however, in order to reduce visual clutter, these fences must transition down to no more than four (4) feet in height in those areas between the primary structures. In any other side yard, fencing must be constructed of metal, and may not create a solid visual barrier.

If a Stormwater easement is located between Lots 2 and 3, then any privacy fence constructed along their common side property line shall be constructed at the owner's own risk, and the owners' shall hold the County of Fairfax harmless if the fence must be removed for maintenance of a Stormwater pipe.

- h. Decks and/or patios may be installed on individual lots, but may not extend closer than ten (10) feet to the rear property line, as shown on the CDP/FDP. In Decks and/or patios may only be located off of and accessed from the lowest livable level of the home that is at or above grade, and shall not be located off of the upper floor of the home. The maximum size of the deck/patio for each individual unit is depicted on the CDP/FDP, and shall be disclosed in all applicable sales promotional materials and sales contracts, including graphic depiction in all applicable sales materials, which displays

the individual lot and deck/patio sizes for each individual unit. A covenant shall be recorded in the land records of Fairfax County which identifies the deck size and location restrictions on each individual lot. This covenant shall be recorded among the land records of Fairfax County in a form approved by the County Attorney prior to the sale of any lots and shall inure to the benefit of the HOA (which shall be established by the Applicant pursuant to these proffers) and Fairfax County. Said location and size restriction for decks/patios shall be included in the HOA documentation prepared in conjunction with the proposed development. Initial purchasers shall be advised of the use restriction prior to entering into a contract of sale.

8. LIGHTING

Outdoor lighting on the private streets and common areas shall include full cutoff fixtures and shall be directed downward and inward to minimize glare onto adjacent residential properties. Street lighting shall not exceed a height of ten (10) feet measured from the grade level to the top of the structure. All lighting shall be compliant with Section 14-900 of the Zoning Ordinance.

9. HOMEOWNERS' ASSOCIATION, NOTIFICATION, AND REVIEW

- a. The Applicant shall establish an HOA for the proposed development to own, manage, and maintain all common areas, including, but not limited to, stormwater management facility, open space and conservation easement areas, trails, sidewalks, public access easement areas, private streets, and landscaping. The requirement to maintain the aforementioned, and maintenance of the private street and sidewalk, shall be the responsibility of the HOA.
- b. The HOA documentation shall include, in an obvious location, clearly stated, graphically depicted if appropriate, and specific information regarding:
 - The HOA's responsibility to maintain the innovative Stormwater management/BMP facility (or acceptable alternative as described in Proffer 5 above), open space areas, trails (if any), sidewalks, private street, landscaping within open space areas, preservation of the conservation easement, and maintenance of the landscaping restriction within the site-line preservation area;
 - Architectural restrictions, minimum yard requirements, and maximum deck/patio sizes and locations for each proposed lot;
 - The maximum height and location of required barrier fences and optional privacy fences;

- That any optional privacy fence between Lots 2 and 3 is to be constructed at the owner's own risk, if a stormwater pipe and associated easement are located along that property line; and
 - The use restriction of garages.
- c. Purchasers shall be advised of these requirements and restrictions prior to entering into a contract of sale through a disclosure package that contains the HOA documentation.
- d. The HOA Documentation, disclosure package, and any initial sales materials shall be reviewed for compliance with this proffer by the County Attorney's Office, and shall be published and distributed in a format as approved by the County Attorney's Office.

10. HERITAGE RESOURCES

- a. A particular heritage resource – a farmhouse, which is located at Tax Map 48-2 ((17)) 1 (and depicted as Lot 4 on the CDP/FDP), has been identified by Staff. For the purpose of recording and documenting relevant historic information, the Applicant shall cause the house located on that parcel to be photographed and documented, both inside and outside, by a consultant listed either in the Virginia Department of Historic Resources ("VDHR") or the Maryland Historical Trust Preservation Consultant Directory or by a certified professional architectural historian. Photographic recordation, written documentation, and a description of the house, its construction, its occupants, and significant events that occurred on the property shall be accomplished to a standard as required for a VDHR "Intensive Level Survey" using the VDHR Preliminary Information Form, and shall be completed prior to issuance of the first (1st) new RUP for the Application Property. Said documentation shall include a sketch plan drawing as indicated in the Historic American Building Survey ("HABS") Documentation Level III. All photographs (including negatives), written documentation, and sketches shall be submitted to the Virginia Room of the Fairfax County Public Library and to the Fairfax County Department of Planning and Zoning ("DPZ"). The Applicant shall provide written documentation to DPZ that required documentation has been submitted to the Virginia Room.
- b. Prior to final bond release for the Application Property, the Applicant shall fund the cost of and erect a historical marker within the public access easement described in Proffer 2d, which shall generally describe the significance of the historic farmhouse, and shall include a statement regarding the location of the home's historical documentation that is required per Proffer 10a. The location, design and text of said marker shall be determined in consultation with the Providence District Supervisor.

- c. The Applicant shall nominate this farmhouse for listing on the Fairfax County Inventory of Historic Sites prior to the issuance of the first (1st) new RUP for the Application Property, and shall diligently pursue nomination approval, as determined by the Fairfax County Historic Preservation Planner, DPZ.
- d. The Applicant shall notify the Cultural Resource Management and Protection Section (CRMPS) of the Fairfax County Park Authority when the initial site plan has been submitted for the Application Property. The Applicant agrees that CRMPS, or their designee, may enter the Application Property and conduct an archeological survey within the areas designated as open space, proposed Lots 1, 2, 3 and 5, and areas designated for road construction, if they elect to do so, within seven (7) months of such notification. The Applicant agrees that any artifacts discovered on the Application Property that are determined to be historically significant by CRMPS may be retained by CRMPS.

11. NOISE MITIGATION

In order to reduce interior noise to a level of approximately 45 dBA Ldn, all proposed units shall employ the following acoustical measures:

Exterior walls shall have a laboratory sound transmission class (STC) rating of at least 39. Doors and glazing shall have a laboratory STC rating of at least 28 unless glazing constitutes more than 20% of any façade exposed to noise levels of Ldn 65 dBA or above. If glazing constitutes more than 20% of an exposed façade, then the glazing shall have a STC rating of at least 39. All surfaces shall be sealed and caulked in accordance with methods approved by the American Society for Testing and Materials (ASTM) to minimize sound transmission.

The Applicant reserves the right to pursue other method of mitigating highway noise impacts that can be demonstrated prior to the filing of a building permit, through an independent noise study as reviewed and approved by DPWES and the Department of Planning and Zoning, provided that these methods will be effective in reducing interior noise levels to approximately DNL 45 dBA for all proposed units.

12. Water Service

At the time of subdivision plan review, the Applicant shall meet with Fairfax Water to mutually assess the economic and engineering implications of utilizing Fairfax Water service to serve the Property. If the Applicant and Fairfax Water determine that connecting to Fairfax Water can be accommodated in a manner that reasonably feasible from both a financial and engineering perspective, then the Applicant shall work with Fairfax Water to serve the Property with Fairfax Water service.

13. SUCCESSORS OR ASSIGNS

These proffers shall bind and inure to the benefit of the Applicant and his or her successors and assigns.

14. COUNTERPARTS

These proffers may be executed in one or more counterparts, each of which when so executed and delivered shall be deemed an original document and all of which taken together shall constitute but one and the same instrument.

[SIGNATURES BEGIN ON THE FOLLOWING PAGE]

APPLICANT/CONTRACT PURCHASER OF TAX MAP 48-2 ((17)) 1
PROSPECT DEVELOPMENT COMPANY, INC.

By: Paul F. Lucas
Its: President

[SIGNATURES CONTINUED ON NEXT PAGE]

TITLE OWNERS OF TAX MAP 48-2 ((17)) 1

Timothy J. Waters

Virginia H. Waters

[SIGNATURES END]

PROPOSED DEVELOPMENT CONDITIONS**FDP 2006-PR-017****April 4, 2007**

If it is the intent of the Planning Commission to approve Final Development Plan 2006-PR-017 located at Tax Map 48-2 ((17)) 1, staff recommends that the Planning Commission condition the approval by requiring conformance with the following development conditions:

1. Irrespective of that shown on the CDP/FDP, supplemental plantings shall be provided for that area in which the 2-story barn is to be demolished within the tree save area, as coordinated with Urban Forest Management (UFM), DPWES. This coordination shall include a review of all demolition activities associated with this area prior to commencement, and the appropriate reforestation of any disturbed area, as determined by UFM. A landscape plan depicting this supplemental landscaping, including, but not limited to, the number and types of species, shall be submitted concurrent with a site plan submission and shall be subject to review and approval of UFM, DPWES. In addition, the landscape plan shall also depict: the number and sizes of trees and plantings consistent with that shown on CDP/FDP as determined by UFM.
2. Structural Soil shall be provided for all trees that do not meet the minimum planting area required by the Public Facilities Manual ("PFM"), as determined by Urban Forest Management. Geotextile fabric shall be provided between the structural soil and a layer of organic material located on top of the structural soil. Written documentation, including information about the composition of the structural soil shall be provided, to Urban Forest Management indicating that a qualified and appropriately licensed company shall provide the structural soil at the time of site plan submission. The Applicant shall provide 72-hour notice to Urban Forest Management and the Providence District Supervisor's Office prior to installation of the soil to allow verification of the composition of the structural soil and verification that the structural soil is installed correctly. The Applicant shall provide written confirmation from a certified arborist and/or landscape architect demonstrating and verifying installation of structural soil.
3. Prior to any land disturbing activities on the subject property, the Applicant shall conduct a tight interval (30-foot intervals between shovel tests) Phase I archaeological study of the Application Property, using a scope of work provided by the Cultural Resource Management and Protection Section (CRMPS) of the Fairfax County Park Authority. If any archeological resources are found by the Phase I survey and determined by CRMPS to be potentially significant, then the Applicant shall conduct a Phase II and/or Phase III archaeological study on only those areas of the Application Property identified for further study by CRMPS. The surveys shall be conducted by a qualified archaeological professional approved by CRMPS, and shall be reviewed and approved by CRMPS within thirty (30) days of completion. At the completion of any cultural resource study, field notes, photographs, and artifacts should be submitted to CRMPS within thirty (30) days.