

PROFFERS
RZ 1998-MA-029
May 25, 1999

Pursuant to Section 15.2-2303 (a), Code of Virginia, 1950 as amended, DavCo Restaurants, Inc. and the title owners for themselves, their successors and assigns (hereinafter referred to as the "Applicant"), the Applicant in RZ 1998-MA-029, filed for property identified on Fairfax County Tax Map as 71-1 ((1)) Pt. of Parcel 75 (hereinafter referred to as the "Application Property"), agrees to the following proffers, provided that the Fairfax County Board of Supervisors (hereinafter referred to as the "Board"), approves a rezoning of the Application Property from the R-2 Zoning District to the C-6 Zoning District.

1. GENERALIZED DEVELOPMENT PLAN/SPECIAL EXCEPTION PLAT ("GDP/SE Plat")
 - a. Subject to the provisions of Section 18-204 of the Fairfax County Zoning Ordinance (hereinafter referred to as "Zoning Ordinance"), development of the Application Property shall be in substantial conformance with the GDP/SE Plat, prepared by D.A. Bryant, dated March 11, 1999.
 - b. Pursuant to Section 18-204 minor modifications from the GDP/SE Plat may be permitted as determined by Department of Public Works & Environmental Services (DPWES).
 - c. Development of the Application Property shall be limited to fast food restaurant with drive-in window. There shall be no other permitted uses as set forth in Article 4-601 of the Zoning Ordinance.

2. TRANSPORTATION
 - a. Prior to the issuance of the non-Residential Use Permit (non-RUP), the Applicant shall construct, subject to VDOT approval a curb cut from the Application Property onto the Route 236 service drive as shown on the GDP/SE Plat and a curb cut from the Route 236 service drive to Route 236, as approved by VDOT.
 - b. Applicant shall provide directional arrows and striping on the travel aisles and provide directional signage in conformance with Article 12 of the Zoning Ordinance.
 - c. Applicant shall construct a 5-foot wide sidewalk extension on the west side of the service drive entrance into the Application Property to align with the sidewalk that connects the parking lot the building.

3. LANDSCAPING AND BARRIERS
 - a. Parking lot and peripheral landscaping shall be provided by the Applicant as shown on the GDP/SE Plat. The exact location of the proposed plantings may be modified as necessary for the installation of utilities in coordination with the Urban Forester.
 - b. Prior to site plan approval, a landscape and tree preservation plan shall be submitted for review and approval by the Urban Forestry Branch, DPWES, and implemented.

This plan shall include, at a minimum, all landscape and tree preservation areas shown on the GDP/SE Plat. Landscaping species selection and installation shall be to the satisfaction of the Urban Forestry Branch, DPWES. If any such trees designated to be preserved have been removed or are dead, dying or hazardous by the time Applicant and the construction company qualify for release of bonds, then said trees shall be appropriately replaced in terms of species, size and quantity as determined by the Urban Forestry Branch pursuant to Section 12-403 of the Fairfax County Public Facilities Manual (PFM).

- c. The Applicant shall plant three (3) Zelkova Servatta (Japanese Zelkova) trees or their equivalent (6 feet tall at planting) along the Application Property's Route 236 frontage.
- d. The Applicant will generally adhere to the limits of clearing and grading and the tree save areas as shown on the GDP/SE Plat.
- e. The Applicant shall construct a decorative barrier as shown on the GDP/SE Plat. The barrier shall be six feet tall and be constructed with materials consisting of wood and masonry piers as depicted on the GDP/SE Plat. The fencing material shall be treated with a vandal-proof finish such as Armaglaze to protect against graffiti damage. Graffiti shall be removed from the fence within three business days.
- f. Shrubs shall be planted every 10 feet adjacent to the row of parking spaces closest to Route 236 to screen the parking lot. These shrubs shall be maintained in good health and appearance and shall be replaced with shrubs of similar species and size to the existing shrubs when no longer viable.

4. HOURS OF OPERATION

- a. The hours of operation shall be limited to 10:00 a.m. to 1:00 a.m. Friday and Saturday; and 10:00 a.m. to 12:00 a.m. Sunday through Thursday.
- b. Deliveries shall be limited to the hours between 8:00 a.m. and 10:30 a.m. and 2:00 p.m. to 7:30 p.m., weekdays only.

5. LOUDSPEAKER

The store manager shall at all times maintain the outside speaker box on the order window at a decibel level which shall not exceed a decibel level of 40 decibel level at all property lines.

6. LIGHTING

- a. All pole-mounted lighting shall be appropriately shielded to direct light directly downward and onto the Application Property.

- b. All lighting shall be turned off one hour after closing.
- c. Three (3) acorn style streetlights as recommended by the Annandale & Baileys Crossroads Commercial Revitalization Areas shall be provided 50 feet on center adjacent to the trail along the Application Property's Route 236 frontage. Electrical connection and maintenance responsibility shall be provided by Fairfax County and/or Virginia Power upon installation by the Applicant.

7. LITTER CONTROL

The Applicant shall, on a daily basis, remove all litter and debris on the Application Property, its Route 236 frontage, and from the landscaped buffer along the eastern property line.

8. SIGNAGE

- a. All signs shall meet the zoning ordinance requirements of the Sign Control Overlay District.
- b. Any freestanding signage shall be monument style.

9. SIDEWALK

- a. The existing sidewalk shall be maintained until such time that a brick paver sidewalk is constructed pursuant to paragraph 9.b. below.
- b. At such time that a brick paver sidewalk is constructed on the Route 236 frontage of a contiguous parcel, the Applicant shall construct a five-foot wide brick paver sidewalk along the Application Property's Route 236 frontage to be maintained by Fairfax County or VDOT.

10. BRICK FACADE

The restaurant building facade shall be red brick.

11. SECURITY

If loitering becomes a problem, as determined by Zoning Enforcement Branch, Zoning Administration Division, the Applicant shall provide on-site security personnel.

[SIGNATURES APPEAR ON NEXT PAGE]

OWNER:

GREATER ANNANDALE RECREATION CENTER, INC.

By: Robert L. Jordan
Name: GARC President
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Title: Robert L. Jordan

APPLICANT:

DAVCO RESTAURANTS, INC.

By: Harvey Rotstein
Name: Harvey Rotstein
Title: SR. Executive Vice President of
Real Estate + Development