



Applicant **Virginia Beach Development Authority**  
 Property Owner **City of Virginia Beach**  
 Public Hearing **April 10, 2019** (Deferred February 13, 2019)  
 City Council Election District **Princess Anne**

Agenda Item

**D2**

**Request**

**Modification of Proffers**

**Conditional Use Permit** (Outdoor Recreational Facility)

**Staff Recommendation**

Approval

**Staff Planner**

Bill Landfair

**Location**

Northeast Corner of Landstown Road & Landstown Centre Way

**GPIN**

1484882692

**Site Size**

11.29 acres

**AICUZ**

70-75 dB DNL

**Watershed**

Southern Rivers

**Existing Land Use and Zoning District**

Vacant, stormwater management ponds / I-1 Light Industrial

**Surrounding Land Uses and Zoning Districts**

**North**

Dominion Virginia Power transmission substation / AG-1 Agricultural, AG-2 Agricultural

**South**

Landstown Center Way  
 Field house, Sportsplex, stormwater management ponds / AG-1 Agricultural, Conditional B-2

**East**

Rehabilitation facility, vacant land / I-1 Light Industrial

**West**

Landstown Road  
 Amphitheater / AG-1 Agricultural

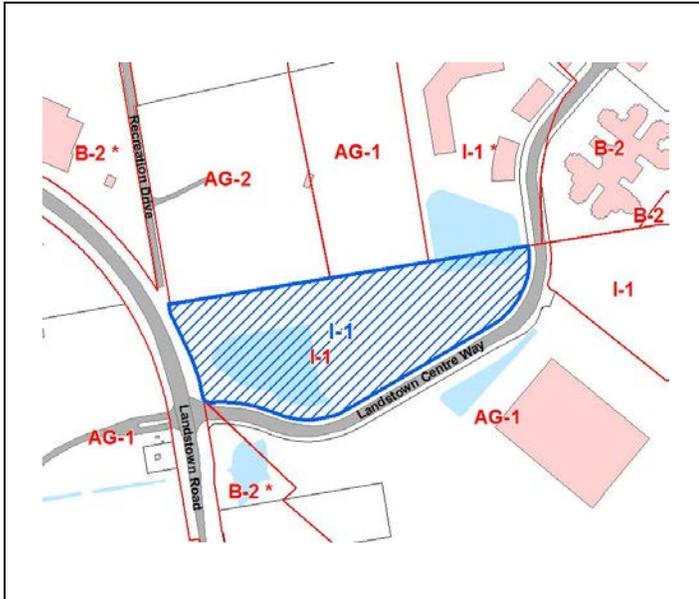


## Background and Summary of Proposal

- This application was previously deferred at the February 13, 2019 Planning Commission public hearing to allow additional time for the applicant to revise the proposed development concept.
- In December 2016, the City Council approved a Conditional Rezoning from AG-1 & AG-2 to Conditional I-1 of approximately 150 acres for the development of the Biomedical Park in Princess Anne Commons (BioPark). The associated proffers prohibited certain uses that, while allowed in the I-1 Light Industrial District, were considered undesirable for the development envisioned for the Biomedical Park. The proffers also required the development to be consistent in design and quality with the "Design and Development Guidelines – Princess Anne Commons Biomedical Park."
- The applicant, which is the Virginia Beach Development Authority, is requesting a modification to the proffer agreement in order to allow an eating and drinking establishment on this parcel, which is otherwise not permitted under the terms of the existing agreement. This modification applies only to the subject site, and all other components of the 2016 proffer agreement will remain in place.
- The applicant is also requesting a Conditional Use Permit for an Outdoor Recreation Facility in order to install a non-regulation size bocce ball court for use by the restaurant's customers. The court will be located on the northwest corner of the property between the restaurant and the stormwater management facility.
- The submitted Concept Plan depicts approximately 3.28 acres of the 11.29-acre site to be developed in two phases.
  - Phase 1 will include an 8,800 square-foot restaurant with a 1,900 square-foot outdoor dining terrace and parking lot. Within a large open area that will be enclosed with a four-foot tall decorative black aluminum fence, a 76-foot by 13-foot bocce ball court and three fire pits are planned. Also depicted on the concept plan are plantings within the parking lot and streetscape plantings along the right-of-way.
  - The concept plan depicts a second phase of development to include a 5,000-square foot events building and additional parking. The applicant has been alerted that Assembly Uses are not permitted within the industrial zoning district; therefore, in order to operate an events space, the property would have to be rezoned in the future to either the business or office district, and the proffers would again need to be modified.
- A total of 129 parking spaces are depicted on the concept plan, thereby meeting the minimum parking requirement of 107 spaces for a restaurant on this size.
- Vehicular access is proposed along Landstown Centre Way via an ingress/egress for the parking area and a separate ingress/egress for the service area.
- The submitted elevations depict a single-story building with a façade treatment featuring cement fiberboard plank shiplap siding and EIFS. Brick veneer accents are proposed for architectural interest. The roof and awning are depicted as grey corrugated metal. The front of the building will have a marquee-style entrance and a patio for dining.
- These elevations also depict conceptual building-mounted signs on the south façade facing Landstown Centre Way and on the northern and eastern (front) facades. Conceptual designs for a freestanding monument sign have also been submitted and are depicted on page 10 of this report. It should be noted that the Zoning

Ordinance permits up to three signs, one of which may be a freestanding sign. Based on this, should the applicant desire a freestanding sign, one of the building mounted signs depicted on the elevations will need to be removed.

- The site is situated between two stormwater management facilities. Public Works is currently researching the expansion of the open channel connection between the two ponds and as a result it is likely that the existing drainage easements on the property will expand. Based on this, slight changes to the service area, open space acreage and the parking lot may occur.



### Zoning History

#	Request
1	CRZ (AG-1 & AG-2 to Conditional I-1) Approved 12/13/2016
10	CUP (Public Utility Transmission Substation – Expansion) Approved 01/20/2015
7	CRZ (AG-1 & AG-2 to Conditional B-2 and I-1) Approved 04/24/2012 CUP (Rehabilitation Facility) Approved 02/24/2012
3	CUP (Recreation Facility) Approved 02/03/2009
5	CUP (Recreation Facilities – Multi-purpose Stadium) Approved 05/27/1997

### Application Types

CUP – Conditional Use Permit REZ – Rezoning CRZ – Conditional Rezoning	MOD – Modification of Conditions or Proffers NON – Nonconforming Use STC – Street Closure	FVR – Floodplain Variance ALT – Alternative Compliance SVR – Subdivision Variance
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## Evaluation and Recommendation

The requests for both a Modification of Proffers and a Conditional Use Permit are deemed acceptable by Staff. While the subject site was included with the rezoning of the BioPark property, it is physically separated from the actual BioPark by Landstown Centre Way. In Staff’s view, the proposed use and associated recreational amenity will complement existing uses in the vicinity. The building and site design, as well as the exterior building materials, are of a high quality that is consistent with surrounding commercial and recreational uses. The proposed plantings depicted on the proffered plan exceed the minimum requirements set forth in the Zoning Ordinance. The excess plant material, coupled with the recommended condition to add Category I landscaping (plant material) to sufficiently screen the service area, will also contribute to creating an attractive site.

Based on the considerations above, Staff recommends approval of the requests subject to the conditions and proffers below.

## Proffers Modification

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.

**Proffer 1:**

The following, which are listed in Section 1001(a) of the Zoning Ordinance as principal and conditional uses in the I-1 Light Industrial District, shall be the only uses permitted on the Property. Any principal or conditional use listed in Section 1001(a), but not listed below, shall not be permitted on the Property:

- a. Building-mounted antennas, as specified in Section 1001(a);
- b. Business, medical, financial, nonprofit, professional and similar office buildings;
- c. Communication towers, as specified in Section 1001 (a);
- d. Fiber-optics transmission facilities;
- e. Manufacturing, processing, extracting, packaging or fabricating establishments; provided that the following uses shall not be allowed: (i) Explosive manufacturing, storage and distribution; (ii) petroleum processing; (iii) processing or outside storage of salvage, scrap or junk;
- f. Printing, lithographic or publishing establishments;
- g. Public buildings and grounds;
- h. Public schools, colleges and universities, and private schools, colleges and universities having similar academic curriculums;
- i. Public utilities installations and substations including offices, as specified in Section 1001 (a);
- j. Public utility transformer stations and major transmission lines and towers (fifty thousand (50,000) volts or more);
- k. Radio or television transmission and relay stations;
- l. Recreational facilities of an outdoor nature, as specified in section 1001 (a);
- m. Small wireless facilities, as specified in Section 1001 (a);
- n. Vocational, technical, industrial and trade schools;
- o. Wholesaling, warehousing, storage or distribution establishments;
- p. Wind energy conversion systems, as specified in Section 1001 (a); and
- q. Eating and drinking establishments north and west of Landstown Centre Way and east of Landstown Road.

**Proffer 2:**

Accessory structures and uses shall be permitted as set forth in Section 1001(b) of the Zoning Ordinance.

**Proffer 3:**

The architectural style, exterior building materials, and site design shall be substantially in accordance with the "Design and Development Guidelines – Princess Anne Commons Biomedical Park." The one exception will be the site north and west of Landstown Centre Way and east of Landstown Road provided it is developed as an eating and drinking establishment. In that case, when the Property is developed:

- a. It shall be substantially in accordance with the Exhibit entitled Exhibit A, Illustrative Site Plan, dated December 3, 2018, and prepared by Kimley-Horn and Associates. Said plan has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning and Community Development (hereinafter "Concept Plan").
- b. The building depicted on the Concept Plan shall have the architectural style and exterior building materials substantially in accordance and with the Exhibits entitled Wild Wing Café Exterior Elevations A-201 and Interior Elevations A-402, dated September 28, 2017, and prepared by Beaufort Design Build. Said plan has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning and Community Development.

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 January 22, 2019 and found it to be legally sufficient and in acceptable legal form.

## Recommended Conditions

1. The location of the Outdoor Recreation Facility shall be limited to the area depicted on page seven of this Staff Report, entitled "Exhibit A, Illustrative Site Plan", dated December 3, 2018, and prepared by Kimley-Horn and Associates. Said plan has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning and Community Development.
2. A modification of proffers will be required prior to developing Phase 2 to ensure consistency with the type and quality desired for uses adjacent to the BioPark.
3. The outdoor recreation facility (bocce ball court) shall be limited to use by the customers of the restaurant.
4. Category I landscape screening shall be installed along the western property line for the entire length of the service area in order to screen the service area from the property to the west and from the right-of-way.
5. When the property is developed, the fence shall have the appearance of like quality and character as depicted on page 10 of this report, and as shown on the photo entitled "Proposed Sign Concepts and Fence Design," which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning and Community Development.
6. All signage on the site shall comply with the requirements of the City Zoning Ordinance. There shall be no neon or electronic display signs or accents installed on any wall area of the exterior of the building, in or on the windows, or on the doors. No window signage shall be permitted. The building signage shall not be a "box sign." Any freestanding sign shall be a monument style sign, no taller than eight feet, externally lit, and constructed of brick veneer to match the building.
7. There shall be no signs which contain or consist of pennants, ribbons, streamers, spinners, or other similar moving devices on the site. There shall be no portable or nonstructural signs, or electronic display signs on the site.

## Comprehensive Plan Recommendations

The Comprehensive Plan recognizes this property as being within the Special Economic Growth Area (SEGA) 4 - Princess Anne Commons. This section of Princess Anne Commons is designated as a SEGA in recognition of its economic development opportunities based on the existing medical, research, entertainment, recreation, and athletic facilities in the area. Vibrant mixed-use districts are envisioned where people can live, work, and recreate within walking distance to services and gathering spaces.

## Natural and Cultural Resources Impacts

The property is within 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.

There are no known cultural resources on the site.

## Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Landstown Centre Way	3,070 ADT <sup>1</sup>	6,200 ADT <sup>1</sup> (LOS <sup>4</sup> "C") 9,900 ADT <sup>1</sup> (LOS <sup>4</sup> "D")	Existing Land Use <sup>2</sup> – 284 ADT Proposed Land Use <sup>3</sup> – 1,200 ADT
<sup>1</sup> Average Daily Trips	<sup>2</sup> as defined by 3.74 acres of light industrial zoned land	<sup>3</sup> as defined by a 10,700 square-foot restaurant	<sup>4</sup> LOS = Level of Service

## Public Utility Impacts

### Water

There is an existing 12-inch City water main along Landstown Road and a 10-inch City water main along Landstown Centre Way. The site must connect to public water.

### Sewer

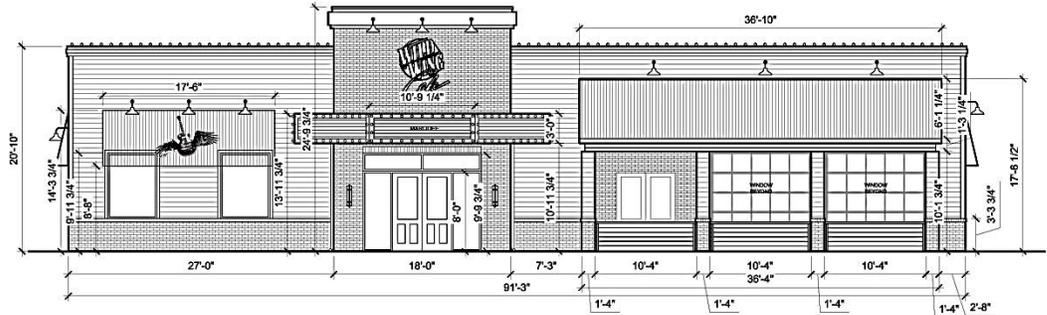
There is an existing 12-inch City sanitary sewer force main along Landstown Road and a 10-inch to 12-inch City sanitary sewer gravity main along Landstown Centre Way. The site must connect to public sanitary sewer.

# Proposed Site Layout

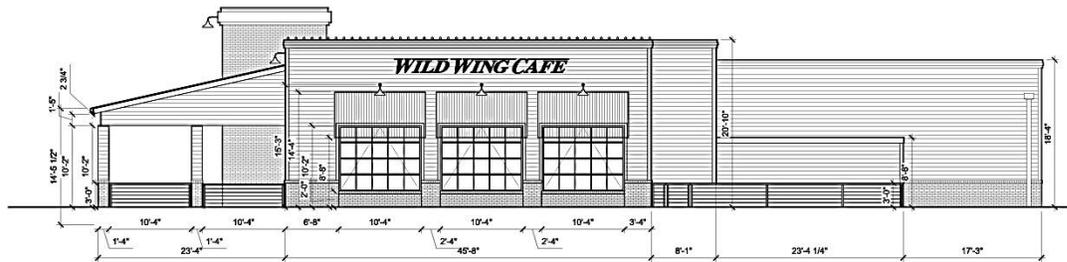


# Proposed Elevations

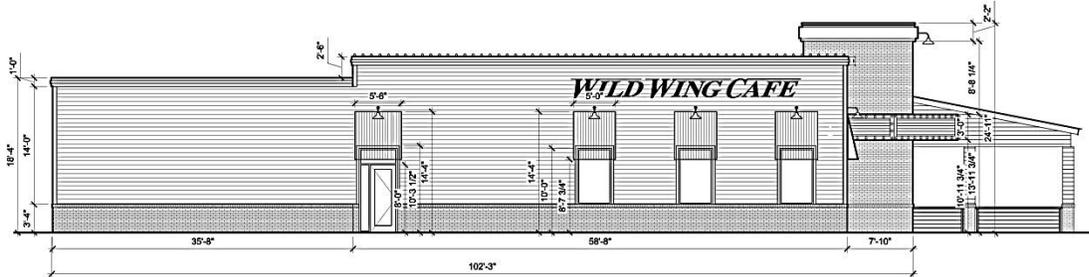
Front Elevation  
Facing East



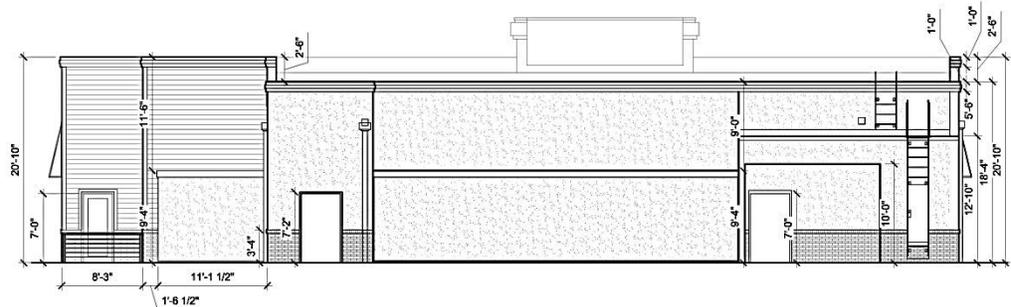
Right Elevation  
Facing North



Left Elevation  
Facing South

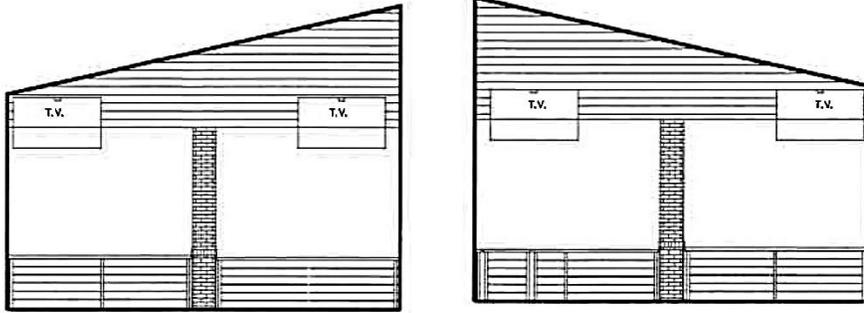


Rear Elevation  
Facing West



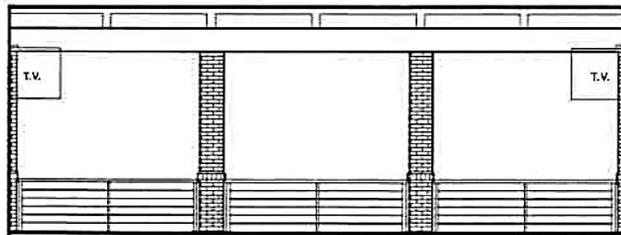
EXTERIOR FINISH SCHEDULE		
MATERIAL	COLOR	DESCRIPTION
METAL ROOF/CANOPY	GALVANIZED	CORRUGATED METAL
BRICK	OLD EDISTO	BORAL BRICK
SHIPLAP SIDING	BENJAMIN MOORE AC-35 VALLEY FORGE TAN	ROUGH SAWN SHIPLAP SIDING
EIFS	MATCH SHIPLAP SIDING	SAND FINISH
METAL COPING & EXPOSED METAL FLASHING	BENJAMIN MOORE CHINA WHITE	PRE-FINISHED ALUMINUM
STOREFRONT FRAMES & DOORS	DARK BRONZE	PRE-FINISHED ALUMINUM
OVERHEAD DOORS & FRAMES	ANODIZED ALUMINUM	PRE-FINISHED ALUMINUM
LEADERHEAD, DOWNSPOUT, SCUPPERS	ASHE GREY	PRE-FINISHED ALUMINUM
LADDER	ASHE GREY	

# Proposed Elevations for Patio

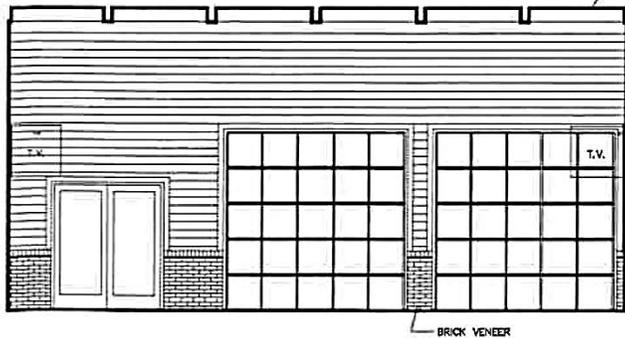


C2 ENCLOSED PATIO WEST  
1/4" = 1'-0"

C1 ENCLOSED PATIO EAST  
1/4" = 1'-0"



B1 ENCLOSED PATIO NORTH  
1/4" = 1'-0"



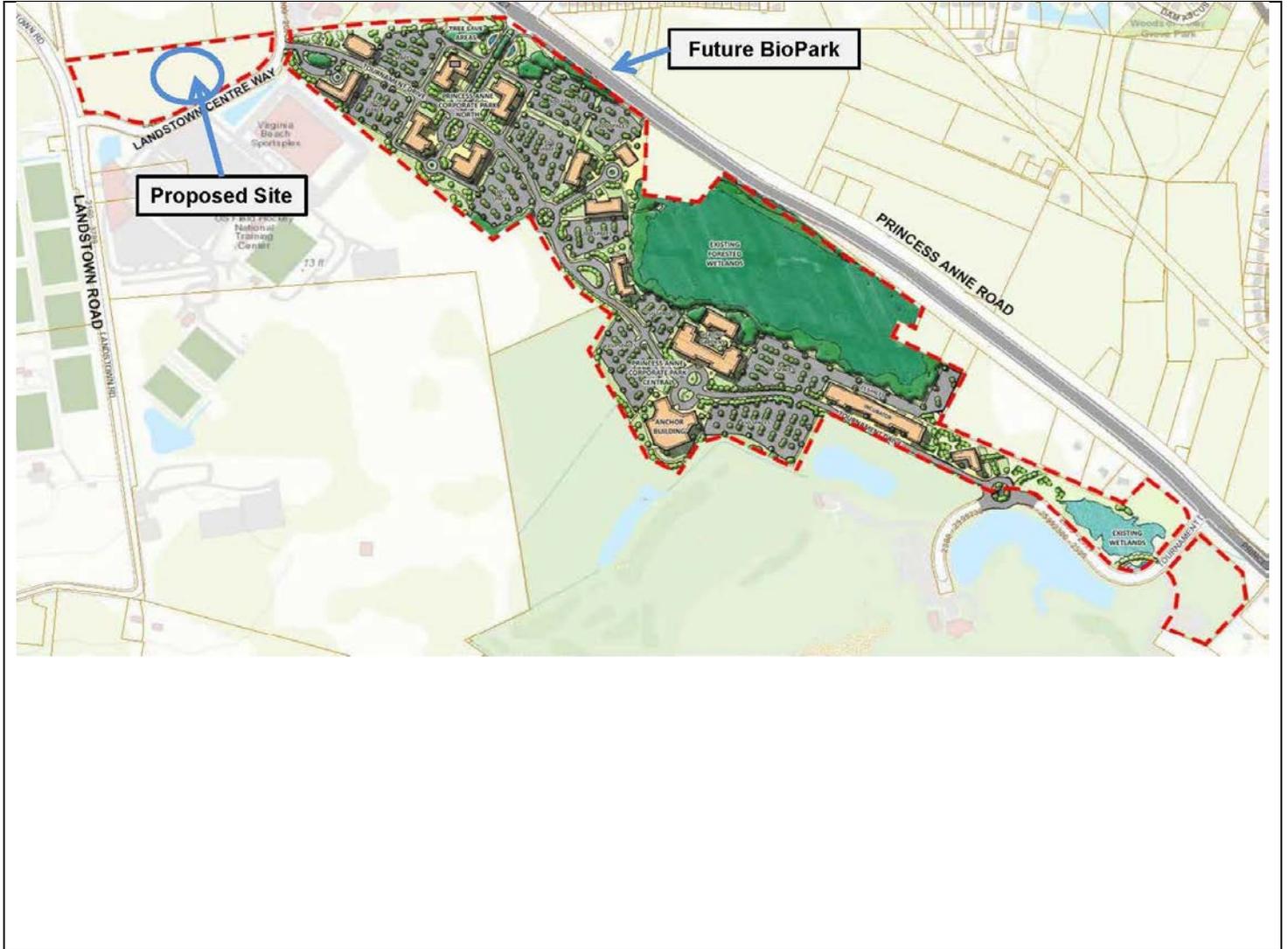
A1 ENCLOSED PATIO SOUTH  
1/4" = 1'-0"

**Proposed Sign Concepts and Fence Design**


Photos Submitted by Applicant



# Location



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: Virginia Beach Development Authority  
If an LLC, list all member's names:

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-subsidary<sup>1</sup> or affiliated business entity<sup>2</sup> relationship with the Property Owner: *(Attach list if necessary)*

<sup>1</sup> "Parent-subsidary 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-subsidary 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 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	
<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 type="checkbox"/>	<input checked="" type="checkbox"/>	Construction Contractors	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Engineers / Surveyors/ Agents	Kimley-Horn
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Legal Services	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	

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

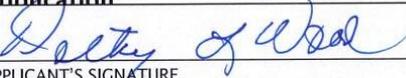
YES     NO     Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?

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

The current land owner of the subject property is the City of Virginia Beach.

# 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		
	Dorothy L. Wood	12-13-18
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	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Contract Purchaser ( <u>if other than the Applicant</u> ) - 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 type="checkbox"/>	<input checked="" type="checkbox"/>	Construction Contractors	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Engineers / Surveyors/ Agents	Kimley-Horn
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Legal Services	
<input type="checkbox"/>	<input type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	

**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 current land owner of the subject sales property is the City of Virginia Beach.



**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.**

	Taylor V. Adams	12/13/18
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 approvals allowed by this application 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.