BOS - Nov. 21, 2005
3:30 Agenda

PROFFERED CONDITIONS
Renaissance Holdings Corp. a/k/a
Renaissance Holdings Corporation

Kensington Manor
RZ/FDP 2005-SU-013

November 21, 2005

Pursuant to Section 15.2-2303(a) of the Code of Virginia, 1950, as amended, the property owner (the "Owner") 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-((1))-1A (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 PDH-3 and HC Zoning District is granted. In the event said application request is denied, these Proffered Conditions shall be null and void. The Owner 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that these Proffered Conditions shall be binding on the future development of the Property unless modified, waived or rescinded in the future by the Board of Supervisors of Fairfax County, Virginia, in accordance with applicable County and State statutory procedures.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 16 of the Zoning Ordinance, under which minor modifications to an approved development plan are permitted, the development shall be in substantial conformance with the Conceptual Development Plan/Final Development Plan (the

"CDP/FDP"), containing seventeen (17) sheets prepared by Urban Engineering & Associates, Inc., dated March 2005 and revised through September 30, 2005.

2. Lot Yield and Orientation of Units. The development shall consist of sixty-three (63) market rate single family detached residential units, thirty-five (35) market rate single family attached residential units, and fourteen (14) Affordable Dwelling Units (ADUs) as required by Section 2-800 of the Zoning. The specific unit footprints shown on the CDP/FDP are subject to minor modifications and shall further conform to the "Typical Lot/Units Details" (as shown on the CDP/FDP) 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. The Applicant shall diligently pursue establishing one (1) HOA to govern a) the Property subject to these proffers ("Kensington Manor"); b) the existing development approved under RZ-2001-SU035 ("Kensington Square"); and c) the property associated with RZ 2005-SU-011 ("Kensington Parc"), if approved. Such HOA shall be designed with a structure that provides, among other things, reciprocal rights of access to trails, amenities, and common areas within these properties. However, the Applicant reserves the right to establish a "sub-association" under said HOA for the sixty-three (63) market rate single family detached homes approved by the subject rezoning. The Applicant's obligation to establish one (1) HOA among the three (3) communities described above shall be subject to its ability under any existing covenants to: (1) comply with all annexation

requirements; and (2) obtain the approval needed to retain customary declarant control of the three (3) communities during the development period for the new units approved in connection with this rezoning. Should the Applicant be unable to meet the requirements for annexation and declarant control described above, an independent HOA for the rezoned property shall be established.

4. Dedication to HOA. Concurrent with the approval and recordation of the Record Plat, 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 CDP/FDP. 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 $11,200.00 in such reserve fund prior to the issuance of the first Residential Use Permit (the "RUP") for the proposed dwelling units. Said reserve fund cannot be utilized by the developer during its period of control of the HOA.

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 or subdivision plan for the approved development, the Applicant shall contribute the sum of $2,210.00 per dwelling unit, for each new dwelling unit approved on the final site or subdivision plan to the Board of Supervisors for transfer to the Fairfax County School Board. Such funds shall be spent for capital facilities for schools within the serviced area. The Applicant further reserves the right to fulfill all or a portion of this obligation through a contribution of actual capital equipment. The capital equipment for which these funds are used shall be determined by the Sully District School Board member. If this option is exercised, prior to site or subdivision plan approval, the Applicant shall provide documentation to DPWES that the Applicant has purchased and provided through the Fairfax County Public School System actual capital equipment for the schools in the amount of the required contribution.

11. 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.

12. ADUs. A minimum of fourteen (14) affordable dwelling units (ADUs) will be provided within the development in accordance with Section 2-800 of the Zoning Ordinance.

13. Construction Parking. The staging and parking of construction vehicles shall occur on site, including personal vehicles utilized by construction workers. No parking shall occur on adjacent roadways or within the adjacent Kensington Square community.

II. ENVIRONMENTAL

14. Stormwater Management. Stormwater management and BMP measures shall be provided as shown on the CDP/FDP and shall be in accordance with the PFM, as determined by DPWES or modifications thereto as approved by DPWES. Any structural detention ponds shall be landscaped to the maximum extent possible in accordance with the planting policies of Fairfax County. In order to restore a natural appearance to a structural detention pond, a landscape plan shall be submitted as part of the first submission of the site or subdivision plan. The plan shall show the restrictive planting easement for the pond, and the landscaping in all areas outside of that restrictive planting easement, to the maximum extent feasible in accordance with the planting policies of Fairfax County. Further, subject to approval by DPWES, the Applicant shall also incorporate one or more rain garden facilities on the Property. The Applicant and DPWES shall determine the location of the possible rain gardens at the time of site plan. Said locations shall not impact the limits of clearing and grading or impact or reduce the number of proposed visitor parking spaces. To the extent any of the items 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. If rain gardens are employed, the HOA Documents shall further stipulate that a reserve fund be established for rain garden maintenance. The Applicant shall be responsible for placing the sum of $2,500.00 in such reserve fund prior to the issuance of the first Residential Use Permit (the "RUP") for the proposed dwelling units. Said

reserve fund shall not be utilized by the developer during its period of control of the HOA.

15. Limits of Clearing and Grading and Landscaping. The Applicant shall strictly conform to the limits of clearing and grading, as shown on the CDP/FDP subject to the installation of utilities and/or trails as determined necessary by the Director of DPWES. If it is determined necessary to install utilities and/or trails outside of the limits of clearing and grading as shown on the CDP/FDP, they shall be located in the least disruptive manner necessary as determined by Urban Forest Management, DPWES. A replanting plan shall be developed and implemented, subject to approval by Urban Forest Management, DPWES, for any areas outside the limits of clearing and grading that must be disturbed.

16. Landscaping. Landscaping shall be provided in substantial conformance with the landscaping concepts shown on the CDP/FDP. 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. However, the buffer along the eastern property line between the existing Kensington Square community and proposed Units 101 through 108 of the subject Property shall consist of evergreen trees at least 8 to 10 feet tall or 10 to 12 feet tall, depending upon species, and deciduous trees of at least 3 to 3 1/2 inch caliper at the time of planting. If, during the process of site or subdivision plan review, any new landscaping shown on the CDP/FDP 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.

17. Tree Preservation Plan. The Applicant shall submit a tree preservation plan as part of the first and all subsequent site or subdivision plan submissions. The preservation plan shall be prepared by a professional with experience in the preparation of tree preservation plans, such as a certified arborist or landscape architect, and reviewed and approved by the Urban Forest Management, DPWES (UFM). The tree preservation plan shall consist of a tree survey that includes the location, species, size, crown spread and condition rating percentage of all trees ten (10") inches in diameter and greater within twenty (20) feet of the Property limits, or within twenty (20) feet of either side of the limits of clearing and grading as shown on the CDP/FDP, including any area listed as tree save. The condition analysis ratings shall be prepared using methods outlined in the latest edition of the Guide for Plant Appraisal published by the International Society of Arboriculture. Specific tree preservation activities that will maximize the survivability of trees identified to be preserved, such as: crown, pruning, root pruning, mulching, fertilization, and others as necessary, shall be included in the plan.

18. Replacement Value. The Applicant shall retain a professional with experience in plant appraisal such as an arborist or landscape architect to determine the replacement value of those trees ten inches (10") in diameter and greater required to be saved by the UFM in connection with these proffered conditions. These trees and their value shall be identified on the tree preservation plan. The replacement value shall take into consideration the age and size of the trees and shall be determined according to the methods contained in the latest edition of the Guide for Plant Appraisal, subject to review

and approval by UFM. At the time of site or subdivision plan approval, the Applicant shall post a cash bond or letter of credit in favor of the County of Fairfax to ensure replacement of the designated trees that die or are dying due to normal construction activities permitted on the approved plan. Any trees shown to be preserved on the Tree Preservation Plan that die or are dying due to construction activities NOT permitted on the approved plan shall be replaced with trees of equivalent species, size, and/or canopy and the bond monies for said trees shall not be refunded. The terms of the letter of credit shall be subject to approval by the County Attorney. The total amount of the cash bond or letter of credit shall be in the amount of the sum of the assigned replacement values of the designated trees. If, at the time of final bond release, trees governed by this proffer are found to be dead or dying despite adherence to construction activities as approved by UFM, the cash bond or letter of credit shall be used as necessary to plant similar size and species, or species appropriate to the site, in consultation with UFM, DPWES, and the developer's certified arborist. The cash bond or letter of credit shall not be used for the removal of the dead/dying trees normally required by the PFM and the Conservation Agreement. Any funds remaining in the letter of credit or cash bond will be released two years from the date of release of the project's subdivision bond, or sooner, if approved by UFM.

19. Tree Preservation Walk Through. The Applicant shall retain the services of a certified arborist or landscape architect and shall have the limits of clearing and grading marked with a continuous line of flagging prior to the pre-construction meeting. Before or during the pre-construction meeting, the Applicant's certified arborist or landscape architect shall walk the limits of clearing and grading with a UFM representative to

determine where minor adjustments to the clearing limits can be made to increase the area of tree preservation and/or to increase the survivability of trees at the edge of the limits of clearing and grading, and such adjustment shall be implemented. Trees that are identified specifically by UFM in writing as dead or dying may be removed as part of the clearing operation. Any tree that is so designated shall be removed using a chain saw and such removal shall be accomplished in a manner that avoids damage to surrounding trees and associated understory vegetation. If a stump must be removed, this shall be done using a stump-grinding machine in a manner causing as little disturbance as possible to adjacent trees and associated understory vegetation and soil conditions.

20. Tree Protection Fencing. All trees shown to be preserved on the Tree Preservation Plan shall be protected by tree protection fencing. Tree protection fencing consisting of four foot (4') high, 14 gauge welded wire attached to six foot (6') steel post driven eighteen inches (18") into the ground and placed no further than ten feet (10') apart shall be erected at the limits of clearing and grading as shown on the demolition and phase 1 and 2 erosion and sediment control sheets for the tree save and protection areas delineated on the CDP/FDP, as may be modified by Proffer #18. All tree protection fencing shall be installed prior to any clearing and grading activities, including the demolition of any existing structures within or adjacent to tree save areas. The installation of all tree protection fencing shall be performed under the supervision of a certified arborist or landscape architect and accomplished in a manner that does not harm existing vegetation that is to be preserved. Three days prior to the commencement of any clearing, grading or demolition activities but subsequent to the installation of the tree protection devices, UFM shall be notified and given the opportunity to inspect the site to

ensure that all tree protection devices have been correctly installed. If it is determined that the fencing has not been installed correctly, no grading or construction activities shall occur until the fencing is installed correctly, as determined by UFM.

21. Methods of Preserving Existing Trees. The demolition of existing manmade features and structures within identified tree preservation areas shall be conducted in a manner that does not impact on individual trees and/or groups of trees that are to be preserved as reviewed and approved by UFM. Methods to preserve existing trees may include, but not be limited to the use of super silt fence, welded wire tire protection fence, root pruning, or mulching, as approved by UFM. All tree preservation-related work occurring in or adjacent to tree preservation areas shall be accomplished in a manner that minimizes damage to vegetation to be preserved including any woody, herbaceous or vine plant species that occurs in the lower canopy environment, and to the existing top soil and leaf litter layers that provide nourishment and protection to that vegetation. Any removal of any vegetation or soil disturbance in tree preservation areas including the removal of plant species that may be perceived as noxious or invasive, such as poison ivy, greenbrier, multi-floral rose, etc., shall be subject to the review and approval of UFM. The use of motorized equipment in tree preservation areas will be limited to hand-operated equipment such as chainsaws, wheel barrows, rake and shovels. Any work that requires the use of motorized equipment, such as tree transplanting spades, skid loaders, tractors, trucks, stump-grinders, etc., or any accessory or attachment connected to this type of equipment shall not occur unless pre-approved by UFM.

22. Tree Protection Proffer Compliance. During any clearing or tree/vegetation/structure removal or transplantation of vegetation on the Property, a

representative of the Applicant shall be present to monitor the process and ensure that the activities are conducted as proffered and as approved by UFM. The Applicant shall retain the services of a certified arborist or landscape architect to monitor tree preservation efforts periodically throughout the construction period in order to ensure conformance with all tree preservation proffers/conditions, and UFM approvals. The monitoring schedule shall be described and detailed in the tree preservation plan, and reviewed and approved by UFM.

23. Restoration of Resource Protection Area. The Applicant shall prepare and implement a restoration plan for the Resource Protection Area located at the northeastern corner of the Property. This area is noted as "RPA Restoration Area" on the CDP/FDP. A restoration plan shall be submitted concurrently with the first and all subsequent site or subdivision plan submissions for review and approval by UFM and shall be implemented as approved. The plan shall propose an appropriate selection of species based on existing and proposed site conditions to restore the area to a native forest cover type. The restoration plan shall include, but not be limited to the following:

- plant list detailing species, sizes, and stock type of trees and other vegetation to be planted
- soil treatments and amendments if necessary
- mulching specifications
- methods of installation
- maintenance
- mortality threshold
- monitoring
- replacement schedule

24. Asbestos Containing Soils. If, based on the soils analysis submitted as part of the site or subdivision 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.

25. Noise Attenuation Measures. As provided in Proffers 26-28 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 the developed recreation area located east of the site entrance; 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.

26. 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 or subdivision 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 improvements within the right-of-way of Rt. 50 and the Fairfax County Parkway. 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 plan submission. This sheet will include the following information: a graphic illustration of the locations, design details, and heights of the noise barriers and identify 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 or subdivision plan approval that the selected material for the noise walls will provide the noise mitigation described below. Any units requiring mitigation shall be identified on the site or subdivision plan.

27. Exterior Noise. In order to achieve compliance with the above maximum exterior noise levels, a noise barrier will be constructed along the southern and northern boundaries in the locations shown on the CDP/FDP prior to issuance of any RUPs for the impacted units identified in the revised noise study. The barrier located along the northern boundary along the Fairfax County Parkway shall be architecturally solid from the ground up, with no gaps or openings and shall not exceed a height of eight (8) feet from final grade. The barrier located along the southern boundary along Route 50 shall consist of a berm or berm/wall combination as generally shown on Attachment B. The wall portion of the barrier shall be architecturally solid from the ground up, with no gaps or openings. The maximum heights of the Route 50 berm or berm/wall combination shall be in general conformance with that shown on Attachment B. The findings of the revised noise study shall determine the ultimate height of the barriers, which may be subject to change based on final grades/berming at time of site plan.

28. 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 or subdivision 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.

29. Noise Wall Disclosure. The Applicant shall disclose to all residential purchasers that the development will include noise walls to reduce transportation generated noise. Maps depicting the location 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 walls, as well as HOA maintenance responsibility for them, 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.

30. Parks and Recreation. Pursuant to Section 6-409 of the Zoning Ordinance regarding developed recreational facilities, the Applicant shall provide recreational facilities to serve the Application Property as described in Proffer #37 and as shown on Sheets 12, 13, and 14 of the CDP/FDP. Construction of such facilities shall be completed prior to final bond release. At the time of site or subdivision plan review, the Applicant shall demonstrate that the value of any proposed recreational amenities is equivalent to a minimum of $955.00 per unit as required by Article 6 of the Zoning Ordinance. In the event it is demonstrated that the proposed facilities do not have sufficient value, the

Applicant shall have the option to: (1) provide additional on-site recreational amenities within the open space areas shown on the Plan, if it is determined that the location would be in substantial conformance with the CDP/FDP; and/or (2) contribute funds in an amount to total $955.00 per unit to the Fairfax County Park Authority for off-site recreational purposes.

31. Park Authority Contribution. In addition to Proffer #30, the Applicant shall contribute $766.35 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 or subdivision plan approval.

32. 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 property boundaries.
- Prior to any blasting being done, the Applicant shall 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, wells, 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 property boundaries, 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.

- The consultant shall be required to provide an analysis of the potential for gas migration from the site to the Fire Marshal for review and approval prior to blasting. Appropriate gas migration mitigation and/or notification pursuant to County regulations shall be implemented.

IV. ARCHITECTURE/DESIGN

33. Architecture. The architectural design of the buildings shall be in substantial conformance with the elevations shown on the CDP/FDP. Modifications may be made with the final architectural designs if in substantial conformance with the elevations shown on the CDP/FDP. 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 materials. As described on Sheet 5 of the CDP/FDP, the maximum height of all attached and detached units shall not exceed 40 feet.

34. 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.

35. Design of Street Furniture. The benches, sitting areas, entrance feature, and light standards shall be in substantial conformance with the illustrations shown on sheets 13 and 14 of the CDP/FDP.

36. 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 13 of the CDP/FDP. All lighting on site shall be provided in accordance with the performance standards of Article 14 of the Zoning Ordinance.

37. Park and Open Space Design Amenities. The Applicant shall provide the park and open space amenities as generally depicted on Sheets 12, 13, and 14 of the CDP/FDP. These amenities shall include, but not be limited to, the trails, pavilions, gazebo, benches, seating area, flagstone patio with benches and trellis, sensory garden, multi-use sport court, interpretive signs, and tot lots. The design of these amenities shall be in general conformance with what is shown on the CDP/FDP. Future changes to the type and location of amenities shall be permitted provided they are in substantial conformance with what is shown on the CDP/FDP and/or approved by Fairfax County through proffer interpretation. If, for any reason, any necessary permission is not obtained to construct the facilities and amenities shown within the existing Kensington Square community, such facilities and amenities shall be located exclusively in the open space area of the subject Property referenced as "Active Play Area (1.70 AC±)" located in the southeastern corner of the subject Property. Further, if the proposed facilities are not installed in the Kensington Square community as shown on the CDP/FDP, and these amenities are moved to the area denoted above, the limits of clearing and grading and tree save area shown on the CDP/FDP shall strictly adhered to.

38. Trail Field Location. In order to minimize site disturbance, any proposed trails within designated tree save areas shall be field located in consultation with UFM, prior to second submission of the site or subdivision plan. Once the trail is located in the field, it shall be shown on the site or subdivision plan with the limits of clearing and

grading reflecting the minimum amount required for access and construction. Tree protection fencing shall be used to protect any trees in the area during construction.

39. Lot Detail. The typical lot/unit details shall be in substantial conformance with what is shown on Sheet 2 of the CDP/FDP. Further, the Applicant shall provide a combination of six (6') foot solid wall privacy fencing and four (4') foot metal fencing in the side and rear yards for the single-family attached Manor Style Homes in substantial conformance with what is shown on Sheet 15 of the CDP/FDP.

40. Retaining Walls. Retaining walls, at heights and in locations as shown on the CDP/FDP, shall be covered with either a brick, stone and/or decorative masonry veneer.

V. TRANSPORTATION

41. Road Connection. Prior to the issuance of the thirtieth (30th) Residential Use Permit ("RUP"), the Applicant shall create a road connection with the existing Kensington Square community as shown on the CDP/FDP. This road connection shall provide vehicular access through Kensington Square to Rugby Road from the subject property. For the purpose of this proffer "road connection" shall mean base paving complete and open to traffic.

42. Road Connection Restriction. After construction and opening of the road connection referenced in Proffer #41 above, heavy construction vehicles such as dump trucks, bulldozers, tractors, or trucks carrying heavy loads shall not be permitted to use this road connection. This restriction shall be posted on the property and disclosed within the contract for all heavy equipment operators. This proffer shall be null and void following the completion of construction on the subject Property.

43. Right-of-Way. Prior to site plan approval or upon demand, whichever occurs first, the Applicant shall dedicate right-of-way along the site frontage of the Fairfax County Parkway, as shown on the CDP/FDP. Right-of-way dedicated in conjunction with these Proffered Conditions shall be conveyed to the Board of Supervisors in fee simple. 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.

44. Right Turn Lane Into Site from Route 50. The Applicant shall construct a dedicated right turn lane into the site entrance from Route 50 as shown on the CDP/FDP, as approved by FCDOT, VDOT, and DPWES. The Applicant shall maintain said right turn lane until it is accepted into the state road system.

45. Route 50 Entrance. The Applicant shall design the Route 50 entrance so as to physically restrict left turns from the site onto Route 50 as shown on the CDP/FDP, as approved by FCDOT, DPWES, and VDOT.

46. Rugby Road Improvements. 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-011, the Applicant shall construct improved Rugby Road along the site frontage in the lane configuration that is in substantial conformance with that shown on the CDP/FDP as approved by FCDOT, VDOT, and DPWES. The Applicant shall pursue approval of the required Rugby Road improvements pursuant to a Public Improvement Plan filed concurrently with the required site or subdivision plan. Such approach shall not change or alter the timing requirements of these proffers as to the completion of the improvements to Rugby Road.

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.

47. Rugby Road Right-of-Way Acquisition/Condemnation. If, one (1) year subsequent to final site or 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 CDP/FDP, or to acquire by purchase the right-of-way and/or 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. Should the County elect not to exercise its condemnation powers, abandon such efforts, or not acquire the necessary right-of-way and/or easement, the Applicant shall escrow funds equal to the fair market value of the right-of-way or easements in question. If applicable, the escrow required above in connection with initiating a condemnation request may fulfill this requirement.

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.

48. Escalation. 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.

{remainder of this page intentionally left blank}

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

RENAISSANCE HOLDINGS CORP. a/k/a
RENAISSANCE HOLDINGS CORPORATION
(Contract Purchaser of
Tax Map No. 45-2-((1))-1A)

By: _____
Name: Albert H. Small, Jr.
Its: President

ROSE DEVELOPMENT, L.L.C.
(Title Owner of Tax Map No. 45-2-((1))-1A)

By: _____
Name: Timothy Helmig
Its: President

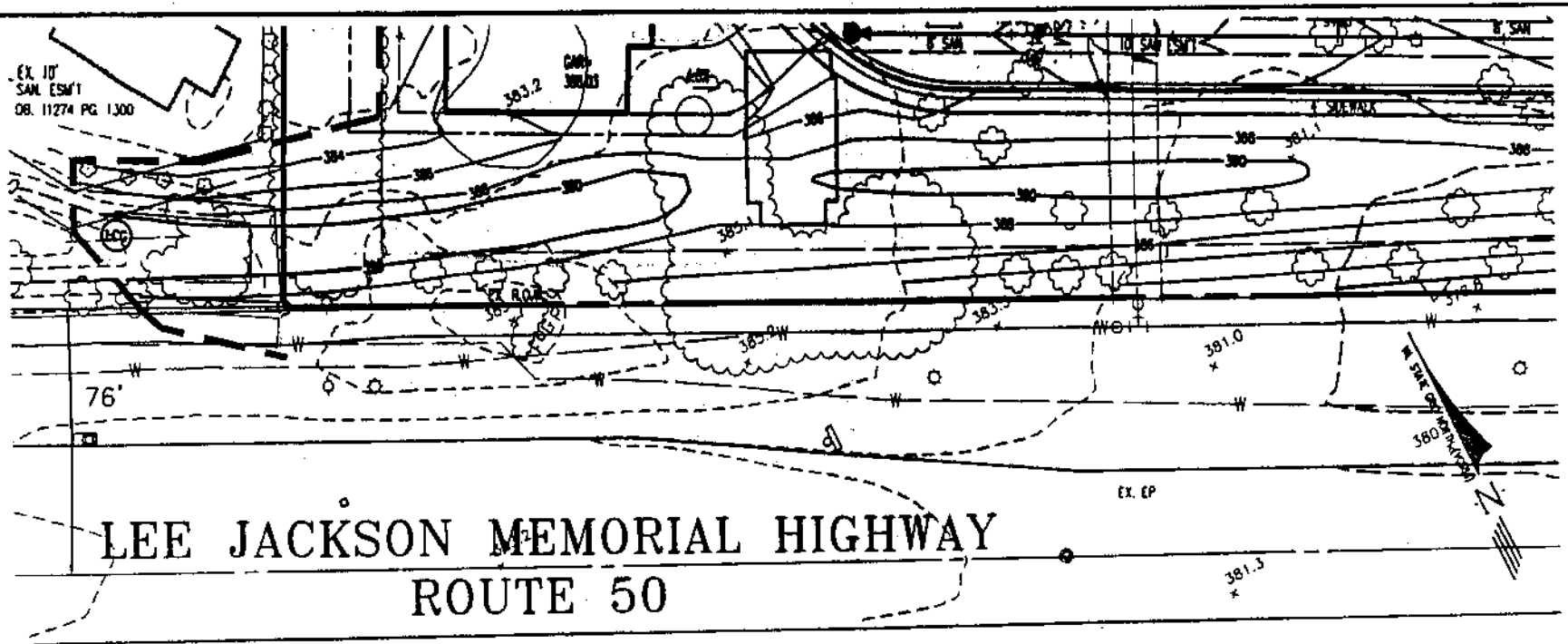
\\REA\267493.1 12

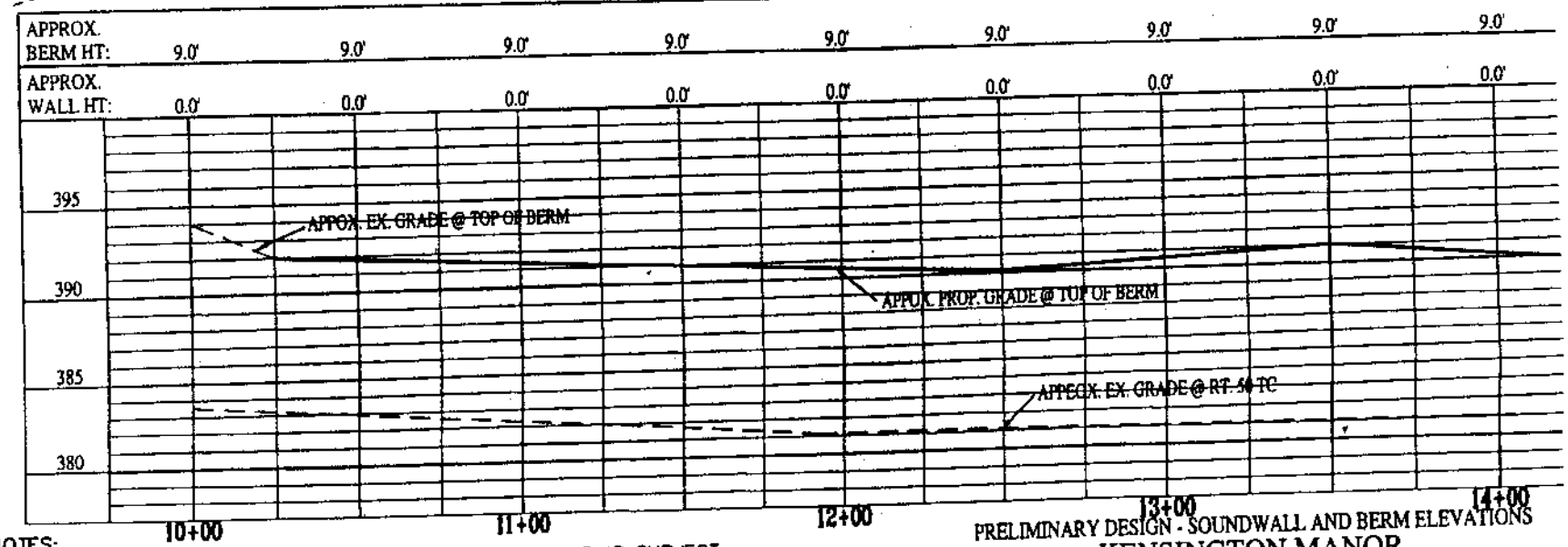
ATTACHMENT A

SPECIFICATIONS FOR MAINTENANCE OF RAIN GARDENS

Description	Method	Frequency	Time of the Year
SOIL			
Inspect and Repair Erosion	Visual	Monthly	Monthly
ORGANIC LAYER			
Remulch any void areas	By hand	Whenever needed	Whenever needed
Remove previous mulch layer before applying new layer (optional)	By hand	Once every two to three years	Spring
Any additional mulch added (optional)	By hand	Once a year	Spring
PLANTS			
Removal and replacement of all dead and diseased vegetation considered beyond treatment	See planting specifications	Twice a year	3/15 to 4/30 and 10/1 to 11/30
Treat all diseased trees and shrubs	Mechanical or by hand	N/A	Varies, depends on insect or disease infestation
Watering of plant material shall take place at the end of each day for fourteen consecutive days after planting has been completed	By hand	Immediately after completion of project	N/A
Replace stakes after one year	By hand	Once a year	Only remove stakes in the Spring
Replace any deficient stakes or wires	By hand	N/A	Whenever needed
Check for accumulated sediments	Visual	Monthly	Monthly

\\REA\211164.1

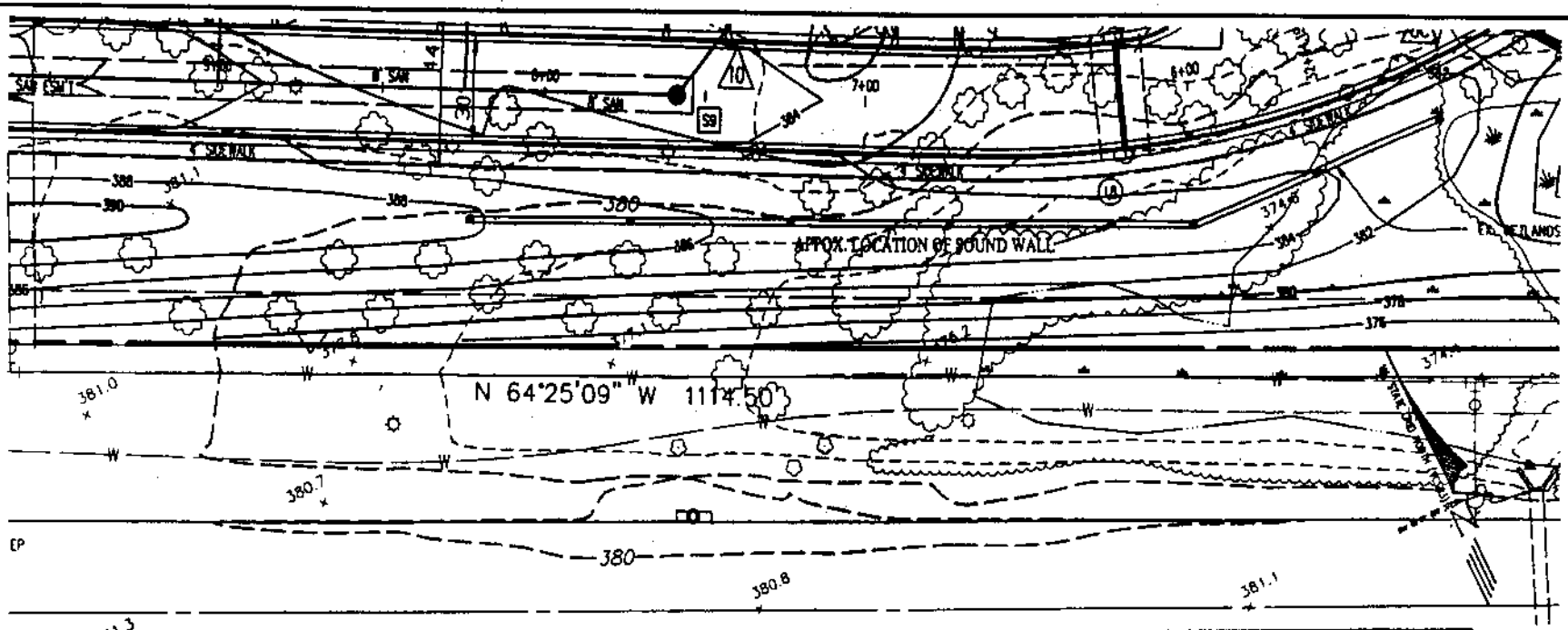


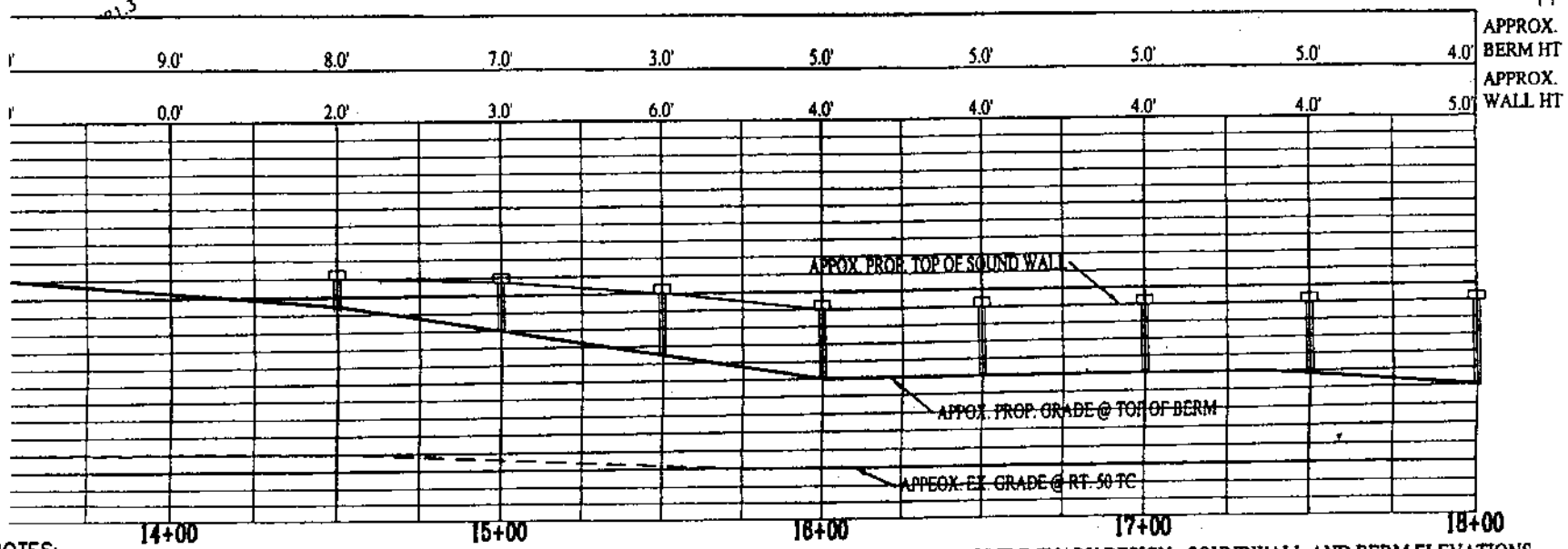


NOTES:
1. THIS DETAIL IS FOR ILLUSTRATIVE PURPOSES ONLY AND IS SUBJECT TO FINAL ENGINEERING AND THE APPROVAL OF THE SOUND STUDY.
2. HEIGHT OF FENCE BASED ON PROPOSED GRADE OF TOP OF BERM TO TOP OF FENCE NOT INCLUDING PIER CAP.
3. BERM HEIGHT IS CALCULATED FROM THE APPROXIMATE TOP OF CURB OF RT 50 TO TOP OF PROPOSED GRADE OF BERM.

PRELIMINARY DESIGN - SOUNDWALL AND BERM ELEVATIONS
KENSINGTON MANOR
SULLY DISTRICT
FAIRFAX COUNTY, VIRGINIA
DATE: 09/15/05
SCALE: H: 1" = 50'; V: 1" = 10'

Attachment B
(1 of 2)





NOTES:
1. THIS DETAIL IS FOR ILLUSTRATIVE PURPOSES ONLY AND IS SUBJECT TO FINAL ENGINEERING AND THE APPROVAL OF THE SOUND STUDY.
2. HEIGHT OF FENCE BASED ON PROPOSED GRADE OF TOP OF BERM TO TOP OF FENCE NOT INCLUDING PIER CAP.
3. BERM HEIGHT IS CALCULATED FROM THE APPROXIMATE TOP OF CURB OF RT 50 TO TOP OF PROPOSED GRADE OF BERM.

PRELIMINARY DESIGN - SOUNDWALL AND BERM ELEVATIONS
KENSINGTON MANOR
SULLY DISTRICT
FAIRFAX COUNTY, VIRGINIA
DATE: 09/15/05
SCALE: H: 1" = 50'; V: 1" = 10'

Attachment B
(2 of 2)