



# Application for Waiver Request

## City of Rockville

### Department of Planning and Development Services

111 Maryland Avenue, Rockville Maryland 20850

Phone: 2401 3141 8200 \* Fax: 2401 3141 8210 \* Email: [pds@rockvillemd.gov](mailto:pds@rockvillemd.gov) \* Website: [www.rockvillemd.gov](http://www.rockvillemd.gov).

**Purpose:** The Zoning Ordinance, and the Landscape and Lighting Manual, identify specific standards that may be waived by the Approving Authority. The process is intended to provide flexibility to address constraints unique to a particular site or project. Each of the following waiver types is unique in terms of submittal requirements and criteria for approval. Please refer to the applicable Zoning Ordinance section (provided on this form) for more information.

It is strongly encouraged that you meet with Planning Division staff in CPDS prior to submitting an application.

#### Waiver Type: Please identify the type of waiver requested

##### Zoning Ordinance

- ☐ **25.08.08.c.2.b.vi** Planning Commission waiver of current parking requirements for non-conforming alteration approvals
- ☐ **25.09.06.c** Planning Commission waiver of restrictions placed on height exemptions for certain architectural elements.
- ☐ **25.10.05.d** Approving Authority waiver of impervious surface requirements for institutional uses in single dwelling unit residential zones.
- ☐ **25.14.07.d.4** Approving Authority waiver of the application of one or more development standards of the designated equivalent zones for Planned Developments.
- ☐ **25.16.02.b.3** Approving Authority waiver of the requirements of Section 25.16.02.b.3; 25.16.04.b; and Section 25.16.07.a and b for projects within the MXTD Zone.
- ☐ **25.16.03.h.1 & 3** Parking reductions within the MXTD, MXCD, MXE, MXNC and PD Zones.
- ☐ **25.17.03.c** Planning Commission waiver of the requirement to underground, or enclose, utility equipment.
- ☐ **25.17.05.b** Approving Authority waiver of private sidewalk widths for short portions.

☐ 25.17.08.b.3

Approving Authority waiver of building restriction line requirements.

**Landscaping and Lighting Manual**

☐ 4.d.3.c

Buffering and / or Screening Requirements. The Board of Appeals or Planning Commission has the authority to grant a waiver of the buffering and / or screening requirements of the Manual.

***Please Print Clearly or Type***

Property Address Information 805 King Farm Blvd.. Rockville. MD 20850

Subdivision 0201 Lot(s) AB2 Block M

Zoning PD-KF Tax Account(s) 04-03594710

**Applicant Information:**

Please supply name, address, phone number and e-mail address for each.

Applicant Banyan Street Irvington Centre, LLC,

Property Owner Three Irving Centre Associates, LLC, 702 King Farm Blvd., Ste. SB-100, Rockville,

Architect DNC Architects, Inc., 201 E Diamond Ave., Ste. 200, Gaithersburg, MD 20877

Engineer Pat Goetz, Jennerik Engineering, Inc., 8833 Baltimore, MD 21236

Attorney Patricia A. Harris, Lerch, Early & Brewer, Chtd., 7600 Wisconsin Avenue, Ste. 700, Beth+

LEED AP

Project Name 805 King Farm

**Project Description:** Provide a written narrative that fully describes the project; the nature of the waiver requested; and the justification for the requested waiver. Please refer to the applicable section of the Zoning Ordinance for the waiver type and provide a response to any and all findings that might be associated with the waiver. Additional information such as reports and / or studies that provide justification of the waiver request are encouraged.

**STAFF USE ONLY**

**Application Acceptance:**

Application # WAV2023-00001

Date Accepted

Staff Contact

OR

**Application Intake:**

Date Received 8/25/2022

Date of Checklist Review

Deemed Complete: Yes ☐ No ☐

**Zoning Ordinance**

**25.08.08.c.2.b.vi**

- vi. **For nonconforming alteration approvals** that trigger conformance with current parking requirements pursuant to Article 16, the Planning Commission may waive the current parking requirement and allow the maintenance of the existing nonconforming parking status through the grant of the nonconformity alteration approval, if the Commission finds that:

- A. It is not practicable to provide the required parking onsite in a manner that preserves neighborhood character;
- B. Preserving the nonconforming parking status is the best solution to provide consistency with the goals, policies, and intent of the Plan.

**25.09.06.c**

c. ***Waiver***

- 1. The Planning Commission may permit a waiver from any or all of the restrictions set forth in subsections b.1 through b.3 of this section upon finding that the size, scale, and dimensions of any non-habitable architectural structure listed above are:
  - (a) Architecturally compatible with both the building on which it is to be erected and the adjacent buildings; and
  - (b) Not contrary to the intent and purpose of the Plan or this Chapter.
- 2. In granting any such waiver, the Planning Commission may impose such conditions as may be reasonable and necessary so that the non-habitable architectural structures are consistent with the Plan, including, but not limited to, the screening of rooftop structures and the shadow regulations set forth in Section 25.17.06.
- 3. The person requesting the waiver must provide notice of the request in accordance with Section 25.05.03 of this Chapter.

**25.10.05.d**

- d. ***Exclusions from Impervious Surface Requirements*** – Institutional uses in the Single Dwelling Unit Residential Zones must normally meet the requirements set forth in Section 25.10.05.a, above for the maximum impervious surface area in a front yard. However, through site plan review in accordance with the provisions of Article 7, the Approving Authority may waive this requirement if it finds that such a waiver will reduce impacts of paved areas on adjoining residential uses, provide more efficient on-site traffic circulation, or address practical difficulties.

**25.14.07.d.4**

- 4. ***Waiver of Equivalent Zone Standards***- The Approving Authority may waive the application of one (1) or more of the development standards of the designated equivalent zone upon a finding that the applicant has shown good cause as to why the development standard should not apply to any portion of the Planned Development project. In determining whether the burden of establishing good cause has been met, the Approving Authority must consider the following:
  - (a) Whether the development standard of the equivalent zone is compatible with the completed portions of the Planned Development;
  - (b) Whether applying the development standard of the equivalent zone is consistent with good planning and design principles;
  - (c) Whether applying the development standard of the equivalent zone is reasonable and practically feasible. The cost of applying the standard may, but does not necessarily, demonstrate that applying the development standards of the equivalent zone is reasonable or practically feasible, and;
  - (d) Such other factor as the Approving Authority reasonably deems appropriate.

**25.16.02.b.3**

- 3. ***MXTD Zones*** - In the MXTD Zone, limited off-street parking of motor vehicles between the front building line and the front lot line may be allowed by the Approving Authority in accordance with the provisions of Section 25.13.07.a.6. The Approving Authority also has the authority to waive the requirements of this Section, Section 25.16.04.b, and Section 25.16.07.a and b provided that:

- (a) A previously existing single unit detached dwelling is being converted to a permitted use in the MXTD Zone;
- (b) Due to the location of the existing structure or structures on the lot, compliance with the parking, loading, and access requirements of this Sections 25.16.02, cannot be reasonably accomplished; or
- (c) Such a waiver would enable the proposed use to better satisfy the parking space requirements of Section 25.16.03.

**25.16.03.h.1**

h. ***Flexible Parking Standards*** – The Approving Authority may permit reductions in the number of parking spaces required, if certain standards and requirements are met as set forth below.

1. Mayor and Council and Planning Commission Reductions The Mayor and Council, in the approval of a Project Plan, or the Planning Commission in the approval of a site plan within the MXTD, MXCD, MXE, MXNC and PD Zones, have the authority to reduce the required number of parking spaces for uses in the building or buildings to be constructed provided that:
  - (a) A major point of pedestrian access to such building or buildings is within seven-tenths of a mile (3,696 feet) walking distance of a transit station entrance shown on the Washington Metropolitan Area Transit Authority Adopted Regional Rail Transit System; or
  - (b) There are three (3) or more bus routes in the immediate vicinity of the building or buildings; or
  - (c) There is a major public parking facility available to the public within 1,000 feet of a building entrance; or
  - (d) Where the size of the lot is so small that meeting the parking requirement would prevent redevelopment; or
  - (e) Where there is a bikeway in close proximity to the site and the applicant demonstrates that the uses in the proposed development are conducive to bicycle use; or
  - (f) For any other good cause shown.

### **25.16.03.h.3**

3. ***Reductions with Proximity to a Transit Station*** - Within any mixed-use zone where the building entrance is more than seven-tenths of a mile (3,696 feet) walking distance from a transit station entrance as shown on the Washington Metropolitan Area Transit Authority Adopted Regional Rail Transit System, a reduction of not more than ten (10) percent of the required parking spaces may be approved if a parking management plan approved by the Approving Authority will be implemented with occupancy of the building or buildings using such features as car and van pooling and public or private transit. A Transportation Demand Management strategy must be submitted with the goal of reducing parking demand by the building to meet the amount of reduction requested. The effectiveness of this plan must be demonstrated periodically after the use has been operating, as determined by the Approving Authority.

### **25.17.03.c**

#### **c. *Waiver of Requirements***

1. Upon finding that installing utility equipment within an enclosed building is not feasible, the Planning Commission may grant a waiver of any requirement of this Section for any of the following reasons:
  - (a) A unique or peculiar site condition provides a physical impediment to installing equipment underground; or
  - (b) It would be unsafe to locate the equipment underground; or
  - (c) The equipment cannot successfully operate below ground.

### **25.17.05.b**

1. Minimum widths may be waived by the Approving Authority for short portions of a private sidewalk for a good cause shown.

### **25.17.08.b.3.(b)**

- (b) Where the applicable master plan recommends a greater or lesser building restriction line than set forth herein, the plan recommendation takes precedence over the requirements set forth in subsections a and b above. Where there is no master plan recommendation, the Approving Authority may waive building restriction line requirements if the waiver will result in a better form of development consistent with the intent of the master plan and the development standards for mixed-use zones set forth in Article 13.

## **Landscaping and Lighting Manual**

### **4.d.3.c**

The Board of Appeals or Planning Commission has the authority to grant a waiver of the buffering and / or screening requirements of the Manual.

Community Planning and  
Development Services  
Received

8/25/2022

WAV2023-00001

**Patricia A. Harris**

Attorney

301-841-3832

[paharris@lerchearly.com](mailto:paharris@lerchearly.com)

August 23, 2022

By Electronic Mail

Ms. Suzan Pitman, Chair and Members of the Planning Commission  
City of Rockville Planning Commission  
111 Maryland Avenue  
Rockville, MD 20850

Re: 805 King Farm Blvd., Rockville, Maryland  
Sec. 25.09.06.c Waiver Request

Dear Chair Pitman and Members of the Planning Commission,

On behalf of Banyan Street Irvington Centre, LLC (the “Applicant”), and pursuant to the City of Rockville Zoning Ordinance Section 25.09.06.c (the “Zoning Ordinance”), we are submitting this request for a waiver to allow the placement of equipment on the existing building’s rooftop at a total area greater than 25% of the property’s rooftop located at 805 King Farm Boulevard (the “Property”). This request is almost identical in nature to the roof-top waiver the Planning Commission granted on November 10, 2021 for 805 King Farm Boulevard’s “sister building” -- 800 King Farm Boulevard. The subject building is six stories in height. An allowance of space greater than the allotted percentage outlined in the Zoning Ordinance is vital to the Applicant’s intended research and development (“R&D”) uses within the building and the expansion of life science uses in the greater King Farm community.

The Property is currently improved with a screen wall and dunnage that will be removed for the conversion of the existing use. The Applicant is proposing to install two separate new screen dunnages, with each measuring approximately 3,680 square feet. The dunnages will protect future R&D/life science equipment that will be critical to the tenant's operations. As illustrated in the submitted plans, the equipment will be screened from the public view with carefully designed Envel paneling measuring twelve (12) feet in height to closely resemble the existing finish of the Property’s pre-cast skin. Approximately 40% of the proposed roof plan is screened within the enclosure. Pursuant to the requirements stated in the Zoning Ordinance, the subject rooftop equipment is solely requested for an incidental use to the main use of the building and the dunnage’s height is less than nineteen (19) feet as measured from the finished roof elevation.

The Applicant’s waiver request is instrumental to the continued economic success of the City of Rockville as office space design increasingly shifts towards the needs of research and development uses. Backfilling and readapting existing, underutilized office spaces is critical for

the growth of the local economy and this waiver is a central element of accomplishing the City's economic goals. The growth of desirable life sciences uses will help preserve and enhance the viability of King Farm's employment area. In connection with this waiver request we have included the following:

1. Waiver Request Application and Corresponding Fee of \$500;
2. Plans; and
3. Justification (as set forth in this letter).

For these reasons, we respectfully request a waiver pursuant to Section 25.09.06.c of the Zoning Ordinance. We welcome further discussion on this matter and are happy to answer any questions you may have.

Thank you for your consideration of this request.

Very Truly Yours,

LEARCH, EARLY & BREWER, CHTD.



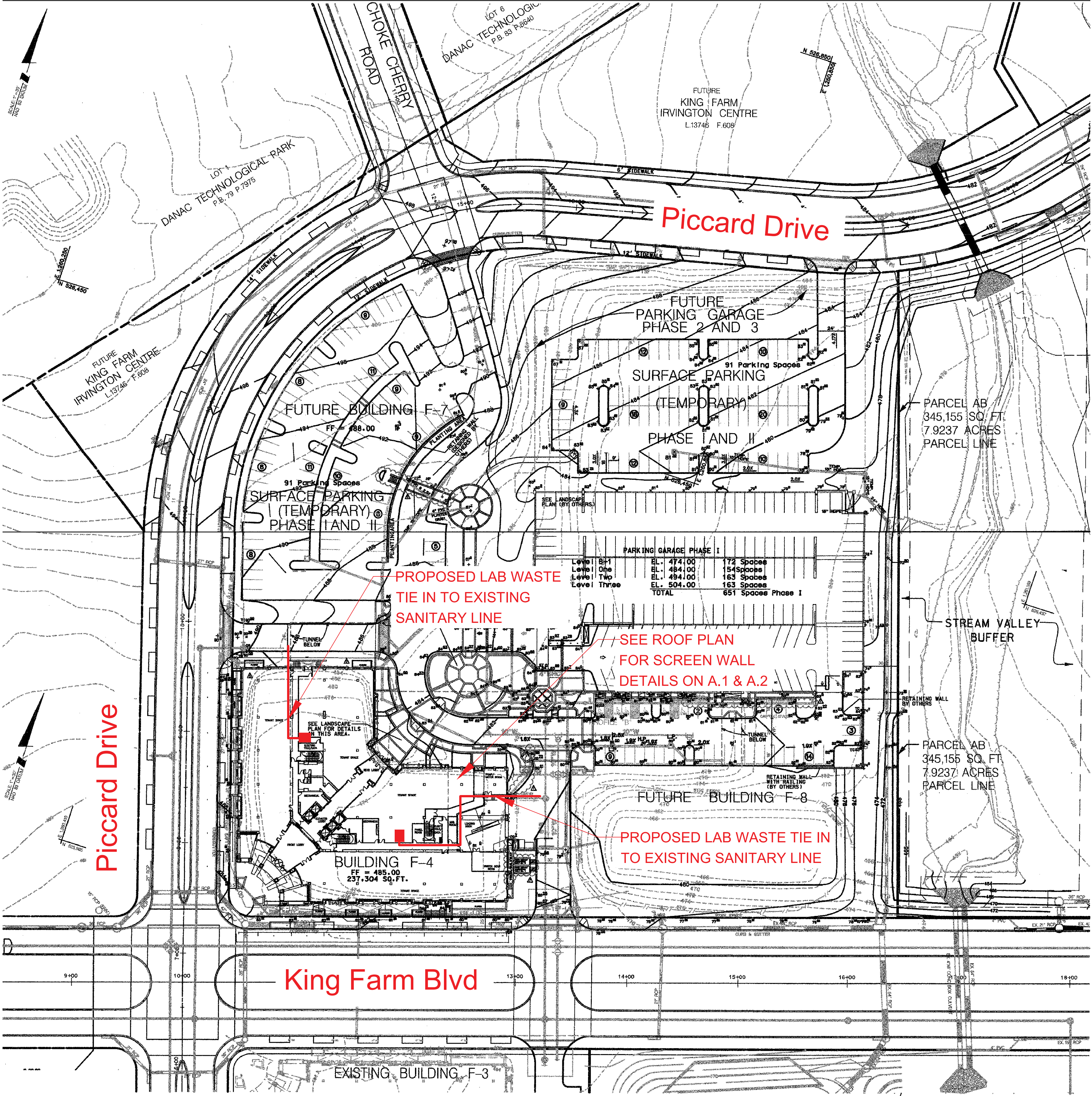
Patricia A. Harris

Enclosures

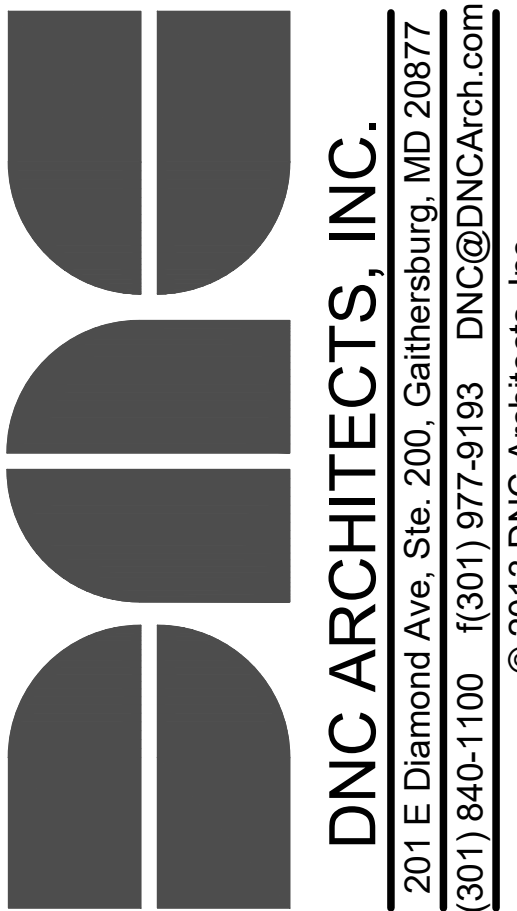
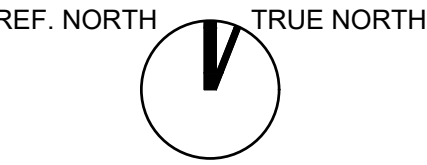
cc: Mr. James Wasilak, AICP

# Roof Screen for Lab-Ready Project

## 805 King Farm Blvd, Rockville



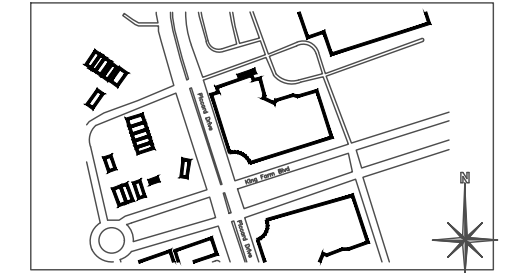
SITE PLAN  
N.T.S.



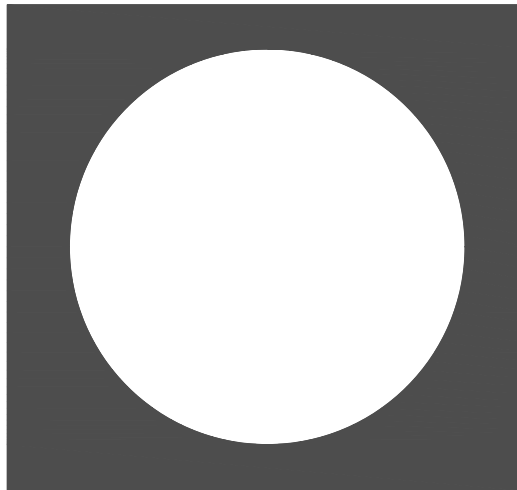
OWNER  
Banyan Street Capital  
225 Peachtree St, NE, Suite 200  
Atlanta, GA 30303

CONSULTANT

KEY PLAN



PROFESSIONAL CERTIFICATION  
I CERTIFY THAT THESE DOCUMENTS WERE  
PREPARED OR APPROVED BY ME, AND I AM A  
FULLY LICENSED ARCHITECT UNDER THE STATE  
LAWS OF THE STATE OF MARYLAND, LICENSE  
NUMBER 78848, EXPIRATION DATE 10/01/2022.



ISSUED FOR	DATE
Roof Screen Wall	07-11-22

ISSUED FOR CONSTRUCTION

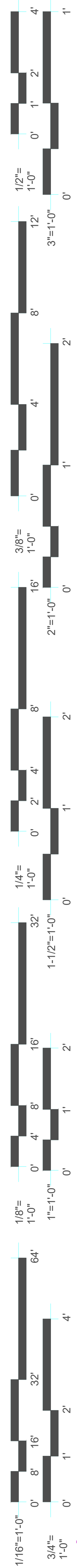
REVISIONS

NO	REVISION	DATE

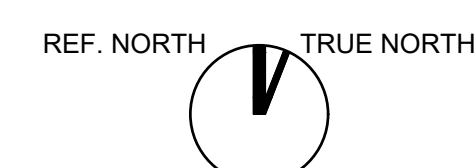
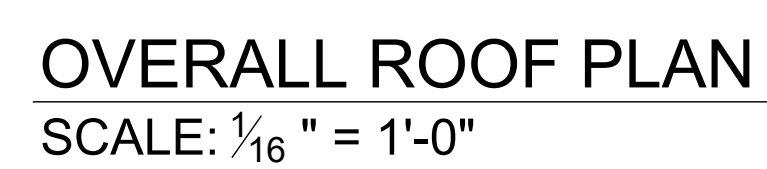
BSC - 805 King Farm  
805 King Farm Blvd, Rockville MD 20850  
SITE PLAN

DNC PROJECT NUMBER  
20125-000

C.1



EAST/NORTH ELEVATION OF SCREEN WALL  
SCALE: 1/4" = 1'-0"





REF. NORTH  TRUE NORTH

