



# County of Fairfax, Virginia

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March 21, 2007

## STAFF REPORT

APPLICATION RZ/FDP 2006-PR-017

### PROVIDENCE DISTRICT

<b>APPLICANT:</b>	Prospect Development Company, Inc.
<b>PRESENT ZONING:</b>	R-2
<b>REQUESTED ZONING:</b>	PDH-2
<b>PARCEL(S):</b>	48-2 ((17)) 1
<b>ACREAGE:</b>	2.59 acres
<b>FAR/DENSITY:</b>	1.93 du/ac
<b>OPEN SPACE:</b>	53%
<b>COMPREHENSIVE PLAN:</b>	Residential, 1-2 du/ac
<b>PROPOSAL:</b>	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 Appendix 1 of the Staff Report.

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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  
FAX 703 324-3924  
[www.fairfaxcounty.gov/dpz/](http://www.fairfaxcounty.gov/dpz/)

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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 Appendix 2 of the Staff Report.

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).

**A GLOSSARY OF TERMS FREQUENTLY  
USED IN STAFF REPORTS MAY BE  
FOUND AT THE BACK OF THIS REPORT**

**DESCRIPTION OF APPLICATION**

**Proposal:**

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 property is currently developed with a single-family detached dwelling and two accessory buildings consisting of a wood shed and a 2-story barn. The existing single-family detached dwelling and wood shed will remain on site as a part of the new development, but the 2-story barn is proposed to be demolished.

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.

**LOCATION AND CHARACTER:**

As previously indicated, the subject property is located within Section 2 of the existing Hideaway Park neighborhood, on the north side of Mears Street and east of Elsmore Street. The property borders on Interstate 66 to the immediate north, and there is an existing sound barrier located along this section of the interstate. The parcel is currently zoned R-2 and is developed with a single family detached dwelling and two accessory buildings. Access is provided via a gravel driveway off Mears Street in the southwest corner of the parcel. Although the parcel is not listed on the Fairfax County Inventory of Historic Places or the Standing Structures Survey, the Fairfax County Historic Preservation Planner has determined that the existing house on the site is a potentially significant heritage resource given its age and context, as undeveloped land in older or low density neighborhoods may contain additional significant heritage resources.

The site is further characterized as maintained grassland with significant vegetation in the central, eastern and southwestern portions of the property consisting primarily of maple, spruce, oak, walnut, dogwood and American holly.

The northern portion of the site consists primarily of maple, tulip tree, cedar, black gum, and sassafras. Almost all of the existing vegetation on site appears to be in good condition.

### **BACKGROUND:**

The Hideaway Park development is comprised of three different sections totaling 96 lots on 38.47 acres and was developed throughout the late 1960s and early 1970s under the R-17 District provisions in effect at that time, which converted to the R-2 District in 1978 with the adoption of the current Zoning Ordinance. While all three sections are currently zoned R-2, only Section 1 was developed as a cluster development under the alternate density provisions of the Zoning Ordinance. Section 2, where the subject property is located, was approved on December 19, 1966, and approved as a conventional subdivision containing eighteen (18) single family detached dwellings on 13.86 acres at an overall density of 1.3 du/ac. The plat identifies the subject property as a single parcel containing 2.59 acres. Given the approved density, there is potential for additional development to occur in Section 2 of the development, and the removal of the subject property results in an increase of the overall density of Section 2 from 1.3 du/ac to 1.51 du/ac for the remaining development; this is under the 2 du/ac maximum for the R-2 District. A copy of the approved subdivision Plat is included as Appendix 4A.

Staff has identified no other previous requests for special permits, rezonings or variances on the subject property. In addition, there are no outstanding zoning violations or zoning enforcement actions pending against the referenced property

### **COMPREHENSIVE PLAN PROVISIONS (Appendix 5)**

<b>Plan Area:</b>	Area II
<b>Planning District:</b>	Vienna Planning District
<b>Planning Sector:</b>	Lee Community Planning Sector – V1
<b>Plan Map:</b>	Residential, 1-2 du/ac
<b>Plan Text:</b>	

On page 41 in the Area II text, Vienna Planning District, the Lee Community Planning Sector (V-1), the 2003 Edition of the Fairfax County Comprehensive Plan, as amended through July 10, 2006, states the following, in part:

*“Residential infill in the portion of the sector east of Nutley Street and north of frontage property on Lee Highway should be limited to residential uses at a density of 1-2 dwelling units per acre...”*

**ANALYSIS****Conceptual/Final Development Plan** (Reduction at front of staff report)

**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 March 7, 2007

<b>CDP/FDP: Lot 1 – Section 2 Hideaway Park</b>	
<b>Sheet #</b>	<b>Description of Sheet</b>
1 of 7	Sheet Index; Vicinity Map; Site Tabulation; Conceptual/Final Development Plan
2 of 7	Landscape Plan and Recommended Plant List; Tree Cover Calculation; Limits of Clearing and Grading
3 of 7	General Notes and Comments; Soil Evaluation; Minimum Stormwater Information
4 of 7	Existing Vegetation Map and Tree Table
5 of 7	BMP Facility Design Calculations/Computations; Drainage Divide Map and BMP Drainage Map
6 of 7	Stormwater Management Plan; Drainage & Outfall Narrative; Storm Sewer Design Computations; Outfall Map & Photos
7 of 7	Additional Stormwater Management Analysis; Rainstore Facility Details
8 of 9	Architectural Elevations – Lots 1 & 2
9 of 9	Architectural Elevations – Lots 3 & 5

The following features are depicted on the proposed CDP/FDP:

**Site Layout:** The proposed layout includes the division of the 2.59 acre subject property into five (5) residential lots, for the purpose of constructing four (4) new single-family detached dwelling units. In addition, the existing house on the site will be retained as a residence on a separate building lot, proposed Lot 4, resulting in an overall density of 1.93 du/ac. The proposed lots range in total square footage as follows:

<b>Lot Number</b>	<b>Lot Size</b>
Lot 1	5,230 square feet
Lot 2	5,950 square feet
Lot 3	8,196 square feet
Lot 4	18,333 square feet
Lot 5	7,563 square feet
Average Lot Size is approximately 9,054 square feet	

The CDP/FDP indicates a minimum front yard setback of six (6) feet, a minimum side yard setback of seven (7) feet, and a rear yard setback of twenty-five (25) feet, except for Lot 5, which shall have a rear yard setback of only fifteen (15) feet. According to the proposed proffers, rear decks and/or patios may be permitted on each, but no closer than ten (10) feet to the rear property lines. In addition, a detached garage is proposed on Lot 4, with a maximum height of twenty (20) feet and the existing wood shed will be retained in the northeast corner of the lot. Access to each unit will be provided via a twenty-four foot wide private street, and all of the units will be oriented towards this street.

The proposed layout includes two outlots. The largest, Parcel A, totals 1.55 acres and comprises the northern half of the subject property. This area is located entirely within the 200 foot setback area from Interstate 66, and is identified as an open space/tree save area, including an approximately 1.06 acre conservation easement area. Another outlot, unidentified on the CDP/FDP, is located in the southwest corner of the subject property and will be developed with an underground "rainstore" facility in order to fulfill stormwater management (SWM) for the development. The facility is proposed to be designed to occupy about half of the outlot, which will allow the perimeter area to be landscaped.

The CDP/FDP also shows two retaining walls on proposed Lot 5, one located along the rear property line to the east and another in the southern corner of the lot adjacent to the private street. The proposed proffers indicate that 6-foot privacy fences will be installed along the rear property lines of proposed Lots 1, 2, and 3. Given the location of the retaining wall on Lot 5, the proffer also

indicates that a shorter fence will be installed on top of the retaining, so that the combined overall height will not exceed six (6) feet. In addition, the proffers limit the height of any fences constructed between Lots 1 & 2, Lots 2 & 3, and Lots 4 & 5 to a maximum height of four (4) feet, in an effort to reduce visual clutter.

**Vehicular Access:** A private street off of Mears Street will provide access to all of the new dwelling units. The private street will consist of a 32-foot wide ingress-egress easement that includes curb, gutter and a sidewalk on its western side.

**Parking:** Each lot is designed to have space in the driveway area for the parking of two vehicles, and two spaces within an attached garage. The proposed proffers include language prohibiting the conversion of the garages in any way that precludes motor vehicle storage. Furthermore, the proffers include language stating that the driveway for each unit will be a minimum of 18-feet in length to permit adequate space for vehicle parking on the individual lots.

**Pedestrian Access:** Pedestrian access has been provided on-site by way of a 5-foot wide sidewalk along the western side of the proposed private street. In addition, the applicant is proposing a 5-foot sidewalk along the subject property's Mears Street frontage. According to the proposed proffers, this sidewalk will be extended off-site to the south, onto the adjacent property, to connect to the existing sidewalk network in this area. However, there is no existing sidewalk to the north for a connection.

**Open Space:** Pursuant to the provisions for the PDH-2 district, the applicant is required to provide a minimum of 20% open space, or 0.52 acres. The applicant is proposing 53% open space, which is comprised of 1.37 acres of Parcel A located along I-66 in the northern portion of the subject property. The applicant is identifying this area as an open space/tree save area, and a portion of the parcel will be dedicated as a conservation easement.

**Tree Save and Landscaping:** The existing site is characterized as maintained grassland with a significant amount of trees located throughout the site, with primary species being oak, maple, cedar, dogwood, walnut, cherry, poplar, American holly and spruce. Significant vegetation is located in the northern, central, eastern and southwestern portions of the property and most of the existing vegetation on site appears to be in good condition.

Most of the existing trees located in the southern portion of the site will be removed. The applicant is proposing to provide a tree save area and conservation easement comprised of 1.37 acres on the northern half of the property, which follows the limits of clearing and grading as depicted on Sheet 1 of the CDP/FDP. In addition, a large portion of proposed Lot 4 has been left outside of the limits of clearing and grading, thereby preserving the existing trees in this area. Furthermore, a 600 square foot tree save area has been identified to preserve a 30-inch American holly in the southern portion of proposed Lot 5.

In order to meet the 20% tree cover requirement for the site, which is a total of 22,589 square feet of coverage for the subject property, the applicant will rely on the proposed tree save area and will provide additional landscaping. This includes the supplemental planting of various evergreen and deciduous species around the entire perimeter of the development area (Lots 1, 2, 3, and 5), and additional plantings along the new private street and within the front yard areas of the proposed dwelling units. Additional landscaping is proposed around the stormwater management facility located in the southwest corner of the subject property.

**Stormwater Management (SWM):** The application proposes that SWM requirements will be achieved through the use of an underground “rainstore” facility that will be located on the out lot proposed in southwest corner of the site. The trench will be designed to adequately detain the 2-year and 10-year storm events and must be in accordance with the Fairfax County Public Facilities Manual. The post-development run-off will be conveyed through opened and closed storm sewer systems that will connect to an existing closed system across Mears Street to the south. The outfall of this system is the floodplain of the Bear Branch, which flows in a southerly direction.

Best Management Practices (BMP) requirements are proposed to be satisfied through the dedication of a 1.06 acre conservation easement area located within the proposed open space, Parcel A, in the northern portion of the subject property.

## **ANALYSIS**

### **Comprehensive Plan**

The application proposes to rezone the subject property from R-2 to PDH-2, for the purpose of developing the site with four (4) new single family detached dwelling units. In addition, the applicant is proposing to preserve the existing house located on the subject property, which results in a total of five (5) dwellings for the development at an overall density of 1.93 du/ac. The Comprehensive Plan Map shows that the area which includes the subject property is planned for residential uses at 1-2 du/ac. Since the proposed density of 1.93 du/ac is within the range identified in the Plan, this request is in conformance with the density recommendation of the Comprehensive Plan. Despite this, staff believes that proposed development does generally meet the intent of the Comprehensive Plan. This will be discussed in more detail below in the analysis of the Residential Development Criteria.

**Residential Development Criteria & Analysis** (Appendix 15)

Fairfax County expects new residential development to enhance the community by fitting into the fabric of the neighborhood, respecting the environment, addressing transportation impacts, addressing impacts on public facilities, respecting the County's historic heritage, contributing to the provision of affordable housing, and being responsive to the unique site specific considerations of the property. To that end, the following criteria are used in evaluating zoning requests for new residential development:

***Site Design*** (Development Criterion #1)

*Development Criterion #1 requires that the development proposal address consolidation goals in the Comprehensive Plan, or when consolidation is not specifically identified, further the integration of the development with adjacent parcels. In any case, the consolidation of the development should not preclude adjacent parcels from developing in accordance with the Plan.*

The Comprehensive Plan does not specifically identify a consolidation goal for this specific area. Furthermore, the subject property is completely surrounded by the Hideaway Park development; therefore, there are no further adjacent properties that could be considered for consolidation.

*The development proposal should provide logical, functional, and appropriate design relationships within the development, including appropriately oriented units and useable yard areas within the individual lots. Convenient access to transit facilities should be provided where available, and all aspects pertaining to utilities shall be identified.*

In order to locate dwellings no closer than 200 feet to Interstate 66 while maximizing available density, the proposed site layout shows an average lot size of 9,054 square feet and a range of lot sizes from 5,230 square feet (Lot 1) to 18,333 square feet (Lot 4). However, considering that the existing dwelling will remain on Lot 4, which is significantly larger, the effective average lot size of the four additional lots proposed for new development is only 6,734 square feet. The layout identified on the CDP/FDP indicates a minimum front yard setback of eight (8) feet, a minimum side yard setback of seven (7) feet, and a rear yard setback of twenty-five (25) feet, except for Lot 5, which shall have a rear yard setback of only fifteen (15) feet. As such, the proposed lots are most closely comparable to the minimum requirements associated with a conventional R-5 District as opposed to an R-2 District, or an R-2, Cluster, which are the zoning designations for the adjacent properties. In addition, the building footprints shown on the CDP/FDP are significantly larger than that of the existing dwelling to remain on site. The proposed building sizes, combined with the small lot sizes

proposed in the layout results in inadequate, unusable side and rear yard areas for Lots 1, 2, 3, and 5, which will be further exacerbated if decks and/or patios are constructed in the rear yard areas of these lots as shown on the CDP/FDP.

As previously discussed, both vehicular and pedestrian transportation improvements are being proposed as a part of this application, both of which will provide access to transit facilities in the area. A private street off of Mears Street will provide access to all of the new dwelling units. In addition, pedestrian access has been provided on-site by way of a 5-foot wide sidewalk along the western side of the proposed private street and the applicant is proposing a 5-foot sidewalk along the subject property's Mears Street frontage. This sidewalk will be extended off-site to the south, onto the adjacent property, to connect to the existing sidewalk network in this area.

*Open space should be usable, accessible and integrated. Appropriate landscaping should be provided, as should amenities such as benches, recreational amenities, and special design treatments.*

Pursuant to the provisions for the PDH-2 district, the applicant is required to provide a minimum of 20% open space, or 0.52 acres. The applicant is proposing 53% open space, which is comprised of 1.37 acres of Parcel A in the northern portion of the subject property. The applicant is identifying this area as an open space/tree save area, and a portion of the parcel will be dedicated as a conservation easement, and used to fulfill the BMP requirements for the development.

While over half of the subject property is designated as open space coincident with the 200 foot setback limit from I-66, the applicant has not effectively integrated this portion of the site into the proposed development. Access is provided to the open space area via a small extension of the proposed sidewalk along the northern end of the private street. However, the applicant has not proposed any design amenities such as recreational equipment, benches, etc. in this area. Although application of BMP credit within the portion of the open space designated as conservation easement may preclude any disturbance in this specific area, there is additional land area outside of the easement that could be designed as passive open space to better integrate the area for use by future residents.

***Neighborhood Context (Development Criterion #2)***

*While new development is not expected to be identical to neighboring developments within which it is located, this Criterion states that they should fit in the fabric of the area as evidenced by an evaluation of: transitions to abutting and adjacent uses; bulk/mass of the proposed dwelling units; building setbacks and orientation; architectural elevations and materials; pedestrian, bicycle and vehicular connections to off-site trails, roadways, transit facilities and land uses.*

Staff believes that the proposed site layout is incompatible with the adjacent subdivisions, Sections 1 and 2 of Hideaway Park, which are developed as R-2, Cluster and R-2 District Subdivisions, respectively. A review of the adjacent lots to the west within Section 1 of Hideaway Park, Lots 32 - 38, shows that the average lot size for this area is 11,907 square feet. A similar review to the east of adjacent Lots 2 – 6, Section 2 of Hideaway Park, shows that the average lot size is 15,147 square feet. In both instances, these averages are larger than the proposed average lot size of 9,054 square feet for the subject property, and the effective lot size of the those lots proposed for new dwelling units on site, which is only 6,734 square feet. In addition, both the building footprints shown on Sheet 1 and the elevations contained in Sheets 8 & 9 of the CDP/FDP indicate that building footprint of the new units are significantly larger than, and therefore incompatible with, the existing dwelling on the site and those of the adjacent neighborhoods. Moreover, the smaller dwelling sizes and larger lot sizes in the adjacent neighborhoods allow for larger rear and side yard areas than those proposed by the applicant. For this reasons, staff believes that the new development does not fit into the fabric of the adjacent area, which was developed most similarly to those provisions of the R-2, Cluster and R-2 District, as opposed to a conventional R-5 District as characterized by the proposed development.

Furthermore, when considering the developable portion of the subject property outside of the 200-foot setback from I-66, the effective density of the development is much higher than the proposed 1.93 du/ac, and that of the adjacent neighborhoods. A calculation of the effective density, without Parcel A, which is located entirely within the 200-foot setback area, results in an effective density of 4.81 du/ac.

***Environment & Preservation and Tree Cover Requirements (Development Criterion #3 & 4) (Appendices 6 through 8)***

*Development Criterion #3 requires that the development respect the natural environment by: conserving natural environmental resources to the extent possible; designing development while considering existing topographic and soil conditions; minimizing off-site impacts from stormwater runoff and adverse water quality impacts; protecting current and future residents from noise and lighting impacts; and, providing a site layout which encourages and facilitates energy preservation. (Appendices 6 and 7)*

The subject site abuts Interstate 66 to the north, and a noise study conducted as a part of a rezoning, RZ 2004-PR-008, for a nearby property to the east, indicated noise impacts from the interstate. Consistent with those findings, the applicant for RZ 2004-PR-008 proffered to construct a noise barrier to achieve exterior noise mitigation of 65 dBA DNL or less, and to use appropriate building materials to mitigate interior noise levels to 45 dBA DNL or less. Since the subject property and the area associated with RZ 2004-PR-008 are similarly

situated with respect to Interstate 66, the applicant should provide similar attenuation measures. An existing 17-foot tall metal sound barrier located along the section of Interstate 66 adjacent to the subject property provides some exterior noise mitigation. In response to staff's concern regarding interior noise mitigation, the applicant has proffered to reduce interior noise levels to 45 dBA DNL or less through the use of sound rated exterior walls and windows, and through the use of other sound minimizing measures.

This criterion also recommends that any off-site impacts from stormwater runoff and adverse water quality impacts be minimized. The application proposes that SWM requirements will be achieved through the use of an underground "rainstore" facility that will be located on the out lot proposed in southwest corner of the site. The facility will be designed to adequately detain the 2-year and 10-year storm events and must be in accordance with the Fairfax County Public Facilities Manual. According to the proposed proffers, the facility will be privately maintained by the future Homeowners Association, and the applicant has proffered to contribute reserve funds towards the future maintenance of the facility. In addition, Best Management Practices (BMP) requirements are proposed to be satisfied on site through the dedication of the 1.06 acre conservation easement area located within the proposed open space, Parcel A, in the northern portion of the subject property.

Staff has expressed two concerns regarding this proposal. First, the applicant indicates that BMP requirements will be satisfied with the dedication of the 1.06 acre conservation easement located within the open space, Parcel A, in the northern half of the subject property. However, BMP credit cannot be given unless the land is 'perpetually undisturbed'. As such, the area associated with the demolition of the 2-story wood barn located along the northern property line will not qualify for BMP credit, and the applicant will be required at subdivision plan review to demonstrate that the BMP requirements will be satisfied. Second, the use of an innovative detention facility such as a "rainstore" will require separate approval by the Director of the Department of Public Works and Environmental Services (DPWES) to include provisions for maintenance.

A final determination regarding the adequacy of the proposed facility will be made at the time of subdivision plan review. In the event that a waiver of the PFM is not granted and requires the provision of SWM/BMP facilities in a manner that is not in substantial conformance with the CDP/FDP, then a Proffered Condition Amendment (PCA) and Final Development Plan Amendment (FDPA) may be required.

*Criterion #4 states that all developments should be designed to take advantage of existing tree cover and developed appropriately to disturb as little existing tree cover as possible. Furthermore, the extension of utility improvements to the site should be located in a manner that does not interfere with proposed tree save and landscape areas. (Appendix 8)*

The site is characterized as maintained grassland with significant vegetation in the central, eastern and southwestern portions of the property consisting primarily of maple, spruce, oak, walnut, dogwood and American holly. The northern portion of the site consists primarily of maple, tulip tree, cedar, black gum, and sassafras. Almost all of the existing vegetation on site appears to be in good condition.

As previously identified, most of the existing trees located in the southern portion of the site will be removed. The applicant is proposing to provide a tree save area and conservation easement comprised of 1.37 acres on the northern half of the property, which follows the limits of clearing and grading as depicted on Sheet 1 of the CDP/FDP. In addition, a large portion of proposed Lot 4 has been left outside of the limits of clearing and grading, thereby preserving any trees in this area. Furthermore, a 600 square foot tree save area has been identified to preserve a 30-inch American holly in the southern portion of proposed Lot 5.

Despite these efforts, the proposal is deficient with respect to tree preservation efforts. First, several of the trees identified on the Existing Vegetation Map, Sheet 4 of the CDP/FDP, do not specify species or caliper size. While many of these trees are located within the dedicated open space area, several are located within the limits of clearing grading and will most likely be removed as part of construction activities. The proposed limits of clearing and grading along the western property boundary adjacent to proposed Lots 1 -3, and around the 30-inch American holly in the southern portion of proposed Lot 5 will not provide sufficient protection during construction activities. In addition, the applicant has identified a limit of clearing and grading around, but no details are given as to how this will be accomplished in a manner that will minimize impacts to those trees in close proximity that are identified for preservation. Furthermore, several of the proposed landscape plantings proposed for Lot 5 appear to be planted too close to the retaining wall proposed along its eastern property boundary. In order to provide adequate space for growth, the minimum width of any planting area should be eight (8), measured from the interior side of the retaining wall.

At this time, the applicant has not specifically addressed these concerns.

***Transportation (Development Criterion #5) (Appendix 9)***

*This Criterion requires that developments provide safe and adequate access to the surrounding road network, and encourages transit and pedestrian travel and the interconnection of streets. While public streets are preferred, private streets are allowed but the applicant shall demonstrate their benefit. In addition, alternative street designs may be appropriate where conditions merit.*

As previously discussed, the applicant is proposing to serve the subject site via a private street off of Mears Street, which will provide access to all of the new

dwelling units. The private street will be 24 feet wide, and consists of a 32-foot wide ingress-egress easement that includes curb, gutter and a sidewalk on its western side. The entrance to the site from Mears Street will be a minimum of thirty (30) feet in width, thereby fulfilling Virginia Department of Transportation (VDOT) guidelines. In addition, as discussed previously, the applicant is proposing frontage improvements along its Mears Street frontage, to include dedication of right-of-way and the construction of curb, gutter and sidewalk. This sidewalk will be extended off-site to the south to connect to the existing sidewalk network in this area, and to the proposed 5-foot wide sidewalk along the western side of the proposed private street. This will allow pedestrian access in and out of the new development.

There is a concern regarding adequate site distance from the proposed development onto Mears Street. While the 200 foot minimum site distance proposed by the applicant may be acceptable to staff and VDOT, a Public Facilities Manual (PFM) modification will be required. To date, the applicant has not filed a request for site distance modification, and this issue will be addressed at site plan. In the event that a waiver of the PFM is not granted and requires the redesign of the site in a manner that is not in substantial conformance with the CDP/FDP, then a Proffered Condition Amendment (PCA) and Final Development Plan Amendment (FDPA) may be required.

***Public Facilities (Development Criterion #6)***

*Residential development should offset its impacts on public facility systems (i.e., schools, parks, libraries, police, fire and rescue, stormwater management and other publicly owned facilities). Development Criterion #6 states that impacts may be offset through the dedication of land, the construction of public facilities, the contribution of specified in-kind goods, services or cash earmarked for those uses, and/or monetary contributions to be used toward funding capital improvement projects. Phasing of development may be required to ensure mitigation of impacts. (Specific Public Facilities issues are discussed in detail in Appendices 10 through 13).*

***Fairfax County Park Authority Analysis (Appendix 10)***

According to the Fairfax County Park Authority, the development has the potential to generate approximately fifteen (15) additional residents in the Providence Supervisory District, which will require access to outdoor recreational facilities. In order to offset the additional impact caused by this redevelopment, the Park Authority has determined that a proffered contribution of \$3,975 (\$265 per estimated resident) above the Zoning Ordinance requirement of funds equivalent to \$955 per unit, or \$4,775, would be appropriate for recreational facility development at one or more of the existing park sites that is located within the

service area of the subject property. This results in a total dedication of \$8,750 to the Park Authority. At this time, the proposed proffers associated with this application reflect only the Zoning Ordinance required contribution of \$4,775.

***Fairfax County Public Schools Analysis (Appendix 11)***

The proposed redevelopment would be served by Fairhill Elementary, Jackson Middle, and Falls Church High School.

According to the Fairfax County Public Schools Analysis, the rezoning and subsequent development of the subject property with four (4) new single-family detached dwelling units will not generate any more students above and beyond the existing zoning designation. As such, the Fairfax County Public Schools, Office of Facilities Planning Services, did not request a contribution.

***Fire and Rescue Analysis (Appendix 12)***

The subject property is serviced by the Fairfax County Fire and Rescue Department Station #430, Merrifield. In addition, the requested rezoning currently meets fire protection guidelines, as determined by the Information Technology Section of the Fire and Rescue Department, and the Fire Prevention Division.

***Fairfax County Water Authority Analysis (Appendix 13)***

The subject property is located in the City of Falls Church service area.

***Affordable Housing (Development Criterion #7)***

*Development Criterion #7 is applicable to all rezonings and states that ensuring an adequate supply of housing for low and moderate income families, those with special accessibility requirements, and those with other special needs is a goal of Fairfax County. This may be satisfied by the construction of units, dedication of land, or by a contribution to the Housing Trust Fund.*

Given that the proposed residential development is not subject to the Affordable Dwelling Unit Ordinance, the applicant has proffered a contribution to the Fairfax County Housing Trust Fund, in the amount equal to 0.5% of the projected sales price value of each new residential unit approved on the property.

***Heritage Resources (Development Criterion #8) (Appendices 10 & 14)***

*This Criterion recommends that developments address potential impacts on historical and/or archaeological resources through research, protection, preservation, or recordation.*

Although the parcel is not listed on the Fairfax County Inventory of Historic Places or the Standing Structures Survey, the Fairfax County Historic Preservation Planner has determined that the existing house on the site is a potentially significant heritage resource given its age and context. Similar resources have been discovered in this area, and undeveloped land in older or low density neighborhoods may contain additional significant heritage resources. A survey of this area for the purpose of heritage resource recovery or preservation should precede development. Therefore, the Park Authority has recommended that the subject property be subjected to a tight interval Phase I Archeological Survey, the scope of which should be approved by the Authority's Cultural Resource Management and Protection Section (CRMP) and the results reviewed by the Authority's Resource Management Division. Any archeological resources that are found during a Phase I study may require further phased assessments.

Based on an analysis of the application, staff has also concluded the following:

- The proposed layout and location of the private street will have significant impact on the existing house and its setting.

Although the location of the private street entrance from Mears Street is set due to site distance issues, thereby dictating to some extent the location of the private street, additional consideration should be given to designing and locating the private street in a manner to further minimize its encroachment on the setting of the existing house.

- The layout and number of proposed units do not relate well to the existing structures on site that are to remain.

As previously discussed, proposed Lots 1, 2, 3 and 5 are incompatible in size in relationship to that of proposed Lot 4. These lots are much smaller, and the large dwellings proposed on each are inappropriate compared to the scale and size associated with the existing dwelling on site. In particular, staff is concerned that the location of the dwelling on proposed Lot 5 dominates the northern side of the private street and should be similarly scaled to be more harmonious with the adjacent, existing dwelling on site.

- The building footprints and lot areas are too large given the context of the development.

Consideration should be given to reducing the footprints of the proposed units. In addition, if Lot 5 is retained, the dwelling unit should be located closer to Mears Street and away from the existing house.

- The proposed garage on Lot 4 is too large in relationship to the house, and overwhelms the historic structure.

As a secondary, or accessory, structure, the proposed garage should be located to the rear of the existing dwelling and its size and height reduced accordingly. As proposed, the garage will be twenty (20) feet in height, whereas the existing dwelling is only twenty four (24) feet in height. Furthermore, no architectural elevations have been proposed for the garage to determine its appropriateness with the existing dwelling. In staff's opinion, it may be desirable to locate all or part of the proposed garage within the 200 foot setback area for Interstate 66. This would allow for more appropriate placement of the garage in relationship to the house.

While the applicant has proffered to provide photographic and written documentation of the existing house on the subject property, the applicant has not addressed the above issues at this time. Furthermore, staff recommends that the existing house be studied for possible inclusion on the Fairfax County Inventory of Historic Sites.

## **ZONING ORDINANCE PROVISIONS**

The requested rezoning of the subject property from R-2 to the PDH-2 District must comply with the applicable regulations of the Zoning Ordinance. Specifically, among others, are the provisions found in Article 6, Planned Development District Regulations, and Article 16, Development Plans.

### **ARTICLE 6**

**Section 6-101 – Purpose and Intent.** *The PDH District is established to encourage innovative and creative design and to facilitate use of the most advantageous construction techniques in the development of land for residential use. The district regulations have been designed to insure ample provision and efficient use of open space; to promote high standards in the layout, design and construction of residential development; to promote balanced developments of mixed housing types; and to encourage the provision of dwellings within the means of families of low and moderate income.*

The applicant proposes the development of five (5) single family detached dwelling units on the subject property. In staff's opinion, the proposed lot sizes and density of the infill development is inconsistent with that of the surrounding developments. 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 this reason, staff believes this request for rezoning to the PDH-2 District is not appropriate.

**Part 1, Section 6-107 – Lot Size Requirements.** *Minimum District Size: Land shall be classified in the PDH District only on a parcel of two (2) acres or larger.*

The applicant is proposing to rezone a 2.59 acre parcel from R-2 to PDH-2. Since this exceeds the minimum district size of two (2) acres for the PDH District, this standard has been satisfied.

**Part 1, Section 6-109 – Maximum Density.** *The PDH-2 District has a maximum density of two (2) dwelling units per acre.*

The applicant is proposing a density of 1.93 dwelling units per acre, which is under the maximum density of two (s) dwelling units per acre. However, as noted earlier in the report, staff maintains that the effective density is much higher considering the large portion of the subject property that is located within the restricted setback from I-66.

**Part 1, Section 6-110 – Open Space.** *The PDH-2 District requires that a minimum of 20% of the gross area of the subject property be provided as open space.*

Pursuant to the provisions for the PDH-2 district, the applicant is required to provide a minimum of 20% open space, or 0.52 acres. The applicant is proposing 53% open space, which is comprised of 1.37 acres of Parcel A that will be subdivided off on the northern portion of the subject property.

**Part 2, Section 6-110 – Open Space.** *As part of the open space to be provided in accordance with the Zoning Ordinance, there is a requirement to provide recreational facilities in all PDH Districts. The provision of such facilities is subject to the provisions of Section 16-404 of the Ordinance, and is a minimum expenditure of \$955.00 per dwelling unit. The facilities must be provided on-site by the developer, or the Board of Supervisors may approve provision on land which is not part of the subject PDH District.*

The applicant has agreed to proffer funds equivalent to \$955 per unit, or \$4,775, for recreational facility development on site, or for improvements to Hideaway Park, which is located within the service area of the subject property.

## **ARTICLE 16**

**Section 16-101 – General Standards.** *A rezoning application or development plan amendment application may only be approved for a planned development under the provisions of Article 6 if the planned development satisfies the following general standards:*

1. *The planned development shall substantially conform to the adopted comprehensive plan with respect to type, character, intensity of use and public facilities. Planned developments shall not exceed the density or intensity permitted by the adopted comprehensive plan, except as expressly permitted under the applicable density or intensity bonus provisions.*

As noted previously, while the proposed density of 1.93 du/ac is within the recommended range of the Comprehensive Plan, this density and the proposed lot sizes associated with this application are not comparable to those of the adjacent neighborhood and therefore do not provide an appropriate transition throughout the area. For these reasons, staff believes that the application does not conform to the Comprehensive Plan.

2. *The planned development shall be of such design that it will result in a development achieving the stated purpose and intent of the planned development district more than would development under a conventional zoning district.*

In staff’s opinion, 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 density would result if the property were developed conventionally.

<b>R-2 Cluster Zoning District Requirements vs. Provided</b>		
<b>Standard</b>	<b>Required</b>	<b>Provided</b>
District Size	2 acres minimum	2.59 acres
Lot Area	13,000 to 15,000 SF	5,230 SF to 18,333 SF
Lot Width	125 feet minimum for corner lots; 100 feet minimum for interior lots;	Lot 5 (corner) – 90 feet*; Lot 1 (interior) – 59 feet*
Building Height	35 feet maximum	35 feet
Front Yard	25 feet	25 feet
Side Yard	8 feet but a total minimum of 24 feet	7 feet, with a total minimum of 17 feet
Rear Yard	25 feet	25 feet for Lots 1 – 4 15 feet for Lot 5
Density	2 du/ac maximum for PDH-2 District	1.93 du/ac
Open Space	20% for PDH-2 District	53%
Parking	3 spaces/unit for lots with frontage on a private street, provided that only 1 such space must have convenient access to a street, for a total of 15 spaces	2 in garage + 2 in driveway/unit for a total of 20 spaces**
There are no transitional screening or barrier requirements for this application.		

\*The lot width information was not provided on the CDP/FDP. These figures were derived from staff measurements and are therefore approximate.

\*\*The applicant has proffered that the driveways will be a minimum length of 18 feet.

3. *The planned development shall efficiently utilize the available land, and shall protect and preserve to the extent possible all scenic assets and natural features such as trees, streams and topographic features.*

Although the applicant is providing a large open space/tree save area in the northern portion of the subject property, it is important to note that this area cannot be developed with residential structures due to the 200-foot setback required from Interstate 66, unless such requirement is waived. As a result of this setback, the proposed development is concentrated in the southern portion of the subject property, where a large majority of the trees on the site will be removed as a result of the proposed development. Of the existing trees in this area of the site, the applicant is proposing to save the 30-inch American holly located in the southern portion of proposed Lot 5, and the limits of clearing and grading long the western property boundary provide preservation opportunity for trees located in this area.

4. *The planned development shall be designed to prevent substantial injury to the use and value of existing surrounding development, and shall not hinder, deter or impede development of surrounding undeveloped properties in accordance with the adopted comprehensive plan.*

The layout and architecture of the proposed residential development should be designed to be compatible with, and appropriate for, the existing dwelling located on the subject property. However, staff believes that the larger footprints of the proposed development as shown on the CDP/FDP are incompatible with the existing dwelling of historic importance on site, as well as those of the adjacent neighborhoods.

5. *The planned development shall be located in an area in which transportation, police and fire protection, other public facilities and public utilities, including sewerage, are or will be available and adequate for the uses proposed; provided, however, that the applicant may make provision for such facilities or utilities which are not presently available.*

No transportation, rescue or public facilities issues have been raised in the review process of this application. Adequate service is available for the proposed development.

6. *The planned development shall provide coordinated linkages among internal facilities and services as well as connections to major external facilities and services at a scale appropriate to the development.*

The proposal is an infill development project in an existing subdivision, and additional facilities, such as the extension of sidewalks, are proposed as a part of this application. Therefore, staff believes this standard has been addressed.

**Section 16-102 - Design Standards.** *Whereas it is the intent to allow flexibility in the design of all planned developments, it is deemed necessary to establish design standards by which to review rezoning applications, development plans, conceptual development plans, final development plans, PRC plans, site plans and subdivision plats. Therefore, the following design standards shall apply:*

1. *In order to complement development on adjacent properties, at all peripheral boundaries of the planned development district, the bulk regulations and landscaping and screening provisions shall generally conform to the provisions of that conventional zoning district which most closely characterizes the particular type of development under consideration.*

In this case, the proposed development is most closely characterized by the R-5 district with regards to proposed lot sizes. However, the proposed minimum side yard setback of seven (7) feet does not conform to any conventional district requirements, which range anywhere from eight (8) to twelve (12) feet. Given this, and the relationship between the proposed footprints and lot sizes, staff has concluded that the proposed development does not complement development characterized by the surrounding community, which are most similar to the R-2, Cluster and R-2 District provisions.

2. *Other than those regulations specifically set forth in Article 6 for a particular P district, the open space, off-street parking, loading, sign and all other similar regulations set forth in this Ordinance shall have general application in all planned developments.*

The proposed CDP/FDP generally conforms to the aforementioned regulations set forth in the Zoning Ordinance.

3. *Streets and driveways shall be designed to generally conform to the provisions set forth in this Ordinance and all other County ordinances and regulations controlling same, and where applicable, street systems shall be designed to afford convenient access to mass transportation facilities. In addition, a network of trails and sidewalks shall be coordinated to provide access to recreational amenities, open space, public facilities, vehicular access routes, and mass transportation facilities.*

Since the proposal is an infill development project in an existing subdivision, it will take advantage of the existing infrastructure that is already in place, with

vehicular access provided onto Mears Street via a private street. However, while the 200 foot minimum site distance proposed by the applicant may be acceptable to staff and VDOT, a Public Facilities Manual (PFM) modification will be required.

Pedestrian facilities are proposed both on site and off, connecting the proposed development to the existing sidewalk network within the Hideaway Park neighborhood. Therefore, staff believes this standard has been addressed.

## **CONCLUSIONS AND RECOMMENDATIONS**

### **Staff Conclusions**

The applicant, Prospect Development Company, Inc., requests approval of a rezoning of 2.59 acres from the R-2 District, Cluster, to the PDH-2 District. The purpose of the application is to permit the development of four (4) single family detached dwelling units. In addition, the applicant is proposing to preserve the existing house located on the subject property, which results in a total of five (5) dwellings for the development at an overall density of 1.93 dwelling units per acre (du/ac), and approximately 53% of the site retained as open space.

While the dedication of over half of the subject property as open space and the preservation of the existing home on site are positive aspects of the proposed development, staff believes 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, due to the size and scale of the proposed dwelling units and the smaller lots on which they will be located. 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. In staff's opinion, 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 concludes that the proposal does not fulfill the Residential Development Criteria, and is, therefore, not in substantial conformance with the Comprehensive Plan. As such, recommends 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 Appendix 1 of the Staff Report.

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.

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.

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

## **APPENDICES**

1. Draft Proffers
2. Proposed Development Conditions
3. Affidavit
4. Statement of Justification
- 4A. Subdivision Plat, Hideaway Park Section 2
5. Comprehensive Plan Citations
6. Environmental Analysis
7. Stormwater Management Analysis
8. Urban Forest Management Analysis
9. Transportation Analysis
10. Park Authority Analysis
11. Public Schools Analysis
12. Fire and Rescue Analysis
13. Water Authority Analysis
14. Historical Resources Analysis
15. Zoning Ordinance Provisions
16. Residential Development Criteria
17. Glossary of Terms

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

**March 19, 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 March 7, 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; the tree preservation areas; and the total number, general location, and type of units. 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 TM 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 (1<sup>st</sup>) Residential Use Permit (“RUP”) for the Application Property or at such later time as may be 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. 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.
- e. A portion of the “hammerhead” at the terminus of the private street shall be paved with pervious pavers, such as grasscrete, as shown on the CDP/FDP.

### 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 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 will 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 Structures. The demolition of all existing features and structures within areas protected by the limits of clearing and grading areas shown on the CDP/FDP (two (2) story wood barn, and the wood shed, gravel drive and concrete walk if demolished) 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 six (6) feet in height 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.

#### **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.

## **5. STORMWATER MANAGEMENT/BEST MANAGEMENT PRACTICES**

- a. Stormwater detention shall be provided in an innovative stormwater facility, as approved by the Director, DPWES.
- 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”).
- c. Initial purchasers shall be advised of the requirement to maintain the underground SWM facility and estimated costs prior to entering into a contract of sale. This requirement to maintain the 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 underground SWM facility in the amount of \$10,000.00 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 ten (10) 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 (1<sup>st</sup>) 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 (1<sup>st</sup>) 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.

- b. 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.
- c. 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.
- d. 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.
- e. 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.
- f. Privacy fences, which are six (6) feet in height and board-on-board construction, may be constructed along the side property lines within the back yards of the units to create private rear yards; 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 on Lot 1 and 2, Lot 2 and 3, and Lot 4 and 5.
- g. Rear decks, patios and/or sheds 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 addition, 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. 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**

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 areas, trails, sidewalks, private streets, and landscaping. The requirement to maintain the aforementioned, and maintenance of the private streets, shall be the responsibility of the HOA and shall be included in the HOA documentation. The HOA documentation shall also include architectural restrictions, minimum yard requirements, maximum deck/patio sizes and location permitted for the proposed development, the maximum height and location of fences, the maintenance of the underground SWM facility, and the use restriction of garages. In accordance with the Virginia Property Owners' Association Act, Section 55 of the Code of Virginia, 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.

## **10. HERITAGE RESOURCES**

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 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 (1<sup>st</sup>) 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.

## **11. NOISE MITIGATION**

In order to reduce interior noise to a level of approximately 45 dBA Ldn, all 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.

Alternative interior noise attenuation measures may be provided subject to the implementation of a refined noise study as reviewed and approved by DPWES after consultation with DPZ.

## **11. 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.

## **12. SUCCESSORS OR ASSIGNS**

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

## **13. 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.

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By: Paul F. Lucas  
Its: President

[SIGNATURES CONTINUED ON NEXT PAGE]

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

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Timothy J. Waters

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Virginia H. Waters

**[SIGNATURES END]**

**PROPOSED DEVELOPMENT CONDITIONS**

**FDP 2006-PR-017**

**March 21, 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. In the event a waiver of the PFM minimum site distance requirement is not granted and requires the redesign of the site in a manner that is not in substantial conformance with the CDP/FDP, then a Proffered Condition Amendment (PCA) and Final Development Plan Amendment (FDPA) shall be required.
2. 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 includes 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.
3. 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.