



# County of Fairfax, Virginia

January 29, 2016

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Zoning Evaluation Division

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*Clerk to the Commission*

Sara Mariska, Esquire  
Walsh, Colucci, Lubeley & Walsh, PC  
2200 Clarendon Boulevard, Ste 1300  
Arlington, VA 22201

**Re: RZ/FDP 2015-SP-007 – MRD PROPERTIES, LLC  
Springfield District**

Dear Ms. Mariska:

At its January 21, 2016 meeting, the Planning Commission voted 9-0-2 (Commissioners Keys-Gamarra and Migliaccio abstained from the vote; Commissioner Sargeant recused himself from the hearing.) to **RECOMMEND APPROVAL** on the above referenced rezoning application. A copy of the verbatim transcript, in addition to the proffer statement, dated January 20, 2016, is attached.

This letter serves as a record of the Planning Commission's recommendation to the Board of Supervisors and not as the final approval. The application is still subject to the final decision by the Board of Supervisors.

Concurrently, the Planning Commission voted 9-0-2 (Commissioners Keys-Gamarra and Migliaccio abstained from the vote; Commissioner Sargeant recused himself from the hearing.) to **APPROVE** the above referenced Final Development Plan application subject to development conditions dated December 22, 2015. As noted above, a copy of the verbatim transcript is attached, in addition to the development conditions.

This action does not constitute exemption from the various requirements of this County and State. The applicant is responsible for ascertaining if permits are required and for obtaining the necessary permits.

Sincerely,

John W. Cooper, Clerk  
Fairfax County Planning Commission

Attachments (a/s)

- cc: Pat Herrity, Supervisor, Springfield District
- Peter F. Murphy, Planning Commissioner, Springfield District
- Catherine A. Chianese, Assistant County Executive, Clerk to the Board of Supervisors, County Executive Office
- Carmen Bishop, Staff Coordinator, Zoning Evaluation Division (ZED), Department of Planning and Zoning (DPZ)
- Robert Harrison, ZED, DPZ
- January 21, 2016 date file

To request special accommodations, call the Planning Commission office at 703-324-2865, TTY 703-324-7951. Please allow seven working days to make the appropriate arrangements.

**Fairfax County Planning Commission**  
12000 Government Center Parkway, Suite 330, Fairfax, VA 22035  
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RZ/FDP 2015-SP-007 MRD PROPERTIES, LLC

Decision Only During Commission Matters  
(Public Hearing Held on January 14, 2016)

Commissioner Murphy: Yes, also I have a decision on SE, excuse me, RZ and FDP 2015-SP-007 Meade Properties. This is an application in the Springfield District on 9.99 acres in the Springfield District again in the Fairfax Center area.

Commissioner Sargeant: Mr. Chairman, I'm sorry to interrupt. As you know I recused myself from this public hearing in this case from the last meeting due to an affidavit issue and I'm going to recuse myself from vote as well.

Commissioner Murphy: Okay, thank you. This was a residential 2.5 units per acre which is the overlay district in the Fairfax Center area. This application is in an area where we always get a lot of citizen comments and I'm very thankful to get those comments but I think in this particular case this application should be supported for a number of reasons. First of all, it is in conformance with the Comprehensive Plan. They requested 2.4 dwelling units per – per acre and the comprehensive plan calls for a maximum 2.5 its close but it's still in conformance with the plan. They have addressed successfully the Fairfax Center residential checklist. They have come in they are in conformance with the applicable zoning ordinances, and the PDH provisions and they maxed out basically in the residential development criteria. One of the issues that was discussed in the staff report and this is an issue that sometimes is misinterpreted - is the context of the application. Does it fit in with the neighborhood? and the folks sort of took a position that it doesn't fit in with the neighborhood because the lots are smaller than the lots next door or the next down the street and so forth and although that may be true this application has a very, very comprehensive tree preservation plan. It also have 40 percent open space so although the density is a little higher but still in conformance with the Comprehensive Plan the application has a tremendous amount of open space that I think will be an attractive situation for this particular part of town. Also, they have a very comprehensive set of proffers and you received a new set tonight and the only addition to that is a proffer that would restrict putting as we call them popsicle stick – popsicle stick signs on the streets in the neighborhood telling, you know, these house are up for sale and so forth and the others are just as I understand it just typos that have been, have been have been corrected so this is almost the same as the rezoning, - the proffers that are in the rezoning and development conditions that are in the rezoning application. They also have, have proffered to improve Westbrooke Drive in front of the site the sidewalks and so forth it has, as I said, a tree preservation plan. It has addressed the request for funding in the Fairfax Center area for residential property to contribute to the housing fund. It has a generous donation of 82,000 thousand dollars plus to the schools and also a very generous donation of 61,000 thousand dollars to parks. So it is in conformance with the Comprehensive Plan the proffers are very comprehensive. Also one of the things I would like to clear up one of the issues that was raised was at Westbrooke Drive. West Brook Drive no question about it, is a rural road. Maybe one of the few left in Fairfax County in this part of town. But we have rural roads all over the place and I know this one has been a bone of contention for a long time. We are trying to do something about it but there's nothing in the VDOT plan Or in the Fairfax County Plan that -has the funding to do something with this road. So we are stuck with this road and its

configuration with this development will help that out by doing a lot of frontage improvements-improvements in front of the site. But someone said there are a lot of accidents on the road and I just want to make sure that I clarify that as far as the police reports are concerned, in 2015, there was an accident that involved a vehicle approaching the downhill curve, lost control on icy, on the icy roads and skidded into an oncoming lane striking an oncoming car. There were no injuries. The second, and only second reported in 2015, was a crash at the Stringfellow Road intersection involved, involving a pedestrian who had been drinking and was wearing headphones and dark clothing who went out for a walk and was hit by a car turning from Stringfellow Road onto West Brook and only minor injuries occurred. Now it's sad that those things happen but this is not a road problem. Ice on the road is all over the county. Someone in this particular situation gets hit by a car, we are very sorry to hear about that but that's, you can't blame that on the road. So therefore, having said all that Mr. Chairman, I MOVE –first I'd like to have the applicant please come forward because we do have a special exception here. FDP -

Sara Mariska, Esquire, Applicant's Agent, Walsh, Colucci, Lubeley, and Walsh: We have read and agree to abide by the conditions that are contained in the staff report.

Commissioner Murphy: Okay, thank you very much. Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS TO APPROVE RZ 2015-SP-007 AND THE ASSOCIATED CONCEPTUAL DEVELOPMENT PLAN AND SUBJECT TO THE EXECUTION OF PROFFERS CONSISTENT WITH THOSE DATED JANUARY 20<sup>TH</sup>, 2016..

Commissioner Hart: Second.

Vice Chairman de la Fe: Seconded by Mr. Hart. Is there any discussion? Hearing and seeing none, all those I favor please signify by saying aye.

Commissioners: Aye.

Commissioner Migliaccio: Mr. Chairman, abstain, I was not here for the public hearing.

Vice Chairman de la Fe: Okay. Motion, motion carries.

Commissioner Murphy: I MOVE THAT THE PLANNING COMMISSION APPROVE FDP 2015-SP-007, SUBJECT TO THE DEVELOPMENT CONDITIONS DATED DECEMBER 22<sup>ND</sup>, 2015, AND THE BOARD OF SUPERVISORS' APPROVAL OF RZ 2015-SP-007 AND THE ASSOCIATED CONCEPTUAL DEVELOPMENT PLAN.

Commissioner Hart: Second.

Vice Chairman de la Fe: Seconded by Mr. Hart. Any discussion? Hearing and seeing none, all those in favor please signify by saying aye.

Commissioners: Aye.

Vice Chairman de la Fe: Same abstention.

Commissioner Murphy: Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS DIRECT THE DIRECTOR OF THE DEPARTMENT OF PUBLIC WORKS AND ENVIRONMENTAL SERVICES TO PERMIT A DEVIATION FROM THE TREE PERSERVATION TARGET.

Commissioner Hart: Second.

Vice Chairman de la Fe: Seconded by Mr. Hart. Any discussion? Hearing and seeing none, all those in favor please signify by saying aye.

Commissioners: Aye.

Vice Chairman de la Fe: Opposed? The motion, same abstention, carries.

Commissioner Murphy: Thank you very much and I want to thank Ms. Bishop, as always she brings with us always interesting, brings to us always interesting applications. She always does a wonderful job and I really appreciate it, thank you very much.

Vice Chairman de la Fe: One question, on the previous one on the Meade case, Ms. Keys-Gamarra you abstained on that one right because you were not at the Commission then, yes. Right, I just want to make that clear.

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(The motion carried by a vote of 9-0-2. Commissioners Keys-Gamarra and Migliaccio abstained. Commissioner Sargeant abstained from the vote.)

TMW

**FINAL DEVELOPMENT PLAN CONDITIONS****FDP 2015-SP-007****December 22, 2015**

If it is the intent of the Planning Commission to approve FDP 2015-SP-007 for residential development at Tax Map 55-1 ((8)) H, and 55-2 ((3)) G1 and G2, staff recommends that the Planning Commission condition the approval by requiring conformance with the following development conditions:

1. Development of the property shall be in substantial conformance with the FDP titled "Westbrook II," prepared by Urban, Ltd. and consisting of 12 sheets dated April 29, 2015, as revised through November 30, 2015.
2. Structures, signs and street furniture, including the site entry feature, shall not be located so as to obstruct any applicable sight distance and/or visibility standards of the Virginia Department of Transportation (VDOT).
3. All signage shall be in conformance with Article 12 of the Zoning Ordinance. The Applicant preserves the right to submit a Comprehensive Sign Plan application pursuant to Sect. 12-210 of the Zoning Ordinance.
4. The Applicant shall conduct bathymetric survey(s) of Ethel's Pond, if owner permission is granted, in accordance with Letter to Industry #03-05 for the Evaluation of Downstream Impoundments.
5. Within the recreational amenity area, all children's play features and playground surfacing shall comply with all applicable standards established by the American Society for Testing and Materials.
6. Notwithstanding the improvements to Westbrook Drive as shown on Sheet 5A of the FDP, if all necessary permissions cannot be obtained in order to construct the improvements as shown on Sheet 5 in accordance with Proffer 2.B., the improvements shall be as shown on Attachment 1 to these conditions, and subject to approval by the Virginia Department of Transportation.

The proposed conditions are staff recommendations and do not reflect the position of the Planning Commission unless and until adopted by that Commission.

## DRAFT PROFFERS

MRD Properties, LLC

RZ 2015-SP-007

January 20, 2016

Pursuant to Section 15.2-2303(a), *Code of Virginia*, 1950 as amended, and subject to the Board of Supervisors approving a rezoning of the property identified as Tax Map 55-2 ((3)) G1 and G2; 55-1 ((8)) H, hereinafter referred to as the "Application Property," from the R-1 District to the PDH-3 District, MRD Properties, LLC, hereinafter referred to as the "Applicant," for itself, the owners, and successors and assigns, hereby proffers to the following conditions. If accepted, these proffers shall replace and supercede any previous proffers approved on the Application Property.

### 1. CONCEPTUAL/FINAL DEVELOPMENT PLAN

- A. Development of the Application Property shall be in substantial conformance with the Conceptual/Final Development Plan (CDP/FDP) prepared by Urban, Ltd. consisting of twelve (12) sheets, dated April 29, 2015 and revised through November 30, 2015.
- B. Pursuant to Paragraph 4 of Section 16-403 of the Fairfax County Zoning Ordinance (the "Zoning Ordinance"), the Applicant shall have the flexibility in accordance with the Zoning Ordinance to make minor modifications to the CDP/FDP as may be permitted by the Zoning Administrator.
- C. Notwithstanding that the CDP/FDP is presented on twelve (12) sheets and subject to proffer 1(A) above, it shall be understood that the CDP shall be limited to the elements defined in Section 16-501 of the Zoning Ordinance. The Applicant has the option to request Final Development Plan Amendments (FDPAs) for elements other than 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.
- D. The development shall consist of a maximum of 24 single family detached units.

### 2. TRANSPORTATION

- A. On-Site Improvements. Prior to record plat approval, the Applicant shall dedicate and convey to the Board of Supervisors in fee simple, without encumbrances, right-of-way along Westbrook Drive as shown on Sheet 5 of the CDP/FDP. Prior to the issuance of the first Residential Use Permit (RUP), the Applicant shall construct frontage improvements along Westbrook Drive along the Application Property frontage within existing and proposed right-of-way as shown on the

CDP/FDP, in accordance with Virginia Department of Transportation (VDOT) standards, and subject to VDOT approval. Frontage improvements shall consist of an entrance, curb, gutter, buffer in accordance with VDOT standards, five (5) foot wide sidewalk, and transition to existing conditions to the east and west of the Application Property.

- B. Off-Site Improvements – Westbrook Drive. Prior to the issuance of the first RUP, the Applicant shall substantially complete the off-site improvements to Westbrook Drive adjacent to Parcel C as shown on Sheet 5 or 5A of the CDP/FDP, subject to approval by VDOT. The improvements shall be as shown on Sheet 5 if all necessary permissions can be obtained from the owner of the property identified as Fairfax County Tax Map Reference 55-1 ((28)) C (the "Owner"). If the necessary permissions cannot be obtained from the Owner, the improvements shall be as shown on Sheet 5A; however, in the final design, the Applicant shall attempt to minimize the use of the retaining wall through shifting the sidewalk and/or grading solutions.

Prior to subdivision plan approval, the Applicant shall demonstrate, by copies of the correspondence described below, a good faith effort to obtain the necessary permissions. In order to obtain the necessary permissions, the Applicant shall contact the Owner in writing to obtain all necessary permissions to construct frontage improvements along Westbrook Drive adjacent to Parcel C as shown on Sheet 5 of the CDP/FDP. The Owner shall have thirty (30) days from postmark of the Applicant's communication to respond to the Applicant in writing. Should the Applicant and the Owner not come to an agreement within thirty (30) days from the postmark of the Owner's response, the Applicant shall construct frontage improvements as shown on Sheet 5A of the CDP/FDP as described above. The Applicant shall be reimbursed by Fairfax County for all off-site right-of-way and/or easement acquisition costs as well as all costs associated with design, permitting and construction of said off-site improvements including utility relocations, as available from funds escrowed pursuant to Proffer 10 of RZ 2001-SU-003. The Applicant shall be responsible for any costs in excess of the escrowed funds.

- C. Off-Site Improvements – Collin Chase Place. Prior to the issuance of the first RUP, the Applicant shall substantially complete the off-site improvements to Collin Chase Place as shown on Sheet 5 of the CDP/FDP, subject to necessary permissions from the owners of properties identified as Fairfax County Tax Map Reference 55-1 ((28)) C and 91 ("Owners"). The improvements shall consist of a five (5) foot wide public sidewalk connection from the trail on the Application Property to the existing sidewalk on Parcel C. Should the necessary permissions not be provided by the Owners, the Applicant shall instead provide an ADA-accessible curb cut on the Application Property to the existing sidewalk on the opposite side of Collin Chase Place, as shown on Sheet 5, if approved by VDOT.

Prior to subdivision plan approval, the Applicant shall demonstrate, by copies of correspondence described below, a good faith effort to obtain the necessary

permissions from the Owners. In order to obtain the necessary permissions, the Applicant shall contact the Owners in writing to obtain all necessary permissions to construct improvements adjacent to Collin Chase Place as shown on Sheet 5 of the CDP/FDP. The Owners shall have thirty (30) days from the postmark of the Applicant's communication to respond to the Applicant in writing. Should the Applicant and the Owners not come to an agreement within thirty (30) days from the postmark of the Owners' response, the Applicant shall construct the curb cut as described above.

- D. Fairfax Center Area Road Fund. Prior to subdivision plan approval, the Applicant shall contribute \$1,313 per dwelling unit constructed to the Fairfax Center Area Road Fund in accordance with the Procedural Guidelines adopted by the Board of Supervisors on November 22, 1982, as amended, subject to credit for all creditable expenses as determined by the Fairfax County Department of Transportation and/or the Department of Public Works and Environmental Services.
- E. Public Streets. Prior to issuance of the first RUP, the Applicant shall dedicate in fee simple to the Board of Supervisors right-of-way in accordance with VDOT standards for the internal road network. The roads shall be constructed to VDOT standards.
- F. Public Trail. Prior to record plat approval, the Applicant shall convey a public trail easement covering the final location of the proposed asphalt trail as generally shown on Sheet 5 of the CDP/FDP, in a form acceptable to the County Attorney.

### 3. LANDSCAPING AND OPEN SPACE

- A. A landscape plan that shows, at a minimum, landscaping in conformance with the landscape design shown on Sheets 6 and 12 of the CDP/FDP shall be submitted in conjunction with the subdivision plan for the Application Property. Deciduous canopy trees shall be a minimum of 2 inches in caliper, and evergreen trees shall be a minimum of 8 feet in height, at the time of planting as shown on the planting schedule on the CDP/FDP. Understory plantings shall be provided as shown on the planting schedule on the CDP/FDP. The landscape plan shall incorporate the use of native species to the greatest extent feasible, as determined by Urban Forest Management. (UFMD)
- B. The Applicant shall submit a Tree Preservation Plan and Narrative as part of the first and all subsequent subdivision plan submissions. The preservation plan and narrative shall be prepared by a certified arborist, landscape architect, or a registered consulting arborist, and shall be subject to the review and approval of the UFMD, Department of Public Works and Environmental Services (DPWES).
- C. The Applicant shall retain the services of a certified arborist, landscape architect or registered consulting arborist, 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, landscape architect, or registered consulting arborist shall walk the limits of clearing and grading with an UFMD, 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 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.

- D. The Applicant shall conform strictly to the limits of clearing and grading as shown on the CDP/FDP, subject to the installation of utilities and/or trails. 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. A replanting plan shall be developed and implemented, subject to approval by the UFMD, DPWES, for any areas protected by the limits of clearing and grading that must be disturbed for such utilities or trails.
- E. All trees shown to be preserved on the tree preservation plan shall be protected by tree protection fence. 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 "Root Pruning" proffer below.
- F. All tree protection fencing shall be installed after the tree preservation walk-through meeting but prior to any clearing and grading activities for those areas immediately adjacent to existing structures if demolition occurs before final subdivision plan approval. 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. Three (3) days prior to the commencement of any clearing, grading or demolition activities, but subsequent to the installation of the tree protection devices, the UFMD, 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 the UFMD, DPWES.
- G. 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 the UFMD, DPWES, accomplished in a manner that protects affected and adjacent vegetation to be preserved, and may include, but not be limited to the following:

- (1) Root pruning shall be done with a trencher or vibratory plow to a depth of 18 inches.
- (2) Root pruning shall take place prior to any clearing and grading, or demolition of structures.
- (3) Root pruning shall be conducted with the supervision of a certified arborist.
- (4) An UFMD, DPWES, representative shall be informed when all root pruning and tree protection fence installation is complete.

H. As outlined in a monitoring schedule that shall be described and detailed in the tree preservation plan, a representative of the Applicant shall be present to monitor the process and ensure that the clearing activities are conducted as proffered and as approved by UFMD. The project arborist shall monitor all construction and demolition work and tree preservation efforts in order to ensure conformance with all tree preservation proffers, and UFMD approvals.

I. The Applicant shall convey forested area and tree management information prepared to satisfy Tree Preservation Plan requirements to the Homeowners Association (HOA) at the time the HOA takes over maintenance of the common elements. Information shall include data collected for the Tree Inventory, updated to note completion of tree preservation activities required by the Tree Preservation Plan approved with the subdivision plan, and any additional work performed for preservation and/or maintenance in Tree Conservation Easements. This information can be used as the basis of a tree maintenance plan for managing the resource and budgeting maintenance cost over several years. This plan shall be submitted to and reviewed by UFMD prior to issuance. Transfer of information shall be verified by a notice of receipt signed by the HOA.

J. The Applicant shall retain a professional arborist with experience in plant appraisal, to determine the replacement value of all trees 12 inches in diameter or greater located on the Application Property that are shown to be saved on the Tree Preservation Plan and that are within 15 feet of the limits of clearing and grading. Only deciduous trees in "Fair" condition or better are to be appraised. This tree appraisal shall include Tree #1932 a triple trunk, 64 inch diameter tulip poplar. These trees and their value shall be identified on the Tree Preservation Plan at the time of the first submission of the respective site plan(s). 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 UFMD.

At the time of the respective subdivision plan approvals, the Applicant shall post a bond, letter of credit, or cash payable to the County of Fairfax to ensure preservation and/or replacement of the trees for which a value has been determined as specified in the Tree Appraisal (the "Bonded Trees") that die or are dying due to construction activities, excluding those that are dying due to natural causes or acts of God, as determined by UFMD staff. The letter of credit or cash deposit shall be equal to 25% of the replacement value of the Bonded Trees. At any time prior to final bond release for the improvements on the Application Property constructed adjacent to the respective tree save areas, should any Bonded Trees die, be removed, or are determined to be dying by UFMD due to construction activities, the Applicant shall replace such trees at its expense. The replacement trees shall be of equivalent species or canopy cover as approved by UFMD. In addition to this replacement obligation, for any Bonded Tree that is dead dying or improperly removed due to unauthorized construction activity, the Applicant shall also make a payment equal to the value of any Bonded Tree to a fund established by the County for furtherance of tree preservation objectives (the Tree Preservation and Planting Fund). Upon release of the bond for the improvements on the Property constructed adjacent to the respective tree save areas, any amount remaining in the tree bonds required by this proffer shall be returned/released to the Applicant.

#### 4. STORMWATER MANAGEMENT/BEST MANAGEMENT PRACTICES

- A. The Applicant shall provide stormwater management (SWM) and best management practices (BMP) facilities on-site as generally shown on the CDP/FDP. Said SWM/BMPs shall be designed to satisfy detention and water quality in accordance with the requirements of the PFM and Stormwater Management Ordinance as determined by DPWES. The Applicant reserves the right to pursue adjustments to the BMPs, provided those measures do not impact the CDP elements identified in Proffer 1C.
- B. Maintenance of the SWM facilities that are not accepted for maintenance by Fairfax County shall be the responsibility of the Applicant and the successor HOA. Prior to subdivision plan approval, the Applicant shall execute an agreement with the County in a form satisfactory to the County Attorney (the "SWM Agreement") providing for the perpetual maintenance of all of the elements of the SWM facilities that will not be maintained by Fairfax County. The SWM Agreement shall require the Applicant and the successor HOA to contract with one or more maintenance/management companies to perform regular routine maintenance of the SWM facilities and to provide a maintenance report every five (5) years from the date of execution of the agreement to the Fairfax County Maintenance and Stormwater Management Division of DPWES. The maintenance responsibilities under the SWM Agreement shall be disclosed to

future purchasers prior to entering into a contract for sale and specified in the HOA documents.

- C. Prior to the issuance of the first RUP on the Property, the Applicants shall establish an account (the "SWM Maintenance Account") to be used as an escrow account for the initial maintenance of the SWM facilities. The Applicants shall make an initial contribution to the SWM Maintenance Account in an amount equal to the estimated cost for the HOA maintenance responsibility for the first ten (10) years of the facilities. Thereafter, the SWM Maintenance Account shall be funded through pro-rata assessments of subsequent owners of the Application Property.

## 5. SUSTAINABLE DESIGN

In order to promote energy conservation and green building techniques, the Applicant shall select at time of subdivision, within their sole discretion, one of the following programs to be implemented in the construction of the single family dwellings shown on the CDP/FDP.

- A. Certification in accordance with the Earthcraft House Program as demonstrated through documentation provided to DPWES and DPZ prior to the issuance of a RUP.
- B. Qualification in accordance with the 2012 National Green Building Standard (NGBS) using the ENERGY STAR® Qualified Homes path for energy performance, as demonstrated through documentation submitted to the Environment and Development Review Branch of DPZ from a home energy rater certified through Home Innovation Research Labs that demonstrates that the dwelling unit has attained the certification prior to the issuance of the RUP for each dwelling.

## 6. AFFORDABLE HOUSING

Prior to the issuance of the first RUP, the Applicant shall contribute to the Fairfax County Housing Trust fund an amount equivalent to one-half percent (0.5%) of the anticipated sales price of each new single family dwelling unit constructed or proposed to be constructed on the Application Property to assist Fairfax County's low and moderate income housing goals. The projected sales price shall be determined by the Applicant through an evaluation of the sales price of comparable units in the area, in consultation with and approved by the Fairfax County Department of Housing and Community Development.

## 7. SCHOOL CONTRIBUTION

The Applicant shall contribute the sum of \$82,243 (\$11,749 per net new student generated by the proposed development) to the Fairfax County Board of Supervisors for capital improvements in the school division that students generated by the residential

development shown on the CDP/FDP will attend. Said contribution shall be made at time of subdivision plan approval. Following approval of this Application and prior to the Applicant's payment of the amount set forth in this proffer, if Fairfax County should modify the ratio of students per unit or the amount of contribution per student, the Applicant shall pay the modified contribution amount for that phase of development to reflect the then-current ratio and/or contribution. The Applicant shall notify the Fairfax County Public Schools when a subdivision plan has been filed for the proposed development

8. PARK AUTHORITY CONTRIBUTION

- A. Prior to subdivision plan approval, the Applicant shall contribute the sum of \$61,617 to the Board of Supervisors for transfer to the Fairfax County Park Authority for use toward off-site recreational facilities intended to serve the future residents of the Application Property, as determined by the Fairfax County Park Authority in consultation with the Springfield District Supervisor.
- B. Pursuant to section 16-404 of the Zoning Ordinance, the Applicant shall provide on-site recreational facilities to serve the Application Property as shown on the CDP/FDP. Prior to subdivision plan approval, the Applicant shall demonstrate that the value of the proposed recreational amenities is equivalent to a minimum of \$1,800 per residential unit to be constructed on the Application Property. In the event that it is demonstrated that the proposed facilities do not have sufficient value, the Applicant shall contribute funds in the amount needed to achieve the overall required amount of \$1,800 per residential unit to be constructed on the Application Property to the Fairfax County Park Authority (FCPA) for off-site recreational facilities intended to serve future residents, as determined by FCPA in consultation with the Supervisor for the Springfield District.

9. CONSTRUCTION

Except as may be specified herein, all transportation, pedestrian, landscaping, recreational, and trail improvements shall be constructed and/or installed concurrent with the development of the single family dwelling units shown on the CDP/FDP.

10. DESIGN FEATURES

- A. All signs and street furniture, including garbage cans, benches and lamp posts, shall be consistent, both in terms of materials and design, throughout the development and shall be generally consistent in terms of character and quality of design with Sheet 12 of the CDP/FDP. The site entry feature shall incorporate masonry materials that are compatible in appearance with the brick and/or stone materials of the dwellings.
- B. The fronts of all units shall be constructed of glass, stone, brick, and/or cementitious siding, and shall be generally consistent in terms of character and quality of design with Sheet 2 of the CDP/FDP.

- C. The Applicant shall provide amenities in substantial conformance with Sheet 12 of the CDP/FDP.
- D. Decks and similar appurtenances may encroach into minimum required yards depicted on the Typical Lot Details on Sheet 2 of the CDP/FDP in accordance with Section 2-412 of the Zoning Ordinance. Deck modifications may include, but are not limited to, lattice work, pergolas, privacy screens, trellises, benches and overhanging planter boxes. The restrictions and limitations of this proffer shall be disclosed to purchasers prior to contract ratification and further disclosed in HOA documents.

#### 11. SIGNS

No temporary signs (including "Popsicle" style paper or cardboard signs) which are prohibited by Article 12 of the Zoning Ordinance, and no signs which are prohibited by Chapter 7 of Title 33.1 or Chapter 8 of Title 46.2 of the Code of Virginia, shall be placed on or off-site to assist in the initial sale of residences on the Application Property. Furthermore, the agents and employees involved in the marketing and sale of the residential units on the Application Property shall be directed to adhere to this proffer.

#### 12. HOMEOWNERS ASSOCIATION

The Applicant shall establish a HOA for the proposed development to own, manage, and maintain the open space and all other community owned land and improvements. At the time that the HOA takes over the maintenance of common elements, the Applicant shall convey to the HOA any long-term tree and forested area management information that was prepared to satisfy tree conservation plan requirements of the subdivision plan. UFMD shall be furnished with a copy of the agreement by the HOA accepting maintenance responsibilities of the common areas and a copy of the final tree and forest management plan. Maintenance responsibilities of the HOA shall be disclosed to all prospective homeowners in a disclosure memorandum prior to entering into a contract of sale and included in the HOA documents.

#### 13. ARCHAEOLOGICAL STUDY

At least 30 days prior to any land disturbance on the Application Property, the Applicant shall conduct a Phase I archaeological study on the area to be disturbed and provide the results of said study to the Cultural Resources Management and Protection Section of the Fairfax County Park Authority (CRMP) for review and approval. The study shall be conducted by a qualified archaeological professional approved by CRMP. If the Phase I study concludes that an additional Phase II study of the Application Property is warranted, the Applicant shall complete said study and provide the results to CRMP prior to any land disturbing activities on the Application Property. If the Phase II study concludes that additional Phase III evaluation and/or recovery is warranted, the Applicant shall also complete said work in consultation and coordination with CRMP prior to any land disturbing activities on the Application Property.

At the completion of any cultural resource studies, the Applicant shall provide two (2) copies (one hard copy, one digital copy) of the archaeology report as well as field notes, photographs, and artifacts to the Park Authority's Resource Management Division within thirty (30) days of completion of the study.

14. HEALTH DEPARTMENT

Prior to issuance of a demolition permit for the Application Property, the Applicant shall abandon the existing wells and septic tanks in conformance with Fairfax County Health Department regulations and requirements.

15. GARAGES

A covenant shall be recorded which provides that garages shall only be used for a purpose that will not interfere with the intended purpose of garages (e.g., parking of vehicles). This shall not preclude the use of garages as sales offices in the model homes during marketing of the development, with the understanding the sales offices will be converted back to garages upon sale of the models. The 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 run to the benefit of the HOA and the Fairfax County Board of Supervisors. Purchasers shall be advised in writing of the use restriction prior to entering into contract of sale.

16. NOISE ATTENUATION

A. In order to ensure an interior noise level of no greater than DNL 45 dBA, the Applicant shall employ the following acoustical treatment measures for lots within the highway noise impact zone of DNL 65-70 dBA:

- (1) Exterior walls shall have a laboratory sound transmission class (STC) rating of at least 39.
- (2) Doors and glazing shall have a laboratory STC rating of at least 28 unless glazing constitutes more than 20 percent of any facade exposed to noise levels of DNL 65, dBA or above. If glazing constitutes more than 20 percent of an exposed facade, then the glazing shall have an STC rating of at least 39.
- (3) All surfaces shall be sealed and caulked in accordance with methods approved by the American Society of Testing and Materials (ASTM) to minimize sound transmission.
- (4) Exterior noise levels for the rear and side yards of Lot 8 which is currently determined to be situated in the area above the DNL 65 dBA zone shall be reduced below DNL 65 dBA through the use of noise attenuation as recommended by the acoustical consultant. The acoustical fence/wall shall

be seven (7) feet in height and situated on the rear and the side lot line of Lot 8. The acoustical fence/wall shall be architecturally solid from the ground up with no gaps or openings and shall be designed and constructed in a style complimentary to the dwellings with materials such as wood, brick, stone, cementitious siding, precast concrete, or other masonry material and may include steps, piers or other architectural design elements.

- B. In order to reduce interior noise to a level of no more than 45 dBA Ldn for residential units that are projected to be impacted by noise greater than 70 dBA Ldn (but not more than 75 dBA Ldn) the Applicant shall employ the following acoustical treatment measures for lots within the highway noise impact zone of 70-75 dBA Ldn:
- (1) Exterior walls shall have a laboratory sound transmission class ("SIC") rating of at least 45;
  - (2) Doors and glazing shall have a laboratory STC rating of at least 37 unless glazing constitutes more than 20% of any facade exposed to noise levels of Ldn 70 dBA or above. If glazing constitutes more than 20% of an exposed facade, then the glazing shall have a laboratory STC rating of at least 45; and
  - (3) 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.
- C. At the time of subdivision plan approval, the Applicant shall submit a refined noise study conducted by a qualified engineer, based on final grading and engineering plans which may alter the height or location of the attenuation fencing. This noise study shall take into account road improvements on I-66 which are built, funded, or for which construction plans are available at the time the study is conducted.
- D. The Applicant reserves the right to pursue methods other than those above for mitigating highway noise impacts that can be demonstrated prior to the filling of a building permit through an independent noise study as reviewed and approved by DPWES and the DPZ, provided that these methods will be effective in reducing interior noise levels to DNL 45 dBA, and exterior noise within outdoor recreation areas to below DNL 65 dBA.

## 17. OPEN SPACE DELINEATION

The subdivision plan and individual lot grading plans shall delineate and label the common open space on the Application Property wherever common open space is located adjacent to private lots. The corners of private lots adjacent to common open space shall be marked with concrete post, 4 inches x 4 inches and rising 12 inches above grade, or

other appropriate permanent marker as approved by UFMD, so that boundaries of common open space are clearly delineated. Posts shall bear the initials HOA to identify these restricted areas. Restrictions within common open space shall include the protection of understory trees, shrubs and groundcovers, woody debris, leaf litter and soil conditions present at the time of subdivision plan submission.

18. ESCALATION

All monetary contributions required by these proffers shall escalate on a yearly basis from the base year of 2016, and change effective each January 1 thereafter, based on the Consumer Price Index as published by the Bureau of Labor Statistics, the U.S. Department of Labor for the Washington-Baltimore, MD-VA-DC-WV Consolidated Metropolitan Statistical Area (the "CPI"), as permitted by Virginia State Code Section 15.2-2303.3.

19. TIMING OF IMPROVEMENTS

Upon demonstration by the Applicant that, despite diligent efforts or due to factors beyond the Applicants' control, the required improvements have been or will be delayed beyond the time set forth in these proffers, the Zoning Administrator may agree to a later date for the completion of such improvements.

20. DENSITY CREDIT

Advanced density credit shall be reserved as may be permitted by the provisions of Paragraph 5 of Section 2-308 of the Fairfax County Zoning Ordinance for all eligible dedications described herein, or as may be required by Fairfax County or the Virginia Department of Transportation ("VDOT") at time of subdivision plan approval.

21. SEVERABILITY

Any of these buildings within the Application Property may be subject to Proffered Condition Amendments and Conceptual Development Plan Amendments/Final Development Plan Amendments without joinder or consent of the property owners of the other buildings.

22. SUCCESSORS AND ASSIGNS

These proffers will bind and inure to the benefit of the Applicant and its successors and assigns.

23. 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 in the same instrument.

A0694976.DOC / 1 Draft Proffers RZ 2015-SP-007 01.20.16 (CLN) 008753 000002

[SIGNATURES BEGIN ON THE FOLLOWING PAGE]

APPLICANT/CONTRACT PURCHASER OF  
TAX MAP 55-2 ((3)) G1 AND G2 AND  
55-1 ((8)) H

MRD PROPERTIES, LLC

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By: Richard D. DiBella  
Its: Manager

[SIGNATURES CONTINUE ON NEXT PAGE]



# County of Fairfax, Virginia

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January 15, 2016

**2016 Planning  
Commission**

**Peter F. Murphy**  
Chairman  
*Springfield District*

**Frank de la Fe**  
Vice Chairman  
*Hunter Mill District*

**James R. Hart**  
Secretary  
*At-Large*

**Timothy J. Sargeant**  
Parliamentarian  
*At-Large*

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**Ellen J. "Nell" Hurley**  
*Braddock District*

**John Ulfelder**  
*Dranesville District*

**James Migliaccio**  
*Lee District*

**Julie Strandlie**  
*Mason District*

**Earl L. Flanagan**  
*Mount Vernon District*

**Kenneth A. Lawrence**  
*Providence District*

**Karen Keys-Gamarra**  
*Sully District*

**Janyce N. Hedetniemi**  
*At-Large*

-----  
**Jill G. Cooper**  
*Executive Director*

**Kimberly A.  
Bassarab**  
*Assistant Director.*

**John W. Cooper**  
*Clerk to the  
Commission*

Sara Mariska, Esquire  
Walsh, Colucci, Lubeley & Walsh, PC  
2200 Clarendon Boulevard, Suite 1300  
Arlington, VA 22201

**Re: RZ/FDP 2015-SP-007 – MRD PROPERTIES, LLC  
Springfield District**

Dear Ms. Mariska:

At its January 14, 2016 meeting, the Planning Commission voted 10-0 (Commissioner Sargeant recused himself from the public hearing; Commissioner Migliaccio was absent from the meeting) to **DEFER THE DECISION ONLY** on the above referenced applications to a date certain of January 21, 2016. A copy of the verbatim transcript is attached.

Sincerely,

John W. Cooper, Clerk to the  
Fairfax County Planning Commission

Attachments (a/s)

cc: Pat Herrity, Supervisor, Springfield District  
Peter Murphy, Planning Commissioner, Springfield Distr  
Catherine A. Chianese, Assistant County Executive, Clerk to the Board of  
Supervisors, County Executive Office  
Carmen Bishop, Staff Coordinator, ZED, DPZ  
Robert Harrison, ZED, DPZ  
January 14, 2016 date file

 To request special accommodations, call the Planning Commission office at 703-324-2865, TTY 703-324-7951. Please allow seven working days to make the appropriate arrangements.

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**Fairfax County Planning Commission**  
12000 Government Center Parkway, Suite 330, Fairfax, VA 22035  
703-324-2865 (Voice) 703-324-7951 (TTY) 703-324-3948 (Fax)  
[www.fairfaxcounty.gov/planning](http://www.fairfaxcounty.gov/planning)



Planning Commission Meeting  
January 14, 2016  
Verbatim Excerpt

RZ/FDP 2015-SP-007 – MRD PROPERTIES, LLC

After Close of the Public Hearing

Vice Chairman de la Fe: Public hearing is closed. Mr. Murphy.

Commissioner Murphy: Thank you very much, Mr. Chairman. As I said, I'm going to defer decision on it to prepare a verbatim and motion. But, coincidentally with that, this is one of those applications that successfully addresses the Comprehensive Plan. And the development level in the overlay district is actually under, but not by much, but it's still under the 2.5 dwelling units per acre permitted in the overlay district in this Fairfax Center area with 2.4 dwelling units. It's in conformance with the Comprehensive Plan. It's in conformance with the applicable Zoning Ordinances. It meets and addresses, successfully, the Fairfax Center Checklist for the Overlay District and the Residential Development Criteria. Conformance with the Plan does not mean housing areas are identical. And if you travel through Fairfax County in rural, suburban areas, you will find different patterns. This is a little bit different. They're preserving 40 percent of the vegetation in that site, providing buffers and screening, providing a sidewalk, and so forth. And I just want to make sure that my motion is correct. So I will again defer decision on this. And I MOVE THAT THE PLANNING COMMISSION DEFER DECISION ONLY ON THIS APPLICATION, RZ/FDP 2015-SP-007, TO A DATE CERTAIN OF THURSDAY THE 21<sup>ST</sup> – 21<sup>ST</sup> – OF JANUARY, WITH THE RECORD REMAINING OPEN FOR WRITTEN COMMENT.

Commissioners Hart and Lawrence: Second.

Vice Chairman de la Fe: Seconded by Commissioners Lawrence and Hart. Any discussion? Hearing and seeing none, all those in favor, please signify by saying aye.

Commissioners: Aye.

Vice Chairman de la Fe: Opposed? The motion carries.

//

(The motion carried by a vote of 10-0. Commissioner Sargeant recused himself from the public hearing. Commissioner Migliaccio was absent from the meeting.)

JLC