

PROFFER STATEMENT

Rezoning Case No.: RZ 2000-MD-062
Applicant: Tavares Concrete Company, Inc.
Title Owner: Newington, L.C.
Property: Tax Map 99-2-((1))-10
Proposed Zoning: I-5
Date: September 7, 2001

Pursuant to Section 15.2-2303(A), Code of Virginia, 1950, as amended, Newington, L.C. ("Title Owner") and Tavares Concrete Company, Inc. ("Applicant"), for themselves, and their respective successors and assigns in RZ-2000-MD-062 ("Application"), filed for property identified as Tax Map 99-2-((1))-10 ("Application Property"), agree to the following proffers, provided the Board of Supervisors approves the Application. If approved, these proffered conditions will supersede all proffers existing on the Application Property. In the event the Application is denied, the proffers will immediately be null and void and of no further force and effect.

1. Generalized Development Plan: Subject to Section 18-204 of the Zoning Ordinance, the Application Property will be developed substantially in accordance with the Generalized Development Plan ("GDP"), dated July 31, 2000, and last amended on May 25, 2001, prepared by Dewberry and Davis, and consisting of five (5) sheets.

2. Uses: The Application Property will only be developed with one or more of the following uses:

- (a) contractor's offices and shops;
- (b) establishments for printing of any size, production, processing, assembly, manufacturing, compounding, preparation, cleaning, servicing, testing, repair or storage of materials, goods or products, and associated retail sales;
- (c) establishments for scientific research, development and training;
- (d) light public utility uses;
- (e) offices;

- (f) storage yards (but only contained in the fenced area depicted on the GDP);
- (g) warehousing; and
- (h) wholesale trade establishments.

In addition, storage yard use of the Application Property will not include the storage of items commonly found in junk yards (e.g., abandoned vehicles and discarded appliances). Rather, the types of items stored on the Application Property will include dump trucks, slip-form curb machines, cranes, bulldozers, tractor trailers, forms and molds for concrete work, and other items typically used and stored by contractors.

3. Special Exception and Special Permit Uses: Notwithstanding Proffer No. 2 above, Special Permit and Special Exception uses will be permitted without the necessity of a Proffer Condition Amendment. This use flexibility will not relieve the Applicant from the filing and processing of any Special Exception and/or Special Permit requests through the County's normal review process.

4. Floor Area Ratio: The total FAR on the Application Property will not exceed 0.15, which will not result in an increase in the footprints of the structures as depicted on the GDP.

5. Parking: If the uses change between the uses listed in Proffer No. 2 and Proffer No. 3 above, the number of parking spaces provided on the Application Property for the new uses will meet the parking requirements contained in the then current Zoning Ordinance.

6. Architecture: The architectural design of the two buildings constructed on the Application Property will be consistent in quality with other similar buildings in the immediate vicinity and will be compatible with each other. The exterior façade of all sides of all structures will be primarily brick (i.e., 60% or more), architectural block, architectural precast concrete, other masonry materials, glass, job cast architectural concrete or other similar quality material. The buildings will not be constructed of metal except for flashings, the roof, roof caps, door and window trim and other incidental purposes.

7. Cinder Bed Road Dedication: At the time of site plan approval or upon demand by the Board of Supervisors or the Virginia Department of Transportation ("VDOT"), whichever occurs first, the Applicant will (i) dedicate for public road purposes and convey in fee simple to the Board of Supervisors such portion of the Application Property adjacent to the existing dedicated right-of-way of Cinder Bed Road as required to provide a dedicated right-of-way 45 feet wide from the centerline of Cinder Bed Road along the frontage of the Application Property and (ii) grant such ancillary easements along the Cinder Bed Road frontage of the Application Property as may be required for the improvement of Cinder Bed Road outside of and adjacent to such dedicated right-of-way.

8. Inter-parcel Access to Tax Map Parcels 99-2-((1))-9 and 99-2-((3))-1: The Applicant will provide inter-parcel access to the parcels located north and south of the Application Parcel, as depicted on the GDP. The Applicant will prepare and record a public access easement at the time of site plan approval to evidence such access arrangement. The Applicant acknowledges that such access may be used by the owners of parcels that are not immediately adjacent to the Application Property as part of a unified inter-parcel access arrangement along Cinder Bed Road. The access on the Application Parcel will be designed to accommodate industrial vehicles.

9. Lighting: All outdoor lighting will be designed and located in accordance with the glare standards as set forth in Part 9 of Article 14 of the Zoning Ordinance in effect at the time of site plan approval for each building. No freestanding lighting will have poles that exceed 20 feet in height. Such lighting will have full cut off fixtures that direct light downward and inward.

10. Heritage Resources: The County Archaeologist will be notified one week prior to the initial clearing and grading of the portion of the Application Property to be so affected in order to provide an opportunity to recover archaeological artifacts from the Application Property.

11. Historical Marker: At the time of site plan approval, the Applicant will contribute a sum of up to \$1,400.00 to the Fairfax County History Commission for the purpose of funding a historical marker at an appropriate location in the Newington area of the Lee Magisterial District.

12. Wells: The Applicant will take all steps deemed necessary by the Department of Public Works and Environmental Services, and other governmental agencies that have jurisdiction over such matters, if any, to locate and close private wells on the Application Property.

13. Storm Water Management: Storm water management and Best Management Practices ("BMP") will be provided for the Application Property in accordance with applicable County ordinances as approved, modified or waived by Department of Public Works and Environmental Services ("DPWES"). In an attempt to duplicate pre-development conditions, the Applicant will investigate the utilization of a modified level spreader as a part of the overall drainage system. Where applicable, the outfall from the proposed storm drainage system is to be converted from concentrated runoff to sheet flow and released uniformly onto areas stabilized by existing vegetation. The resultant peak flow rate after development will not exceed the pre-development peak rate.

14. Environmental Quality Corridor and 100 Year Flood Plain: The Applicant will preserve in an undisturbed state the EQC and Flood Plain areas as generally depicted on the GDP. The Applicant will grant a conservation easement to run to the benefit of the County at the time of site plan approval. Such easement area is depicted on the GDP. The EQC and Flood Plain, however, may be crossed by utilities and roadways to the minimum extent necessary, as generally depicted on the GDP, but subject to modifications requested by DPWES during the site plan review process. The Applicant will provide on-site streambank stabilization measures,

located downstream of the proposed access roadway. The Applicant will provide stabilization remedies needed to improve those existing overbanks areas having steep side slopes. Such remedies may include bioengineering techniques such as regrading of the channel overbank areas, selective placement of riprap/fiber rolls, and stabilization plantings. A chain link fence or other appropriate barrier will be constructed by the Applicant along the Flood Plain boundary to demonstrate that there will be no use within the Flood Plain.

15. Limits of Clearing and Grading: With the exception of grading required to implement sheet flow drainage from the outfall of the proposed underground storm water management system described in Proffer No. 13 above, the limits of clearing and grading will not be increased without the approval of a Proffered Condition Amendment.

16. Density Credit: Density credit will be reserved for the Application Property as permitted by the provisions of Section 2-308 of the Zoning Ordinance for all dedications described herein and/or on the GDP or as may be reasonably required by Fairfax County or VDOT at the time of site plan approval.

17. Successors and Assigns: Each reference to "Applicant" in this Proffer Statement will include within its meaning, and will be binding upon, the Applicant's successor(s) in interest and/or developer(s) of the Application Property, or any portion thereof.

18. Counterparts: This Proffer Statement may be executed in as many counterparts as may be required to facilitate execution. It will not be necessary that the signature on behalf of all the parties to this Proffer Statement appear on each counterpart of this Proffer Statement. All counterparts of this Proffer Statement will collectively constitute a single instrument.

Title Owner:

Newington, L.C.

By: 
Armando J. Tavares,
Managing Member

Applicant:

Tavares Concrete Company, Inc.

By: 
Armando J. Tavares, President

Prepared by:

David S. Houston
Shaw Pittman
1650 Tysons Boulevard
Suite 1400
McLean, VA 22102

