



FAIRFAX COUNTY

APPLICATION FILED: March 24, 2005
APPLICATION AMENDED: August 1, 2005
PLANNING COMMISSION: September 28, 2005
BOARD OF SUPERVISORS: Not yet scheduled

V I R G I N I A

September 14, 2005

STAFF REPORT

APPLICATION RZ 2005-SU-011

SULLY DISTRICT

APPLICANT: Renaissance at Rugby Road II, LLC

PRESENT ZONING: R-1, HC and WS

REQUESTED ZONING: R-5, HC and WS

PARCELS: 45-2 ((2)) 2, 3, 4 and 30

ACREAGE: 6.93 acres

DENSITY: 4.9 du/ac

OPEN SPACE: 31%

PLAN MAP: Fairfax Center Area and Residential, 1-2 du/ac with an option for 4-5 du/ac

PROPOSAL: Rezone 6.93 acres from the R-1, HC and WS Districts to the R-5, HC and WS Districts to permit the development of 34 single family attached dwelling units

STAFF RECOMMENDATIONS:

Staff recommends approval of RZ 2005-SU-011, subject to proffers consistent with those contained in Appendix 1 of this report.

Staff recommends approval of a waiver of the service drive requirement along Lee Jackson Memorial Highway (Route 50).

Staff recommends approval of a waiver of the 600 foot maximum length for a private street.

Staff recommends approval of a modification of the height limitation of fences to permit a noise barrier to exceed 7 feet in height.

Staff recommends approval of a waiver of the barrier requirement (B or A) along the northern property boundary.

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

It should be 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.

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 requests approval of a rezoning of 6.93 acres from the R-1, HC and WS Districts to the R-5, HC and WS Districts to permit the development of 34 single family attached dwelling units at an overall density of 4.9 dwelling units per acre (du/ac) with 31% of the site retained as open space.

The applicant is also pursuing RZ/FDP 2005-SU-013 (Kensington Manor), on the same schedule as the subject application. RZ/FDP 2005-SU-013 seeks to rezone 30.56 acres from the R-1, HC and WS Districts to the PDH-5, HC and WS Districts to permit the development of a total of 112 dwelling units, including 63 single family detached units, 35 single family attached units and 14 affordable dwelling units (ADUs). Kensington Manor is proposed at an overall density of 3.59 du/ac (including bonus density for the provision of ADUs, and utilizing density credit for previous right-of-way dedication) with 28.6% of the site retained as open space.

The applicant has Kensington Square, the adjacent development to the west across Rugby Road under development, with most of the homes in Phases 1 and 2 complete. Kensington Square was approved under RZ 2001-SU-035 and RZ 2003-SU-024, which rezoned 17.61 acres from the R-1, HC and WS Districts to the R-5, HC and WS Districts and includes a total of 87 single family attached dwelling units and 11 ADUs.

Waivers and Modifications

- Waiver of the service drive requirement along Lee Jackson Memorial Highway (Route 50).
- Waiver of the 600 foot maximum length for a private street.
- Modification of the height limitation of fences to permit a noise barrier to exceed 7 feet in height (Sect. 10-104).
- Waiver of the barrier requirement (B or A).

LOCATION AND CHARACTER

Site Description:

The 6.93 acre subject property is comprised of four vacant parcels located in the northeastern quadrant of the intersection between Lee Jackson Memorial

Highway (Route 50) and Rugby Road (Route 750). The site is forested with non-native species in advanced stages of invasion. The property slopes to the southwest.

Surrounding Area Description:

Direction	Use	Zoning	Plan
North	Single Family Detached	R-1, HC & WS	Fairfax Center Area
South	Single Family Detached	PDH-3, HC & WS	Fairfax Center Area
East	Single Family Attached	PDH-5, HC & WS	Fairfax Center Area
West	Single Family Attached	R-5, HC & WS	Fairfax Center Area & Residential 1-2 du/ac

BACKGROUND

Site History:

There is no relevant zoning history associated with the subject properties.

COMPREHENSIVE PLAN PROVISIONS

Area III, Fairfax Center, as amended through February 10, 2003, Fairfax Center Area, Sub Unit A-1, page 48:

“Sub-unit A1

This sub-unit contains the portion of the Murray Farms subdivision located south of the Fairfax County Parkway and is planned for residential use at 5 dwelling units per acre at the overlay level. The same conditions for development that apply for the portion of Murray Farms in UP8 Lee-Jackson Community Planning Sector (Upper Potomac Planning District) should apply to Sub-unit A1.”

Area III, Upper Potomac, as amended through February 10, 2003, UP 8 Lee Jackson, page 158:

“6. The Murray Farms subdivision south of the Fairfax County parkway is planned for residential use at 1-2 dwelling units per acre. As an option, development may be appropriate at 4-5 dwelling units per acre. Redevelopment of this area should strive to create a sense of community and coordinated and attractive residential development on both sides of Rugby Road. This optional density may be considered under the following conditions:

- East of Rugby Road, full land consolidation is required, excluding church property or land approved for institutional use. In addition, the following conditions should be met:

- a) Development should be compatible with the Fair Woods subdivision to the east;
- b) Development should occur in a manner that permits future development of unconsolidated parcels in conformance with the Comprehensive Plan.
- c) Access and circulation should be coordinated in order to limit the number of access points to Rugby Road to the greatest extent possible; and
- d) Adverse impacts from adjacent institutional uses should be mitigated, incorporating such techniques as screening and buffering.”

ANALYSIS

Generalized Development Plat (Copy at the front of staff report)

Title of GDP:	Kensington Parc
Prepared By:	Urban Engineering & Associates, Inc.
Original and Revision Dates:	June 10, 2005, with revisions through September 13, 2005

	Contents
Sheet 1	Title Sheet
Sheet 2	Notes and Details
Sheet 3	Rezoning Plat
Sheet 4	Existing Vegetation Map
Sheet 5	Generalized Development Plan
Sheet 6	Proposed Rugby Road Improvements
Sheet 7	Stormwater Management Plan
Sheet 8	Landscape Plan
Sheet 9	Site Amenities Plan
Sheet 10	Site Amenities Plan
Sheet 11	Context Map

The GDP proposes a layout as follows:

- 34 single family attached dwelling units at an overall density of 4.9 dwelling units per acre (du/ac).
- Each dwelling will be contained within a “great house” (9 overall) that is designed to resemble one large manor house, but contains 3 or 4 individual single family attached dwelling units.
- Each dwelling will have a two car garage and an 18 foot long driveway. The rear yards of the individual lots will be separated by a 6 foot tall privacy

fence. The side and rear yards of the individual lots will be enclosed by a 4 foot tall ornamental metal fence.

- Each lot will have a minimum yard of 18 feet (front), 10 feet (side) and 20 feet (rear). Dwelling units will be located a minimum of 34 feet from the northern property boundary, 31 feet from the eastern property boundary, 72 feet from the southern property boundary and 65 feet from the western property boundary.
- Retaining walls (3-9 feet above finished grade) covered in brick or stone and topped with a 3.5 foot tall safety railing will be located on the north and east sides of Lot 8; along the eastern property boundary behind Lots 12-14; on the east side of the private street in front of Lots 15-22; and on the northern side yard of Lot 15.
- A sound barrier (4–8 feet tall) will be located in the buffer yard along the southern property boundary along Lee Jackson Memorial Highway. The sound barrier will consist of a solid wood fence with brick piers. The side yards of the dwellings located on Lots 22 and 23 will be situated 50 feet north of proposed sound barrier. Lots 22 and 23 will be located within the DNL 70 dBA noise contour, while Lots 19-26 will be located within the DNL 65 dBA noise contour. All of these units will receive acoustical treatment to reduce interior noise levels below DNL 45 dBA and exterior noise levels below DNL 65 dBA.
- Vehicular access to the site will be provided by an entrance from the east side of Rugby Road. The private street system will traverse the site and terminate at Y-turnarounds in the southern portion of the site at the southwest corner of Lot 23 and another at the southeast corner of Lot 22. The Y turnarounds have been designed to provide a buffer yard rather than a road connection along the southern property boundary. The proposed buffer yard is compatible with that provided on the residential developments to the west along Lee Jackson Memorial Highway.
- 23 visitor parking spaces will be provided by 6 spaces in front of Lots 9-11, 8 spaces in front of Lots 6-8 and 9 parallel spaces in front of Lots 23-30.
- Open space (31% or 2.15 acres) will be provided consisting of buffer yards, walkways and a community park located north of Lot 15 and east of Lot 31.
- The entrance feature will consist of ornamental fencing with brick piers (sign panels affixed to piers) that will flank both sides of the entrance to the development from Rugby Road. A sign wall with ornamental fencing and brick piers will be oriented towards the entrance and located west of Lot 34 and will be oriented towards Rugby Road.
- Stormwater management and best management practices (BMPs) will be provided through the provision of a dry pond facility with a storage capacity of 70,000 cubic feet. This SWM/BMP facility will be constructed in the western portion of the property adjacent to Rugby Road. The proposed

facility will discharge into an existing storm sewer underneath Lee Jackson Memorial Highway and through a series of pipes and a SWM/BMP facility at the end of Maureen Lane, and will ultimately discharge into the Rocky Run Floodplain. The GDP depicts a possible raingarden west of Lot 1 adjacent to Rugby Road; this facility will be installed if it is deemed necessary during site plan review to satisfy the phosphorous removal requirements.

- The landscape plan depicts a planting scheme that will provide a buffer between the proposed development and the Fair Woods neighborhood to the east and the Fairfax Church of Christ to the north. Plantings will be provided in the front and rear yards of the individual dwelling units and around the entry features. Plantings are proposed within and around the SWM/BMP facility. An approximately 45 foot wide buffer will be provided along the southern property boundary along Lee Jackson Memorial Highway that will consist of landscaping and the noise barrier.
- Road improvements consist of right-of-way dedication along Rugby Road (12,638 square feet) that will enable the applicant to construct a full through lane and sidewalk improvements across the property's western frontage. The applicant proposes to construct this improvement and then stripe the through lane until such time as the Rugby Road improvements are constructed in their entirety between Lee Jackson Memorial Highway and the Fairfax County Parkway. The full road improvement will be constructed by the applicant in association with this application (RZ 2005-SU-011) and an associated rezoning (RZ/FDP 2005-SU-013) filed by the same applicant on property located to the west on Lee Jackson Memorial Highway (which will access Rugby Road through the existing Kensington Square neighborhood). Right-of-way along the frontage of the Fairfax Church of Christ property to the north must be acquired to permit the construction of these road improvements.

COMPREHENSIVE PLAN ANALYSIS

The subject property is located within the Fairfax Center Area, but the land use recommendations for the property are contained within the Lee-Jackson Community Planning Sector (UP 8) of the Upper Potomac Planning District (Area III). Therefore, this application has been evaluated under the site specific land use recommendations of the Lee-Jackson Community Planning Sector rather than the Fairfax Center Area, although the applicant has proffered to provide the appropriate contribution to the Fairfax Center Road Fund.

The Comprehensive Plan recommends residential use at 1-2 du/ac, but proposes an option for residential use at 4-5 du/ac if certain conditions are met. The first condition is full consolidation of parcels excluding the church property or property used for institutional uses. The applicant has consolidated Tax Map parcels 45-2 ((2)) 2, 3 4 and 30, which comprise all of those parcels in this land unit that are undeveloped and not owned by the Fairfax Church of Christ; therefore, this condition has been satisfied. The second condition is that the development should be compatible with the Fair Woods neighborhood (5.9 du/ac) to the east.

The applicant proposes a neighborhood comprised of 34 single family attached dwelling units at an overall density of 4.9 du/ac that will be adequately screened from the adjacent Fair Woods neighborhood; therefore, Staff believes that this condition has been satisfied. The third condition is that the development should not preclude the future development of adjacent properties in conformance with the Plan. Staff does not believe that the applicant's proposal would not preclude the Fairfax Church of Christ properties from expanding their current operations or redeveloping according to the recommendations of the Plan; therefore Staff believes that this condition has been satisfied. The fourth condition is that the development should coordinate access points and limit the number of entrances onto Rugby Road. The applicant has proposed and committed to improvements to Rugby Road that will not interfere with the current and future access points to the Fairfax Church of Christ and the Fair Woods neighborhood; therefore, Staff believes that this condition has been satisfied. The fifth condition is that the development should mitigate all possible adverse impacts from the adjacent institutional use. The applicant has proposed a 25 foot wide transitional screening yard and enclosed rear yards in the northern portion of the site adjacent to the Fairfax Church of Christ property; therefore, Staff believes that this condition has been satisfied. Staff believes that the proposed development will be compatible with surrounding residential uses and will be sufficiently buffered from the church property to the north, which is anticipated to be developed with an expansion of the Fairfax Church of Christ in the future. Therefore, Staff believes that the applicant's proposal to consolidate these four parcels and develop them with residential uses satisfies the conditions necessary to attain the optional density of 4-5 du/ac.

RESIDENTIAL DEVELOPMENT CRITERIA

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, being responsive to our historic heritage, contributing to the provision of affordable housing, and being responsive to the unique site specific considerations of the property. For the complete Residential Development Criteria text, see Appendix 13.

Site Design (Development Criterion #1)

This Criterion requires that the development proposal address consolidation goals in the Comprehensive Plan, further the integration of the development with adjacent parcels and not preclude adjacent properties from developing according to the recommendations of the Plan. The Comprehensive Plan recommends residential use for the subject property at 1-2 du/ac with an option for 4-5 du/ac. Consolidation of all parcels, excluding those owned by the Fairfax Church of Christ, is one of the conditions necessary for attaining the optional residential density. The application has been filed on Tax Map parcels 45-2 ((2)) 2, 3, 4 and 30, which satisfies the consolidation goals of the Plan. As proposed, the development will be buffered from the Fairfax Church of Christ property to the north and the Fair Woods neighborhood to the east. The property to the north of

the subject site is occupied by a single family detached dwelling that is owned by the Fairfax Church of Christ, which will be buffered from the proposed development by a 25 foot wide transitional screening yard along the northern property boundary. Staff believes that the applicant's proposal will not preclude the Fairfax Church of Christ from developing their property according to the recommendations of the Plan. Further, the applicant has sufficiently demonstrated that their proposal satisfies the conditions necessary for attaining the optional density as recommended by the Comprehensive Plan.

The development proposal should provide a logical and functional design with appropriate relationships within the development, including appropriately oriented dwelling units and usable 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. The GDP depicts a development with single family attached dwelling units grouped together in sets of 3 and 4 units. Each grouping of units will have the appearance of a single "great house". The proposed unit type has been constructed in the Kensington Square neighborhood to the west across Rugby Road. At Staff's request, the GDP was revised to provide a more functional layout consisting of the full Transitional Screening yard (TS 1) along the northern property boundary, removal of the private street connection in the southern portion of the site to create a 45 foot wide buffer yard along Lee Jackson Memorial Highway that is compatible with that existing and proposed on the residential developments west of the subject site, and the creation of a community park. An extensive internal walkway system will provide ample pedestrian access throughout the development with connections to the proposed sidewalk improvements along Rugby Road. Minimum yards of 18 feet (front), 10 feet (side) and 20 feet (rear) will be provided for all units, which meet the bulk regulations of the R-5 District. Six foot tall privacy fences will separate the rear yards of each unit that will be enclosed by 4 foot tall metal fencing.

Open space should be usable, accessible and integrated. Appropriate landscaping and amenities should be provided. Thirty one percent (31% or 2.15 acres) will be retained as open space consisting of buffer yards and a community park at the northeast quadrant between Lots 15 and 31. Appropriate landscaping will be provided to create adequate buffers between lots and the property boundaries, as well between lots that face one another. The community park will consist of a focal feature, benches, trellis and a small active recreation area. The internal walkways will provide access from all of the lots to the community park and visitor parking areas, and will connect to the proposed sidewalk improvements along Rugby Road, providing access to adjacent neighborhoods.

Neighborhood Context (Development Criterion #2)

While developments are not expected to be identical with the existing development within which they are to be located, this Criterion states that they should fit into the fabric of the community. Staff believes that the applicant's proposal to consolidate four parcels into a coordinated development plan fits in well with the fabric of the surrounding neighborhoods. The applicant's companion development (Kensington Parc; 4.9 du/ac) is proposed at a density that is below that of surrounding neighborhoods, Fair Woods (5.9 du/ac) to the

east and Kensington Square (5.71 du/ac) to the west. The proposed great house unit type is the same as that constructed within the Kensington Square development and within the proposed Kensington Manor neighborhood (RZ 2005-SU-013). Proposed landscaping along the northern, eastern and southern property boundaries will provide sufficient buffer yards between the proposed development and the adjacent neighborhoods and church, while the internal walkways will provide pedestrian access from the proposed development to adjacent neighborhoods via proposed sidewalk improvements along Rugby Road.

Environment (Development Criterion #3) (Appendix 4)

This Criterion requires that developments respect the natural environment by conserving natural environmental resources, account for soil and topographic conditions and protect current and future residents from the impacts of noise and light. Developments should minimize off-site impacts from stormwater runoff and adverse water quality impacts.

Fairfax County soils maps indicate the presence of asbestos bearing soils and bedrock on the subject property. Asbestos soils present potential health risks, while the shallow depth to bedrock may necessitate blasting during construction of the proposed development. The applicant has provided appropriate proffers that would ensure that all necessary measures will be taken during construction to minimize the health and safety risks associated with asbestos soils and blasting.

As detailed in the noise study, the proposed development will be impacted by transportation generated noise from Lee Jackson Memorial Highway. The GDP indicates noise contours in excess of DNL 65 dBA and those dwelling units that will be impacted. Lots 22 and 23 will be located within the DNL 70 dBA contour, while Lots 19-26 will be located within the DNL 65 dBA. A noise barrier will be installed in the southern portion of the site, and the applicant has provided appropriate proffers that ensure that appropriate noise mitigation techniques will be employed to reduce interior noise levels of all affected units below DNL 45 dBA and exterior noise levels below DNL 65 dBA. The noise barrier will be a maximum of 8 feet tall, and the applicant has requested a modification pursuant to Sect. 10-104 to permit a noise barrier to exceed 7 feet in height. This modification request is discussed below.

Tree Preservation and Tree Cover Requirements (Development Criterion #4) (Appendix 5)

This Criterion 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, including the extension of utility improvements to the site.

The subject property is occupied by trees in advanced states of invasion of non-native trees and noxious vines; therefore, it has been determined by UFM that there are no trees worthy of preservation. The GDP depicts limits of clearing and grading that coincide with the property boundaries. The applicant has revised

the landscape plan on Sheet 8 of the GDP to ensure that none of the trees will be planted within 4 feet of a root barrier.

Transportation (Development Criterion #5) (Appendix 6)

Criterion 5 requires that development provide safe and adequate access to the surrounding road network, and that transit and pedestrian travel and interconnection of streets should be encouraged. In addition, alternative street designs may be appropriate where conditions merit.

The Comprehensive Plan recommends that Rugby Road between Lee Jackson Memorial Highway and the Fairfax County Parkway be widened to 4 lanes. The applicant for the subject rezoning is the same applicant for pending rezoning RZ 2005-SU-013 (Kensington Manor) and the builder of the neighborhood to the west (Kensington Square). Kensington Manor has been designed with access to Rugby Road through Kensington Square. Since the applicant is the same for these neighborhoods that will all access Rugby Road, Staff requested that the applicant commit to providing the full Rugby Road improvements according to the recommendations of the Plan.

This development, in conjunction with the adjacent Kensington Square development and RZ/FDP 2005-SU-013, will encompass 75% of the Rugby Road frontage, and all three of the residential neighborhoods will have access onto Rugby Road. Therefore, staff believes that it should be this applicant's responsibility to improve Rugby Road according to the recommendations of the Plan. In response to Staff's request, the applicant has prepared a preliminary design for improvements to Rugby Road to the satisfaction of the Fairfax County Department of Transportation (FCDOT) and the Virginia Department of Transportation (VDOT).

The significance of the Rugby Road improvements is paramount to the success of this rezoning that is related to both the existing Kensington Square and the proposed Kensington Manor (RZ 2005-SU-013) neighborhoods, for they all access Rugby Road. Therefore, the applicant has provided proffers that commit the applicant to improving Rugby Road across the frontage of the subject site by the issuance of the 21st Residential Use Permit (RUP) and the entire Rugby Road improvement between Lee Jackson Memorial Highway and the Fairfax County Parkway by the issuance of the 100th RUP collectively between the subject application and the Kensington Manor rezoning application.

Aside from these design issues related to the Rugby Road improvements, the applicant has proffered to contribute \$35,802 (\$1,053 x 34 du) to the Fairfax Center Road Fund. The applicant's proposed off-site improvements to Rugby Road may be creditable towards this contribution.

Public Facilities (Development Criterion #6)

Criterion 6 states that residential developments should offset their impacts upon public facility systems (i.e. schools, parks, libraries, police, fire and rescue, stormwater management and other publicly owned community facilities).

Impacts may be offset by the dedication of land, construction of public facilities, contribution of in-kind goods, services or cash earmarked for those uses, and/or monetary contributions to be used toward funding capital improvement projects. (Specific Public Facilities issues are discussed in detail in Appendices 7 – 12).

Fairfax County Public Schools (Appendix 7)

The proposed development would be served by Navy Elementary School, Franklin Middle School and Chantilly High School. Navy Elementary School is projected to exceed capacity through the 2009-2010 school year, while Franklin Middle School and Chantilly High School are projected to be below capacity by the 2009-2010 school year. The total number of students generated by this development is anticipated to be 13 total students: 7 elementary, 2 middle and 4 high school students. This is an increase of 11 students above that generated by the existing zoning district. An appropriate contribution would be approximately \$82,500 (11 students x \$7,500 per student). The applicant has proffered a contribution of \$2,427 per dwelling unit, which is a total contribution of \$82,518 (\$2,427 x 34 dwelling units) for capital improvements to schools that serve the area.

Fairfax County Park Authority (Appendix 8)

The proposed development would add approximately 89 new residents to the current population of the Sully District. The applicant proposes provide a community park and an extensive pedestrian network that will connect with proposed sidewalk improvements along Rugby Road. In order to offset the impact this development will have on Park Authority resources, the applicant has been requested to provide \$23,585 to the Park Authority for recreational development. The applicant has proffered to provide \$694 per dwelling unit, which is a total contribution of \$23,596 (\$694 x 34 dwelling units) to the Park Authority for park purposes.

Fire and Rescue (Appendix 9)

The subject property would be serviced by the Fairfax County Fire and Rescue Department Station #421, Fair Oaks. The requested rezoning currently meets fire protection guidelines.

Sanitary Sewer Analysis (Appendix 10)

Adequate sanitary sewer capacity is available to the subject property to support the proposed use.

Fairfax County Water Authority (Appendix 11)

The subject property is located within the Fairfax County Water Authority service area. Adequate domestic water service is available to the site from existing 12-inch, 14-inch and 20-inch water mains located at the property.

Utilities Planning and Design, DPWES (Appendix 12)

The applicant's proposal to provide a dry stormwater management/best management practices (SWM/BMP) pond with an optional raingarden appears to satisfy the water quality and quantity requirements of the PFM, (although the applicant will need to provide a detailed outfall analysis at site plan to demonstrate that adequate outfall exists for the proposed use).

Affordable Housing (Development Criterion #7)

This Criterion 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 Criterion may be satisfied by the construction of units, dedication of land, or by a contribution to the Housing Trust Fund. The applicant has proffered to contribute one half of one percent (½%) of the projected sales price of the houses to the Housing Trust Fund, in accordance with Fairfax County policy.

Heritage Resources (Development Criterion #8) (Appendix 8)

This Criterion requires that developments address potential impacts on historical and/or archaeological resources through research, protection, preservation, or recordation. The Park Authority has indicated that the subject property has a moderate potential for yielding historic archaeological resources. The applicant has proffered to conduct a Phase I archaeological study prior to the commencement of any land disturbing activities, and will present the results to the Park Authority. The proffer further states that a Phase II/III study will be conducted if warranted.

ZONING ORDINANCE PROVISIONS

Bulk Standards (R-5)		
Standard	Required	Provided
District Size	4 acres	6.93 acres
Building Height	35 feet	35 feet
Front Yard	15° ABP (Angle of Bulk Plane), but not less than 5 feet)	18 feet
Side Yard	15° ABP, but not less than 10 feet	10
Rear Yard	30° ABP, but not less than 20 feet	20
Open Space	20%	31%
Parking Spaces	78 Spaces	150 spaces
Maximum Density	5 dwelling units per acre	4.9
Tree Cover	20%	20%

Highway Corridor Overlay District (Sect. 7-600)

The provisions of Sect. 7-608, Use Limitations, apply additional standards for properties located within the boundaries of any established Highway Corridor Overlay District. These conditions apply to drive-in banks, fast food restaurants, quick-service food stores, service stations and service station/mini-marts. The provisions of the Highway Corridor Overlay District do not apply to this application.

Watershed Protection Overlay District (Sect. 7-800)

The provisions of Sect. 7-808, Use Limitations, apply additional standards for uses in the WSPOD. Any use requiring a site plan must provide water quality control measures designed to reduce by one-half the projected phosphorus runoff pollution for the proposed use. Such water quality control measures or Best Management Practices (BMPs) shall be reviewed, modified, waived and/or approved by the Director in accordance with the Public Facilities Manual. The GDP shows stormwater management and BMPs to be provided through the construction of a dry pond stormwater management facility in the western portion of the property that will discharge into an existing storm sewer system underneath Lee Jackson Memorial Highway that will ultimately outfall into the Rocky Run floodplain. A possible raingarden is proposed to be installed in the northwestern portion of the property if necessary to meet the water quality control requirements. The proposed use must meet the requirements of the WSPOD at the time of site plan approval.

WAIVERS AND MODIFICATIONS

Waiver of the service drive requirement

The PFM requires that all developments abutting a primary highway (State route number below 600) shall provide a service drive along the entire frontage of that road. Lee Jackson Memorial Highway (Route 50) forms the southern property boundary of the site; therefore a service drive is required, which the applicant has requested a waiver to provide. Staff supports this waiver because access to the site will be provided from Rugby Road, and a landscaped buffer will be provided along the southern property boundary that is consistent with that existing and proposed on the residential developments to the west of the property along Route 50. Staff further believes that a service drive would not be useful in this location, which is predominately residential in character along the north side of Lee Jackson Memorial Highway.

Waiver of the 600 foot maximum length for a private street

Section 11-302 of the Zoning Ordinance does not permit private streets within a residential development to exceed 600 feet in length. Therefore, the applicant is requesting a waiver of this requirement to permit the private street system to exceed 600 feet in length. Public access easements will be placed on the private

streets which will be constructed with a pavement section appropriate for public subdivision streets per the requirements of the PFM. Maintenance responsibilities will be performed by the HOA, which will be disclosed to all purchasers. Therefore, Staff supports this request.

Modification of the height limitation of fences to permit a noise barrier to exceed 7 feet in height

Sect. 10-104 of the Zoning Ordinance permits an increase in height for noise barriers that mitigate the impacts of highway noise on residential properties. The applicant's submitted noise study demonstrates the necessity for a noise barrier along the southern portion of the property to adequately mitigate transportation noise generated from Lee Jackson Memorial Highway. The GDP indicates the location of the noise barrier in the southern portion of the property that will have a maximum height of 8 feet. The noise barrier will consist of a solid wood fence with brick piers. Staff supports this request that will permit the applicant to install a noise barrier that will provide adequate noise mitigation of transportation generated noise.

Waiver of the barrier requirement

Barrier B (42-48 inch solid wood or otherwise architecturally solid fence) or A (42-48 inch wall, brick or architectural block faced on the side facing the existing use or faced on both sides as determined by the Director) is required along the northern property boundary. The applicant requests a waiver of the barrier requirement to permit that shown on the GDP to satisfy the requirement. The applicant proposes to enclose the rear and side yards of Lots 1-9 with 4 foot tall ornamental metal fencing, no fencing will be provided at the terminus of the private street in front Lot 9. Staff supports this waiver because the proposed Transitional Screening (TS 1) and fenced rear and side yards will provide sufficient separation between the residential units and the residential property to the north that is owned and operated by the Fairfax Church of Christ. Should the Fairfax Church of Christ seek to expand their operations onto the parcel currently occupied by a single family detached dwelling, they would be required to provide a Transitional Screening yard (TS 1) and barrier D, E or F along this shared property boundary, which would provide an even greater buffer between the proposed dwellings in the proposed Kensington Parc neighborhood and the Fairfax Church of Christ.

CONCLUSIONS AND RECOMMENDATIONS

Staff Conclusions

The applicant's request to rezone the 6.93 acre property from the R-1, HC and WS Districts to the R-5, HC and WS Districts to permit the development of 34 single family attached dwelling units at an overall density of 4.9 du/ac with 31% of the site remaining as open space. The GDP depicts a functional layout that is in conformance with the land use recommendations of the Comprehensive Plan

and applicable Zoning Ordinance provisions. The applicant has also committed to improving Rugby Road between Lee Jackson Memorial Highway and the Fairfax County Parkway according to the recommendations of the Plan. These road improvements will be made by the applicant in connection with the approval of RZ/FDP 2005-SU-013 (Kensington Manor). Staff concludes that the subject rezoning application is in conformance with the Comprehensive Plan and applicable Zoning Ordinance provisions, with the execution of the proffers contained in Appendix 1.

Recommendation

Staff recommends approval of RZ 2005-SU-011, subject to proffers consistent with those contained in Appendix 1 of this report.

Staff recommends approval of a waiver of the service drive requirement along Lee Jackson Memorial Highway (Route 50).

Staff recommends approval of a waiver of the 600 foot maximum length for a private street.

Staff recommends approval of a modification of the height limitation of fences to permit a noise barrier to exceed 7 feet in height.

Staff recommends approval of a waiver of the barrier requirement (B or A) along the northern property boundary.

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 recommendations of staff; it does not reflect the position of the Board of Supervisors.

APPENDICES

1. Draft Proffers
2. Affidavit
3. Statement of Justification
4. Environmental Analysis
5. Urban Forestry Analysis
6. Transportation Analysis
7. Fairfax County Public Schools
8. Fairfax County Park Authority
9. Fire and Rescue
10. Sanitary Sewer Analysis
11. Fairfax County Water Authority
12. Utilities Planning and Design, DPWES
13. Residential Development Criteria
14. Glossary

DRAFT

PROFFERED CONDITIONS Renaissance at Rugby Road II, LLC

RZ/FDP 2005-SU-011

September 13, 2005

Pursuant to Section 15.2-2303(a) of the Code of Virginia, 1950, as amended, the property owners (the "Owners") and applicant (the "Applicant") in this rezoning proffer that the development of the parcels under consideration and shown on the Fairfax County Tax Maps as Tax Map Reference Nos. 45-2-((2))-2, 3, 4, 30 (hereinafter referred to as the "Property") will be in accordance with the following proffered conditions (the "Proffered Conditions") if, and only if, said Rezoning request for the R-5 Zoning District is granted. In the event said application request is denied, these Proffered Conditions shall be null and void. The Owners and the Applicant, for themselves, their successors and assigns, agree that these Proffered Conditions shall be binding on the future development of the Property unless modified, waived or rescinded in the future by the Board of Supervisors of Fairfax County, Virginia, in accordance with applicable County and State statutory procedures. These Proffered Conditions, if accepted, supersede all previous Proffered Conditions existing on the Property. The Proffered Conditions are:

I. GENERAL

1. Substantial Conformance. Subject to the Proffered Conditions and the provisions of Article 18 of the Zoning Ordinance, under which minor modifications to an approved development plan are permitted, the development shall be in substantial conformance with the Generalized Development Plan (the "GDP"), containing eleven (11) sheets prepared by Urban Engineering & Associates, Inc., dated March 2005 and revised through September 13, 2005.

2. Lot Yield and Orientation of Units. The development shall consist of a maximum of thirty-four (34) market rate single family attached residential units. The specific unit footprints shown on the GDP are subject to minor modifications and shall further conform to the “Typical Lot/Units Details” (as shown on the GDP) and/or the requirements of these Proffered Conditions.

3. Establishment of HOA. Prior to record plat approval, the Applicant shall demonstrate that the Property will be governed by a homeowners association (the “HOA”) and be subject to a Declaration of Covenants, Conditions and Restrictions consistent with the requirements of Article 2 of the Zoning Ordinance. Such HOA shall be designed with a structure that provides reciprocal rights of access to trails, amenities, and common areas within the existing development approved under RZ 2001-SU-035 and that associated with RZ 2005-SU-013, if approved.

4. Dedication to HOA. In conjunction with the appropriate site review processes, private streets, sidewalks, and common areas and amenities not otherwise conveyed or dedicated to the County shall be dedicated to the HOA and maintained by the same. Maintenance responsibilities of the HOA, including maintenance of private streets, 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.

5. Public Access Easement. A public access easement in a form approved by the County Attorney shall be placed on the private streets, sidewalks, and trails within the approved development. The requirements of this Proffer Condition shall be disclosed in the HOA Documents.

6. Garage Conversion. Any conversion of garages that will preclude the parking of vehicles within the garage is prohibited. A covenant setting forth this restriction 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 Board of Supervisors. This restriction shall also be disclosed in the HOA Documents. Prospective purchasers shall be advised of this use restriction at the time of the contract execution for each such initial sale.

7. Pavement Section. All private streets shall be constructed pursuant to the Public Facilities Manual (the “PFM”) pavement section standards as to the thickness appropriate for public subdivision streets based on level of vehicular traffic consistent with the development shown on the GDP. The HOA Documents shall include provisions for monthly/annual assessments for private street maintenance. All prospective purchasers shall be advised of the existence of private streets, the associated public access easement and all other associated maintenance obligations required by these Proffered Conditions at the time of the contract execution for each such initial sale. The HOA Documents shall stipulate that a reserve fund to be held by the HOA be established for private street maintenance. The Applicant shall be responsible for placing the sum of \$2,000 in such reserve fund prior to the issuance of the first Residential Use Permit (the “RUP”) for the proposed dwelling units.

8. Length of Driveways. All driveways serving the approved residential units shall be a minimum of eighteen (18) feet in length from the inside of the sidewalk to the edge of the garage door.

9. Signs. No temporary signs (including “popsicle” 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, by the Applicant or at the Applicant’s direction to assist in the initial sale of homes on the Property. Furthermore, the Applicant shall direct its agents and employees involved in marketing and sale of residential units on the Property to adhere to this proffer.

10. School Contributions. Prior to approval of the first site plan for the approved development, the Applicant shall contribute the sum of \$2,427.00 per dwelling unit, for each new dwelling unit approved on the final site plan to the Board of Supervisors for capital improvements to schools serving the Property.

11. Park Authority Contribution. The Applicant shall contribute \$694.00 per dwelling unit to the Fairfax County Park Authority for park purposes and/or facilities in the vicinity of the subject Property. This contribution shall be made at the time of final site plan approval.

12. Energy Conservation. All homes on the Property shall meet the thermal guidelines of the CABO Model Energy Program, or its equivalent as determined by DPWES for either gas or electric energy systems, as may be applicable.

13. Affordable Dwelling Units. At the time of first building permit issuance, the Applicant shall contribute to the Fairfax County Housing Trust fund the sum equal to one half of one percent (½%) of the projected sales price for each house to be constructed. The projected sales price shall be determined by the Applicant in

consultation with the Fairfax County Department of Housing and Community Development (HCD) and DPWES.

14. Archaeological Study. Prior to any land disturbing activities, Applicant shall conduct a Phase I archaeological study of the Property, and provide the results of such studies to the Heritage Resources Branch of the Fairfax County Park Authority (“Heritage Resources”). If deemed necessary by Heritage Resources, the Applicant shall conduct a Phase II and/or Phase III archaeological study on only those areas of the Property identified for further study by Heritage Resources. The studies shall be conducted by a qualified archaeological professional approved by Heritage Resources, and shall be reviewed and approved by Heritage Resources. The studies shall be completed prior to subdivision plat recordation.

II. ENVIRONMENTAL

15. Stormwater Management. Stormwater management and BMP measures, including the possible installation of a raingarden, shall be provided as shown on the GDP and shall be in accordance with the PFM, as determined by DPWES. Any structural detention pond shall be landscaped to the maximum extent possible based on the planting policies of Fairfax County or modifications thereto as approved by DPWES. To the extent any of the stormwater management measures described above impose additional private maintenance obligations on the HOA, including mowing and landscaping responsibilities, the same shall be disclosed to prospective purchasers prior to entering into a contract of sale and shall be incorporated into the HOA covenants. Further, any rain garden shall be maintained by the HOA in general conformance with Attachment A.

16. Limits of Clearing and Grading and Landscaping. The Applicant shall conform to the limits of clearing and grading, as shown on the GDP.

17. Landscaping. Landscaping shall be provided in substantial conformance with the landscaping concepts shown on the GDP. For those trees shown on the GDP, evergreen trees shall be at least 6 feet tall, and deciduous trees shall be at least 2 1/2 inch caliper at the time of planting. If, during the process of site plan review, any new landscaping shown on the GDP cannot be installed in order to locate utility lines, trails, etc., as determined necessary by the Urban Forester, then an area of additional landscaping consisting of trees and/or plant material of a type and size generally consistent with that displaced, shall be substituted at an alternate location on the Property, subject to approval by the Urban Forester.

18. Asbestos Containing Soils. If, based on the soils analysis submitted as part of the site plan approval process, DPWES determines that a potential health risk exists due to the presence and associated disturbance of asbestos-containing rock on the Property, the Applicant shall:

- (a) Take appropriate measures as determined by the Fairfax County Health Department to alert all construction personnel as to the potential health risks; and
- (b) Commit to appropriate construction techniques as determined by DPWES in coordination with the Fairfax County Health Department to minimize this risk. Such techniques may include, but shall not be limited to, dust suppression measures during all

blasting and drilling activities and covered transportation of removed materials presenting this risk, and appropriate disposal.

19. Noise Attenuation Measures. As provided in Proffers 21-23 of these Proffered Conditions, noise mitigation measures will be provided to ensure that a maximum exterior noise level of DNL 65 dBA will be achieved for any outdoor areas for the dwelling units; and that a maximum interior noise level of approximately DNL 45 dBA will be achieved for any dwelling unit that will be exposed to noise levels in excess of DNL 65 dBA.

20. Noise Study. The Applicant will submit a revised noise study using a methodology acceptable to DPZ for review and approval by DPWES and DPZ prior to the approval of the first site plan that will document attainment of the noise levels for exterior and interior levels, as stated above, based on final site topography and the best available information regarding future road and transit improvements within the right-of-way of U.S. Route 50 - Lee Jackson Memorial Highway. In addition, the noise study will provide noise impact projections (in terms of DNL dBA) for all levels of building facades. A “noise mitigation” sheet will be provided within any applicable site and building plan submission. This sheet will include the following information: a graphic illustration of the location, design details, and height of the noise barrier and identifying all building facades for which interior noise mitigation measures will be provided; and a synopsis of the recommendations of the noise study(ies) and how mitigation will be accomplished. The Applicant shall demonstrate to DPWES and DPZ prior to site plan approval that the selected material for the noise wall will provide the noise mitigation described below. Any units requiring mitigation shall be identified on the site plan.

21. Exterior Noise. In order to achieve compliance with the above maximum exterior noise levels, a noise barrier will be constructed along the southern boundary in the location shown on the GDP prior to issuance of any RUPs for the impacted units identified in the revised noise study. The design of the noise barrier shall consist of a berm and wall combination as generally shown on Attachment B. The wall portion of the barrier will be architecturally solid from ground up, with no gaps or openings. The maximum height of the noise barrier shall be consistent with that shown on Attachment B; however, the findings of the revised noise study shall determine the ultimate height of the barrier, which may be subject to change based on final grades at time of site plan.

22. Interior Noise. In order to mitigate interior noise to approximately DNL 45dBA, each dwelling impacted shall have the acoustical attributes set forth in the approved study. Any units requiring mitigation shall be identified on the site plan. Compliance of proposed building materials with these standards shall be demonstrated by the Applicant, to the satisfaction of DPWES, prior to the issuance of building permits for the units.

23. Noise Wall Disclosure. The Applicant shall disclose to all residential purchasers that the development will include a noise wall to reduce transportation generated noise. Maps depicting the location, character, and height of the noise wall and proximity to the individual units will be provided as part of said disclosure at the time of the contract execution for each such initial sale. Notification of the height and location of the noise wall, as well as HOA maintenance responsibility for it, shall also be provided in the HOA documents. The disclosure document/HOA disclosure shall also make it clear

to any potential purchaser that the noise barrier may not preclude all perceptible traffic generated noise.

24. Blasting. If blasting is required on-site, the Applicant and its successors will ensure that blasting is done per Fairfax County Fire Marshal requirements and all safety recommendations of the Fire Marshal, including, without limitation, the use of blasting mats shall be implemented. In addition, the Applicant and its successors shall:

- Retain a professional consultant to perform a pre-blast inspection of each house or residential building, to the extent that any of these structures are located within two hundred fifty (250) feet of the blast site.
- Prior to any blasting being done, the Applicant will provide written confirmation to DPWES that the pre-blast survey has been completed and provide a copy of the survey to Fairfax County upon request.
- Require the blasting consultant to request access, by way of certified mail to the last known address of the owner(s), to any houses, buildings, or swimming pools that are located within said 250 foot range, to, if permitted by owner, determine the pre-blast conditions of these structures. The Applicant's consultant will be required to give a minimum of fourteen (14) days notice of the scheduling of the pre-blast survey. The Applicant shall provide the residents entitled to pre-blast inspections, the name, address and phone number of the blasting contractor's insurance carrier.
- Require his consultant to place seismographic instruments prior to blasting to monitor shock waves. The Applicant shall provide seismographic monitoring records to County agencies upon their request.

- Notify residences within 250 feet of the blast site, ten (10) days prior to blasting; no blasting shall occur until such notice has been given.
- Upon receipt of a claim of actual damage resulting from said blasting, the Applicant shall cause his consultant to respond within five (5) days of meeting at the site of the alleged damage to confer with the property owner.
- The Applicant will require blasting subcontractors to maintain necessary liability insurance to cover the costs of repairing any damages to structures, which are directly attributable to the blasting activity and shall take necessary action to resolve any valid claims in an expeditious matter.

IV. ARCHITECTURE/DESIGN

25. Architecture. The architectural design of the buildings shall be in substantial conformance with the elevations shown on the GDP. Modifications may be made with the final architectural designs if in substantial conformance with the elevations shown on the GDP. The predominant materials used on the exterior facades, on all four (4) sides of the structure, shall be brick and/or masonry. The trim and architectural detailing on structures may be wood, fypon or similar material.

26. Specialty Paving Treatment. The Applicant reserves the right to install specialty paving treatment within the private streets and sidewalks, subject to the approval of DPWES. The materials may include but are not limited to unit pavers, brick pavers, stamped concrete or stamped asphalt.

27. Design of Street Furniture. The benches, sitting areas, entrance feature, and light standards shall be in substantial conformance with the illustrations shown on sheets 9 and 10 of the GDP.

28. Street Lighting. Street light fixtures installed along the private streets shall incorporate lighting elements that are a full cut off type design. The lighting fixtures shall be in substantial conformance with the illustration shown on sheet 10 of the GDP. All lighting on site shall be provided in accordance with the performance standards of Article 14 of the Zoning Ordinance.

29. Retaining Walls. Retaining walls shall be covered with either a brick, stone and/or decorative masonry veneer.

30. Lot Detail. The typical lot/unit details shall be in conformance with what is shown on sheet 10 of the GDP. Further, the Applicant shall provide a combination of 6 foot solid wall privacy fencing and 4 foot metal fencing in the side and rear yards in substantial conformance with what is shown on the GDP.

V. TRANSPORTATION

31. Interim Rugby Road Improvements. Prior to the issuance of the twenty-first (21st) Residential Use Permit ("RUP"), the Applicant shall construct improved Rugby Road along the site frontage of this rezoning (i.e., from the northern boundary of the rezoning property to the Route 50) in the lane configuration as generally shown on the GDP. The final design and configuration of this improvement shall be subject to approval by FCDOT, VDOT, and DPWES. For the purpose of this proffer, "construct" shall mean open to traffic and generally completed, but for final "top coating" of the road. Once completed, the road shall be accepted by VDOT for maintenance, prior to final bond release.

32. Ultimate Rugby Road Improvements. In addition to that required by Proffer #31, prior to the issuance of the One Hundredth (100th) Residential Use Permit

(“RUP”) approved in connection with this rezoning and/or concurrently filed rezoning RZ 2005-SU-013, the Applicant shall construct improved Rugby Road from the Fairfax County Parkway to Route 50 in the lane configuration that is in substantial conformance with that shown on the GDP as approved by FCDOT, VDOT, and DPWES. For the purpose of this proffer, “construct” shall mean open to traffic and generally completed, but for final “top coating” of the road. Once completed, the road shall be accepted by VDOT for maintenance, prior to final bond release. Upon demonstration by the Applicant that, despite diligent efforts, the improvements have been delayed as a result of the unavailability of necessary off-site right-of-way or other circumstances, the Zoning Administrator may agree to a later date for the completion of the improvements.

33. Rugby Road Right-of-Way Acquisition/Condemnation. If, one (1) year subsequent to final subdivision plan approval, the Applicant is unable to bring about the dedication (if any) by others and the necessary right-of-way and easements required for any of the proffered improvements along Rugby Road as shown on the GDP, or to acquire by purchase the right-of-way easements at fair market value, as determined by an MAI (Member of the Appraisal Institute) appraisal, then Applicant shall request the Board of Supervisors to condemn the necessary land and/or easements.

It is understood that the Applicant’s request to the Board of Supervisors for condemnation will not be considered until the Applicant has demonstrated to the satisfaction of the County their failed attempts to acquire the right-of-way and easements and the Applicant has forwarded the request in writing to the Division of Land Acquisition or other appropriate County official, accompanied by (1) plans, plats and profiles showing the necessary right-of-way or grading easements to be acquired,

including all associated easements and details of the proposed transportation improvements to be located on said right-of-way property; (2) an independent appraisal of the value of the right-of-way property to be acquired and of all damages to the residue of the affected property; (3) a sixty (60) year title search certificate of the right-of-way property to be acquired; and (4) an escrow in an amount equal to the appraised value of the property to be acquired and of all damages to the residue which can be drawn upon by the County. It is also understood that in the event the property owner of the property to be acquired is awarded with more than the appraised value of the Property and to the damages to the residue in a condemnation suit, the amount of the award in excess of the escrow amount shall be paid to the County by the Applicant within forty-five (45) days of said award. In addition, the Applicant agrees that all reasonable and documented sums expended by the County in acquiring the right-of-way and necessary easements shall be paid to the County by the Applicant within sixty (60) days of written demand.

In the event the County is successful in acquiring the off-site right-of-way and easements necessary to fully complete any or all of the these off-site improvements, the Applicant shall construct the improvement(s) for which right-of-way is available within two years of such right-of-way acquisition. It is expressly understood that in the event the County abandons efforts or does not acquire the aforesaid right-of-way and/or easements by means of its condemnation powers, the Applicant is relieved of any responsibility under this proffer to construct any off-site portion of the aforesaid road improvement specifically affected by the unavailability of the right-of-way.

34. Fairfax Center Area Road "FCAR" Fund. The Applicant shall contribute to the FCAR 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 County Department of Transportation and/or DPWES.

35. Right-of-Way. In conjunction with the recordation of the subdivision record plat or upon demand, whichever occurs first, the Applicant shall dedicate right-of-way along the site frontage of Rugby Road, approximately 35' from the centerline of Rugby Road, as generally shown on the GDP. Right-of-way dedicated in conjunction with these Proffered Conditions shall be conveyed to the Board of Supervisors in fee simple and shall, with the exception of the right-of-way and easements credited to the FCAR, be subject to the provisions of Paragraph 5 of Section 2-308 of the Zoning Ordinance. Further, the Applicant reserves density credit for all dedications of right-of-way, land, or facilities required in connection with these proffered conditions pursuant to Section 2-308 of the Zoning Ordinance.

36. All monetary contribution amounts stated in these proffers shall be adjusted by increases to the *Marshall and Swift Building Cost Index*, or similar objective source, from the date of the Board of Supervisors' approval of this rezoning application to the date of site plan approval.

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These Proffered Conditions may be executed in counterparts and the counterparts shall constitute one and the same proffer statement.

RENAISSANCE AT RUGBY ROAD II, LLC
Applicant/Contract Purchaser (Contract Assignee)
Tax Map No. 45-2-((2))-2, 3, 4, 30

By: _____
Name: _____
Its: _____

EASTWOOD PROPERTIES, INC.
Contract Assignor of Tax Map
No. 45-2-((2))-2, 3, 4, 30

By: _____
Richard L. Labbe
President

SEUNG K. HONG
Title Owner of Tax Map No. 45-2-((2))-2

By: EASTWOOD PROPERTIES, INC.

Richard L. Labbe
President

KIMBERY H. HONG
Title Owner of Tax Map No. 45-2-((2))-2

By: EASTWOOD PROPERTIES, INC.

Richard L. Labbe
President

ARLINGTON L.L.C.
Title Owner of Tax Map Nos. 45-2-((2))-3, 4

By: EASTWOOD PROPERTIES, INC.

Richard L. Labbe
President

BRUCE W. MULLINAX
Title Owner of Tax Map No. 45-2-((2))-30

By: EASTWOOD PROPERTIES, INC.

Richard L. Labbe
President

JEAN L. SEMRO
Title Owner of Tax Map No. 45-2-((2))-30

By: EASTWOOD PROPERTIES, INC.

Richard L. Labbe
President

ANN M. CAMPBELL
Title Owner of Tax Map No. 45-2-((2))-30

By: EASTWOOD PROPERTIES, INC.

Richard L. Labbe
President

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