

**Request**

**Conditional Rezoning** (AG-2 Agricultural to Conditional O-2 Office)

**Staff Recommendation**

Approval

**Staff Planner**

Bill Landfair

**Location**

Northwest corner of Princess Anne Road and Winterberry Lane

**GPIN**

1494096364

**Site Size**

1.3 acres

**AICUZ**

70-75 dB DNL

**Watershed**

Southern Rivers

**Existing Land Use and Zoning District**

Vacant / AG-2 Agricultural

**Surrounding Land Uses and Zoning Districts**

**North**

Shopping Center, single-family dwellings / B-2 Community Business, R-5D Residential

**South**

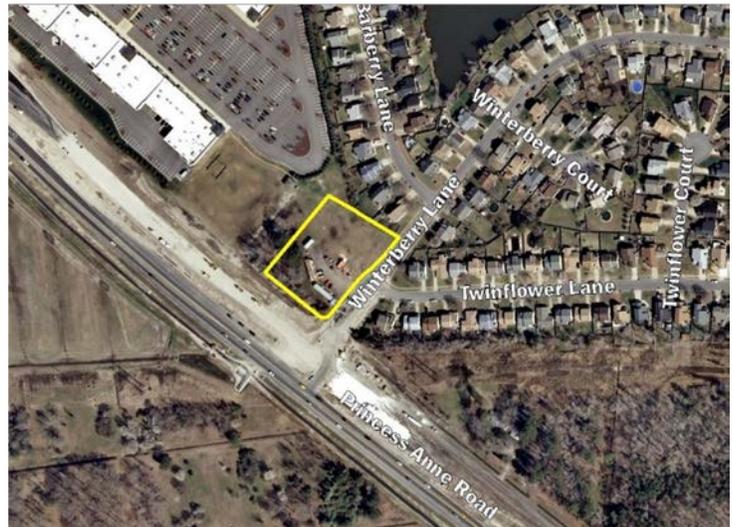
Princess Anne Road  
 Future bio-medical Park / I-1 Light Industrial

**East**

Winterberry Lane  
 Single-family dwellings / R-5D Residential

**West**

Restaurant / B-2 Community Business



## Background and Summary of Proposal

- The subject site exists as a 1.3-acre City-owned vacant parcel. The applicant proposes to develop the site with a 23,890 square-foot three-story office building, with a total height of 45 feet.
- The site will be accessed via a single point of access off of Winterberry Lane. No vehicular ingress/egress is proposed from the shopping center or restaurant properties to the west.
- The proffered building elevations depict a three-story structure with a modern architectural style that features a primarily glass facade with cast stone veneer and white metal accents. A porte-cochere will provide cover for drop-offs and deliveries.
- As required by the Zoning Ordinance, a 15-foot wide Category IV landscape buffer is proposed along the northern property line adjacent to the existing neighborhood. This buffer will consist of a mix of evergreen shrubs. A 10-foot landscape easement exists on the site adjacent to Princess Anne Road. The landscape plan depicts this area being planted with a mix of small trees and shrubs. Also as required by the Zoning Ordinance, streetscape landscaping and interior parking lot plantings are depicted along Winterberry Road.
- A dumpster enclosed by a cast stone veneer wall to match the building and surrounded with evergreen shrubs is depicted on the proffered plan on the rear of the site, approximately 120 feet from the closest dwelling. A proffer is proposed that limits the hours which the dumpster can be tipped to between 9:00 a.m. and 5:00 p.m.
- The square footage of the office building requires a minimum of 89 parking spaces. The proffered concept plan depicts 68 parking spaces on the site with a pedestrian sidewalk that will connect to the adjacent parking lot that primarily serves a restaurant, also owned by the applicant. The Zoning Ordinance permits shared parking between uses subject to specific conditions. A parking study was submitted and reviewed by the Zoning Administrator, who has accepted the findings of the study. The proposal includes the use of 21 parking spaces in the restaurant's parking lot in order to meet the parking requirement for the office building.

	<h3>Zoning History</h3> <table border="1"> <thead> <tr> <th>#</th> <th>Request</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>CRZ (AG-2 to Conditional B-2) Approved 12/01/2015 CRZ (AG-2 to Conditional B-2) Approved 02/12/2008</td> </tr> <tr> <td>2</td> <td>CRZ (AG-1 &amp; AG-2 to Conditional B-2) Approved 08/22/2006</td> </tr> <tr> <td>3</td> <td>MOD Approved 12/03/2013 CRZ (AG-1 &amp; AG-2 to Conditional B-2 &amp; I-1) Approved 04/24/2012</td> </tr> <tr> <td>4</td> <td>CRZ (AG-1 &amp; AG-2 to Conditional I-1 Light Industrial) Approved 12/13/2016 REZ (AG-1, P-1, H-1, R-10, O-2, &amp; B-2 to AG-1) Approved 05/27/1997 CUP (Outdoor Recreation Facility – Golf Course) Approved 05/27/1997</td> </tr> </tbody> </table>	#	Request	1	CRZ (AG-2 to Conditional B-2) Approved 12/01/2015 CRZ (AG-2 to Conditional B-2) Approved 02/12/2008	2	CRZ (AG-1 & AG-2 to Conditional B-2) Approved 08/22/2006	3	MOD Approved 12/03/2013 CRZ (AG-1 & AG-2 to Conditional B-2 & I-1) Approved 04/24/2012	4	CRZ (AG-1 & AG-2 to Conditional I-1 Light Industrial) Approved 12/13/2016 REZ (AG-1, P-1, H-1, R-10, O-2, & B-2 to AG-1) Approved 05/27/1997 CUP (Outdoor Recreation Facility – Golf Course) Approved 05/27/1997
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## Evaluation and Recommendation

The request for conditional rezoning from AG-2 Agricultural to Conditional O-2 Office is deemed acceptable to staff. The submitted parking study describes how parking will be shared between the office building and adjacent restaurant site. The study was based on observations by the applicant's engineer during the peak lunch hours of 11:00 am to 4:00 pm over the course of a week (Monday-Friday) to determine maximum number of parking spaces utilized during those times. The study confirmed that a maximum of 30 to 35 spaces were utilized during those times out of the restaurants 78 parking spaces. As such, there appears to be 43 available parking spaces on the restaurant site that could be utilized by the office building, more than sufficient to address the 21 space deficit for the office building. The Zoning Ordinance allows the Zoning Administrator to review and authorize shared parking between uses subject to a parking study. In this instance, he has accepted the findings of the study.

As described in the proffers, the maximum height of all onsite lighting shall not exceed 14 feet and all freestanding light fixtures shall be equipped with automatic photocell on/off and include dimming and/or programmable dimming to dim the lumen output to 50 percent. All lighting fixtures within 100 feet of residential properties shall be dimmed to 50% of the lumen output after 7:00 p.m. All light fixtures shall be shielded away from the adjacent residential uses. Details regarding the lighting will be finalized during site plan review.

The applicant has held at least four meetings with the civic league over the last 1 ½ years with the most recent one being on February 19. These meetings provided an opportunity to review plans and address questions regarding the building program, site layout, parking, architecture, and landscaping.

To address the relationship of the office building to the nearest residents, a cross section has been provided which is shown on page 8 of the report. The exhibit clarifies the viewing angles from the third floor of the building to the nearest residences located to the north and how these views will be mitigated by distance, proposed landscaping, and fencing.

## Proffers

The following are proffers submitted by the applicant as part of a Conditional Zoning Agreement (CZA). The applicant, consistent with Section 107(h) of the City Zoning Ordinance, has voluntarily submitted these proffers in an attempt to "offset identified problems to the extent that the proposed rezoning is acceptable," (§107(h)(1)). Should this application be approved, the proffers will be recorded at the Circuit Court and serve as conditions restricting the use of the property as proposed with this change of zoning.

### **Proffer 1:**

When developed, the Property shall be developed in substantial conformity with the conceptual site plan entitled "YNOT OFFICE BUILDING CONCEPTUAL LAYOUT PLAN", dated January 18, 2019, and prepared by Pennoni Associates, Inc. (the "Concept Plan"), a copy of which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning.

### **Proffer 2:**

When developed, the Property shall be landscaped in substantial conformity with the landscape plan entitled "YNOT OFFICE BUILDING LANDSCAPE PLAN", dated January 18, 2019, and prepared by Pennoni Associates, Inc. (the "Concept Plan"), a copy of which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning.

### **Proffer 3:**

The quality of architectural design and materials of the buildings constructed on the Property, when developed, shall be in substantial conformity with an Exhibit entitled "NEW OFFICE BUILDING YNOT PROFESSIONAL CENTER" dated February

13, 2019, prepared by Covington Hendrix Anderson Architects (the “Elevations”), a copy of which is on file with the Department of Planning and has been exhibited to the Virginia Beach City Council.

**Proffer 4:**

The maximum height of all onsite lighting shall not exceed 14 feet and all freestanding light fixtures shall be equipped with automatic photocell on/off and include dimming and/or programmable dimming to dim the lumen output to 50%. All lighting fixtures within 100 feet of residential properties shall be dimmed to 50% of the lumen output after 7:00 p.m. All light fixtures shall be shielded away from the adjacent residential uses.

**Proffer 5:**

Prior to site plan approval, Grantor shall submit a photometric plan reviewed by the City.

**Proffer 6:**

The dumpster located on the Property shall only be emptied between 9:00 a.m. and 5:00 p.m. daily.

**Proffer 7:**

Any freestanding signage on the Property shall reflect a monument style, brick base and shall not exceed a height of eight feet.

**Proffer 8:**

Further conditions lawfully imposed by applicable development ordinances may be required by the Grantee during detailed site plan and/or subdivision review and administration of applicable City Codes by all cognizant City agencies and departments to meet all applicable City Code requirements.

**Staff Comments:**

*Staff has reviewed the Proffers listed above and finds them acceptable.*

The City Attorney’s Office has reviewed the modified proffer agreement dated February 11, 2019 and found it to be legally sufficient and in acceptable legal form.

## Comprehensive Plan Recommendations

The Comprehensive Plan identifies this site as being located within the Suburban Area. The general planning principles for the Suburban Area focus on preserving and protecting the overall character, economic value, aesthetic quality of the stable neighborhoods while reinforcing the suburban characteristics of commercial centers and other non-residential areas that comprise part of the Suburban Area. Achieving these goals requires that all land use activities either maintain or enhance the existing neighborhood through compatibility with surroundings, quality and attractiveness of the site and buildings, improved mobility, environmental responsibility, livability, and effective buffering with respect to type, size, intensity and relationship to the surrounding uses (pp. 3-1, 3-2). The property is also located in the Special Economic Growth Area and its proximity to the Bio Medical Park will help to frame the “entry way into this area”.

## Natural and Cultural Resources Impacts

The site is located in the Southern Rivers Watershed. Drainage in the Southern Rivers watershed is highly impacted by the presence of high ground water, poorly draining soils, and high water surface elevations in downstream receiving waters. The site is currently vacant. There do not appear to be any significant natural or cultural features associated with the site.

## Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Princess Anne Road	30,878 ADT <sup>1</sup>	32,500 ADT <sup>1</sup> (LOS <sup>4</sup> "C") 34,900 ADT <sup>1</sup> (LOS <sup>4</sup> "E")	Existing Land Use <sup>2</sup> - 10 ADT Proposed Land Use <sup>3</sup> - 580 ADT
<sup>1</sup> Average Daily Trips	<sup>2</sup> as defined by a 1.3 acres of AG-2 zoned property	<sup>3</sup> as defined by 10,000 square feet of medical office space & 20,000 square feet of general office space	<sup>4</sup> LOS = Level of Service

### Master Transportation Plan (MTP) and Capital Improvement Program (CIP)

Princess Anne Road is a divided major suburban arterial that consists of a four lane Parkway section from Winterberry Lane south to Nimmo Parkway. This section of Princess Anne Road is classified in the City’s Comprehensive Plan as an Access Controlled roadway. There are currently no CIP projects slated for this segment of the roadway.

## Public Utility Impacts

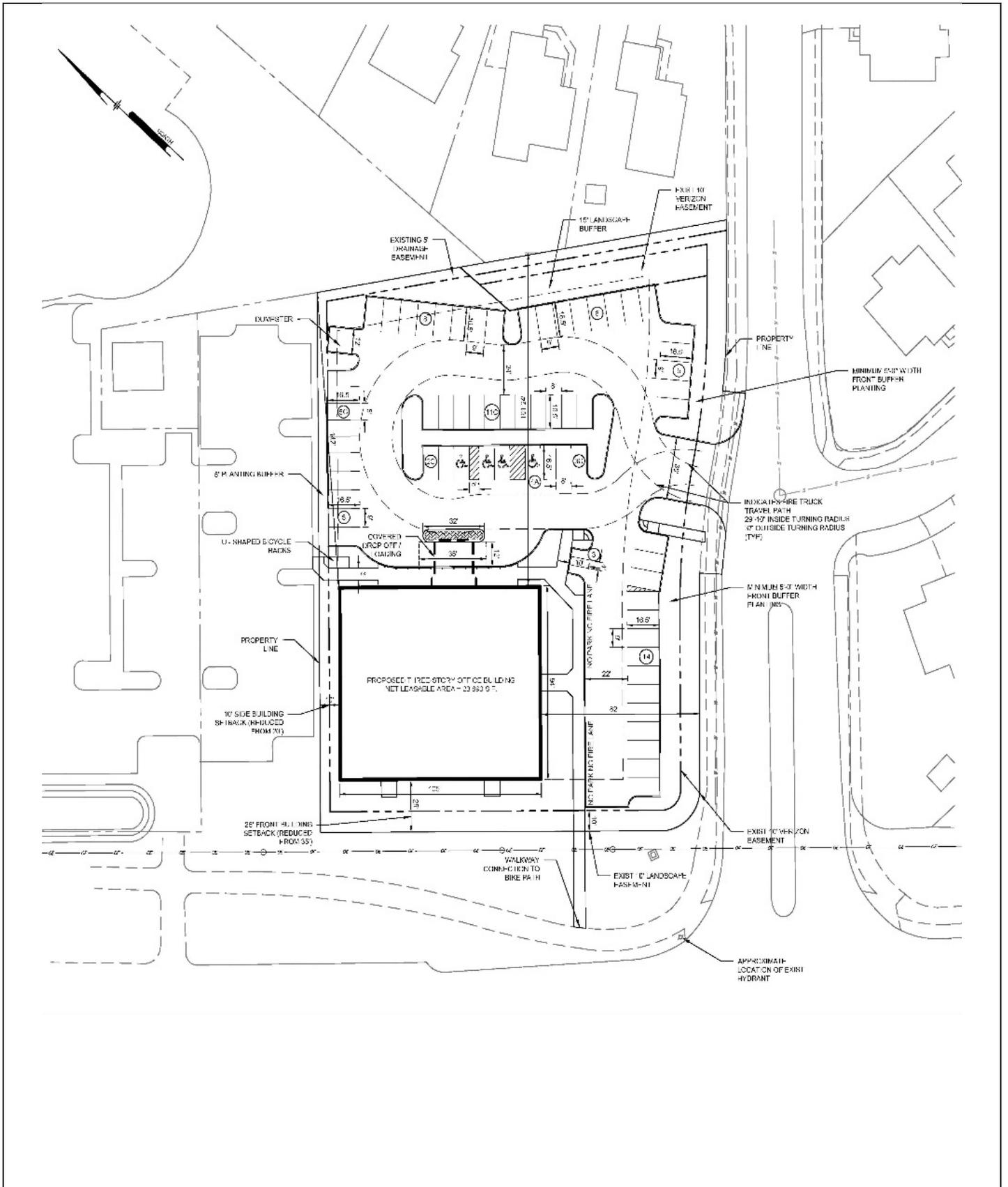
### Water

The site must connect to City water. There is an existing eight-inch public water main along Winterberry Lane and an existing 20-inch public water main along Princess Anne Road.

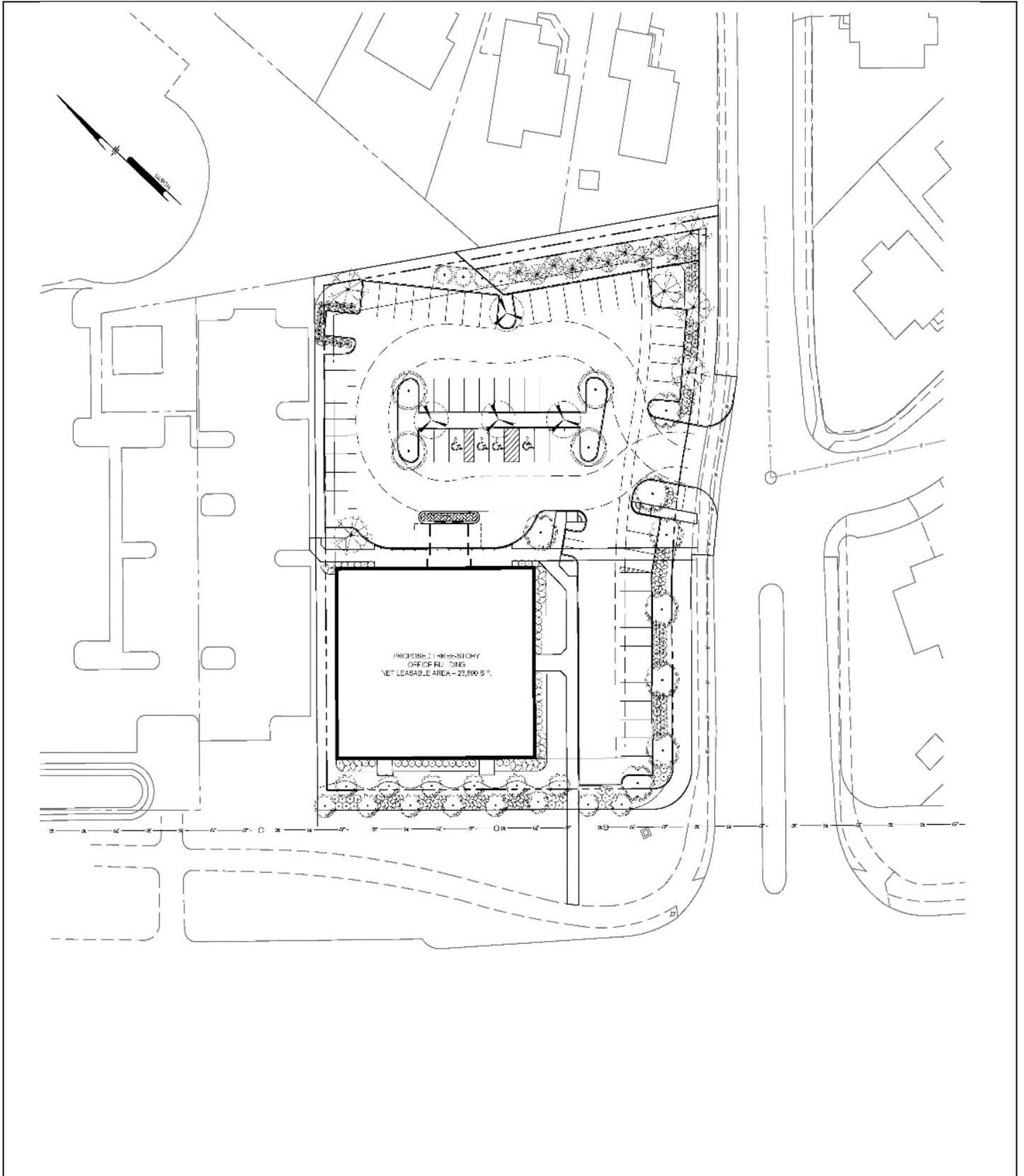
### Sewer

The site must connect to City sanitary sewer. There is an existing eight-inch public sanitary sewer gravity main along Winterberry Lane.

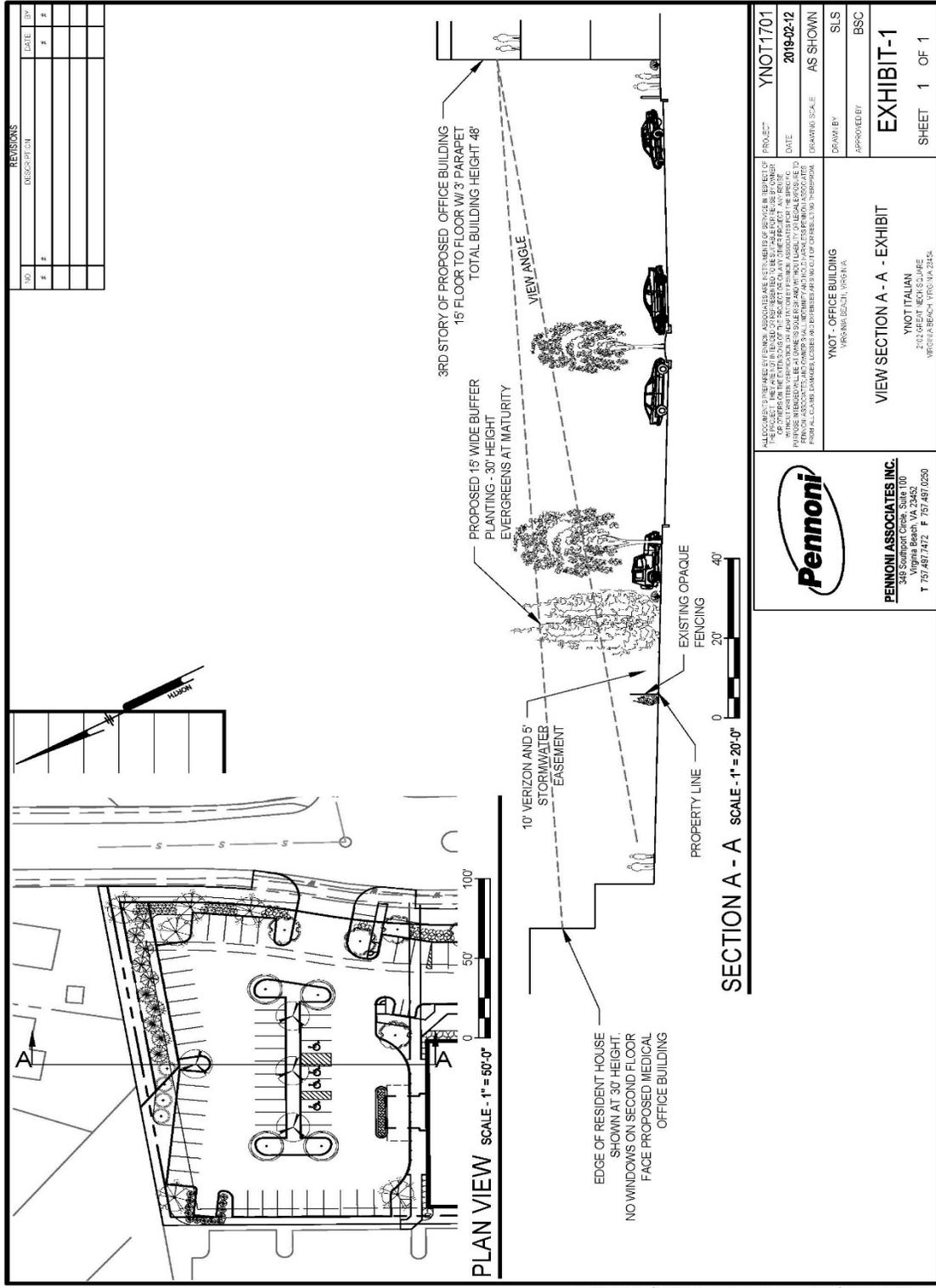
# Proposed Site Layout



# Proposed Landscape Plan



# Proposed Cross Section



# Proposed Elevations



3D View 1

# Proposed Elevations



1 REAR ELEVATION  
1/8" = 1'-0"



2 RIGHT SIDE ELEVATION  
1/8" = 1'-0"

# Proposed Elevations



FRONT ELEVATION  
1/8" = 1'-0"



LEFT SIDE ELEVATION  
1/8" = 1'-0"

Site Photos







- Check here if the **APPLICANT IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.
- Check here if the **APPLICANT IS** a corporation, partnership, firm, business, or other unincorporated organization.

(A) List the Applicant's name: Tony D, LLC  
 If an LLC, list all member's names:  
 Anthony D. Silvestro

If a CORPORATION, list the the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

(B) List the businesses that have a parent-subsiary<sup>1</sup> or affiliated business entity<sup>2</sup> relationship with the Applicant: *(Attach list if necessary)*

See next page for information pertaining to footnotes<sup>1</sup> and <sup>2</sup>



**SECTION 2 / PROPERTY OWNER DISCLOSURE**

*Complete Section 2 only if property owner is different from Applicant.*

- Check here if the **PROPERTY OWNER IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.
- Check here if the **PROPERTY OWNER IS** a corporation, partnership, firm, business, or other unincorporated organization, **AND THEN**, complete the following.

(A) List the Property Owner's name: City of Virginia Beach  
 If an LLC, list the member's names:



If a Corporation, list the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

**(B)** List the businesses that have a parent-subsiary <sup>1</sup> or affiliated business entity <sup>2</sup> relationship with the Property Owner: *(Attach list if necessary)*

<sup>1</sup> "Parent-subsiary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

<sup>2</sup> "Affiliated business entity relationship" means "a relationship, other than parent-subsiary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.



**SECTION 3. SERVICES DISCLOSURE**

Are any of the following services being provided in connection with the subject of the application or any business operating or to be operated on the Property. If the answer to any item is YES, please identify the firm or individual providing the service: IF THE OWNER AND APPLICANT ARE DIFFERENT, EACH MUST COMPLETE THE SECTION SEPERATELY



**APPLICANT**

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Accounting and/or preparer of your tax return	BDO
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Architect / Landscape Architect / Land Planner	Covington
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers)	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Construction Contractors	Ynot Build
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Engineers / Surveyors/ Agents	NOI/Meridian Associates
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)	TowneBank
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Legal Services	Dillon Law; Troutman Sanders LLP
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	Katias Co.

**SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE**

YES     NO    **Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?**

If yes, what is the name of the official or employee and what is the nature of the interest?  
 The City of Virginia Beach is the current property owner.

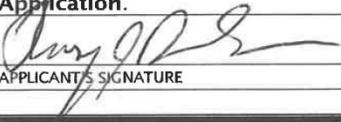
# Disclosure Statement



**CERTIFICATION:**

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.

I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the Planning Commission, Council, VBDA meeting, or meeting of any public body or committee in connection with this Application.

	Anthony D. Stestros	8/1/17
APPLICANT'S SIGNATURE	PRINT NAME	DATE



**OWNER**

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Accounting and/or preparer of your tax return	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Architect / Landscape Architect / Land Planner	
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**SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE**

YES     NO    Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?

If yes, what is the name of the official or employee and what is the nature of the interest?

*City Property*

# Disclosure Statement



<b>CERTIFICATION:</b> I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.  I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the Planning Commission, Council, VBDA meeting, or meeting of any public body or committee in connection with this Application.		
	DAVID L. HANSEN City Mgr	9-8-2017
PROPERTY OWNER'S SIGNATURE	PRINT NAME	DATE

## Next Steps

- Upon receiving a recommendation from Planning Commission, this request will be scheduled for a City Council public hearing. Staff will inform the applicant and/or their representative of the date of the hearing in the upcoming days.
- Following City Council's decision, the applicant will receive a decision letter from Staff.
- Once the conditions of approval are in place and/or completed, the applicant must contact the Zoning Division of the Planning Department to obtain verification that the conditions have been met. Contact the Zoning Division at 757-385-8074.
- If the request requires land disturbance and/or a subdivision of property, please contact the Development Services Center (DSC) to discuss next steps for site plan/plat review. Contact the DSC at 757-385-4621 or the Development Liaison Team at 757-385-8610.
- Please note that further conditions may be required during the administration of applicable City Ordinances and Standards. Any site plan submitted with this application may require revision during detailed site plan review to meet all applicable City Codes and Standards. All applicable permits required by the City Code, including those administered by the Department of Planning / Development Services Center and Department of Planning / Permits and Inspections Division, and the issuance of a Certificate of Occupancy, are required before any uses allowed by this Use Permit are valid.
- The applicant is encouraged to contact and work with the Crime Prevention Office within the Police Department for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts and strategies as they pertain to this site.