



CAPE COD  
COMMISSION

# Application Cover Sheet

**Cape Cod Commission**  
3225 Main Street, PO Box 226  
Barnstable, MA 02630  
Tel: (508) 362-3828 • Fax: (508) 362-3136

For Commission Use Only

Date Received:  
Fee (\$):  
Check No:  
File No:

- A Type of Application** (check all that apply)
- |   |   |  |
|---|---|--|
| <input type="checkbox"/> Development of Regional Impact (DRI) | <input checked="" type="checkbox"/> DRI Exemption     | <input type="checkbox"/> Request for Joint MEPA/DRI Review |
| <input type="checkbox"/> DRI Scoping                          | <input type="checkbox"/> Hardship Exemption           | <input type="checkbox"/> Decision Extension                |
|   | <input type="checkbox"/> Jurisdictional Determination | <input type="checkbox"/> Decision Modification             |

**B Project Information**

Project Name: Southwind Plaza Total Site Acreage: 31.13

Project/Property Location: 65 Independence Park, Hyannis, MA Zoning: HB B Ind GP  
990 Iyannough Road, Hyannis, MA Solar Photovoltaic

Brief Project Description:  
Include total square footage of proposed and existing development, gross floor area, number of lots existing or to be created, specific uses, description of existing conditions, as applicable (attach additional sheets if necessary).  
The property is the location of Southwind Plaza. No changes to the existing development are proposed. The Applicant is proposing to divide the existing parcel into four (4) separate lots.

**C Owner(s) of Record**

List the following information for all involved parcels. Provide copies of each Deed and Purchase and Sale Agreement and/or evidence of leasehold interest, if applicable, for all involved parcels. Proof of ownership/legal rights for Applicant(s) to proceed with the proposed development must be documented prior to the Commission deeming any application complete. List the local, state, or federal agencies from which permits or other actions have been/will be filed (attach additional sheets if necessary).

Map/Parcel	Owner's Name	Lot & Plan	Land Court Certificate of Title #	Registry of Deeds Book/Page #
<u>295/015/X01</u>	<u>BV SOUTHWIND, LLC</u>	<u>Plan Book 617, Page 35</u>	<u>CTF# 229850</u>	<u>Book 35097, Page 287</u>
<u>295/015/X02</u>				
<u>294/004</u>				

There **ARE NOT** (circle one) court claims, pending or completed, involving this property (if yes, please attach relevant information).  
Is there an existing CCC Decision for the Property?  yes  no (if so, recording information for decision, please attach relevant information).

**D Certification** Certificate #101815 - Book # 831, Page 55

I hereby certify that all information provided on this application form and in the required attachments is true and accurate to the best of my knowledge. I agree to notify the Cape Cod Commission of any changes on the information provided in this application, in writing, as soon as is practicable. I understand failure to provide the required information and any fees may result in a procedural denial of my project.  
**NOTE: For wireless communication facilities, a licensed carrier should be either an applicant or a co-applicant.**

APPLICANT	Applicant(s) Name: <u>BV Southwind, LLC, c/o Bandera Ventures</u> Tel: _____ Fax: _____
	Address: <u>5820 W. Northwest Highway, Suite 220, Dallas, TX 75225</u>
	Signature: <u>[Signature]</u> Date: <u>9-26-23</u>
CO-APPLICANT	Co-Applicant(s) Name: _____ Tel: _____ Fax: _____
	Address: _____
	Signature: _____ Date: _____
CONTACT	Contact: <u>John W. Kenney, Esquire</u> Tel: <u>508-771-9300</u> Fax: <u>508-775-6029</u>
	Address: <u>1550 Falmouth Rd., Suite 12, Centerville, MA 02632</u>
	Signature: <u>[Signature]</u> Date: <u>9/26/23</u>
PROPERTY OWNER	Property Owner: <u>BV Southwind, LLC, c/o Bandera Ventures</u> Tel: _____ Fax: _____
	Address: <u>5820 W. Northwest Highway, Suite 220, Dallas, TX 75225</u>
	Signature: <u>[Signature]</u> Date: <u>9-26-23</u>
BILLABLE ENTITY	Name: _____ Tel: _____ Fax: _____
	Address: _____

## PROJECT NARRATIVE

TO: Cape Cod Commission

FROM: John W. Kenney, Esq.

APPLICANT: BV Southwind, LLC

SUBJECT: Request for Development of Regional Impact Exemption

The subject property is the location of the Southwind Plaza located on Route 132 (Iyannough Road), Independence Drive, and Attucks Lane Extension in Hyannis. The original development involved nine (9) separate parcels of land. Some of the parcels were Registered Land and the remaining parcels were Unregistered Land. A prior owner consolidated the nine parcels into one (1) lot in 2007 (see copy of “81X Plan of Land” recorded in Plan Book 617, Page 35 attached hereto). The Registered parcels have been de-registered.

The single lot created by the “81X Plan” contains 31.1 acres ±. BV Southwind, LLC acquired title to the property on May 4, 2022. The company now seeks approval to divide the property into four (4) separate lots (see plans attached). The purpose of the division is to facilitate refinancing of the lots and/or sale of individual lots. There are no changes to any of the buildings or infrastructure on the property proposed. The project is merely a division of land.

The division of the over 30-acre parcel triggers a Development of Regional Impact (“DRI”) review under Cape Cod Commission guidelines. Furthermore, the property was the subject of two prior Development of Regional Impact reviews. The first review occurred in 1993 (TR 930014 – see page 1 of Decision attached). The subject matter of this review was a 20,000 square foot addition to the 175,860 square feet of the existing plaza. The addition was approved on December 16, 1993.

The next DRI review took place in 1996 (TR 960010 – see copy of page 1 of the Decision attached). This review concerned new construction greater than 10,000 square feet of gross floor area. The new construction was approved on December 5, 1996.

A portion of the property was also the subject of litigation between Home Depot, U.S.A. Inc. and the Cape Cod Commission (see Home Depot, U.S.A. Inc. v. The Cape Cod Commission, Land Court Case No. 02 MISC 2816). An agreement for judgment entered in 2003. It was amended and restated in 2006, and amended three more times in 2010, 2015, and 2021.

Although the division of the more than 30-acre parcel and the two prior DRI reviews trigger the thresholds for a DRI review of the current proposal, the Applicant is requesting a DRI Exemption because the proposal will have no impact on regional resources. As stated hereinabove, no further development is proposed to the plaza. The division of the existing lot into four lots will also not impact the prior DRI Decisions which will remain in effect.

If the DRI Exemption is granted, the proposed division must go back to the Town of Barnstable for Formal Site Plan Review. The proposal would then have to go before both the Barnstable Zoning Board of Appeals (some lot lines cut through buildings creating the need for relief) and the Barnstable Planning Board.

Based upon the foregoing, we respectfully request that you support the Applicant's request for a DRI Exemption since the division of land will have no impact on regional resources.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "John W. Kenney, Esq.", written in a cursive style.

John W. Kenney, Esq.  
Attorney for BV Southwind, LLC

**QUITCLAIM DEED**

OCW RETAIL – HYANNIS, LLC, a Delaware limited liability company with a mailing address c/o O'Connor Capital Partners, 535 Madison Avenue, 6<sup>th</sup> Floor, New York, NY 10022 (“Grantor”), for consideration paid and in full consideration of Sixty One Million Seven Hundred Fifty Thousand and No/100 Dollars (\$61,750,000.00) hereby GRANTS to BV SOUTHWIND, LLC, a Texas limited liability company, with an address c/o Bandera Ventures, LP, 5820 W Northwest Highway, Suite 200, Dallas, Texas 75225 (“Grantee”), with QUITCLAIM COVENANTS, the land and all improvements thereon located at 65 Independence Drive, Hyannis, Massachusetts in Hyannis, Barnstable County, Massachusetts (the “Property”) more particularly described on Exhibit A attached hereto and made a part hereof.

Together with all right, title and interest of Grantor in and to any land lying in the bed of any street (open or proposed) adjacent to or abutting or adjoining the Property.

Together with all rights, privileges, rights of way and easements appurtenant to the granted premises, to the extent now in force and applicable.

This conveyance is made subject to and with the benefit of those easements, conditions, agreements and restrictions of record insofar as they may lawfully affect the Property, and all unpaid taxes and assessments, known or unknown, insofar as they may lawfully affect the Property.

Being the premises conveyed to Grantor by Quitclaim Deed dated May 1, 2007 and recorded with the Barnstable County Registry of Deeds in Book 22007, Page 284, filed as document no. 0163184, on certificate of title no. 183030. Filed in Barnstable Land Records as Doc 1,063,184

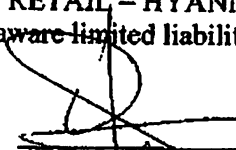
Grantor has not elected to be treated as a corporation for federal tax purposes.

**[SIGNATURES APPEAR ON THE FOLLOWING PAGE]**

IN WITNESS WHEREOF, the Grantor has duly executed this Quitclaim Deed as a sealed instrument as of this 7 day of April, 2022.

**GRANTOR:**

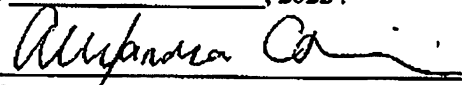
OCW RETAIL – HYANNIS, LLC,  
a Delaware limited liability company

By:   
Name: David J. Whitten  
Title: Authorized Signatory

STATE OF Massachusetts )  
COUNTY OF Suffolk ) SS.

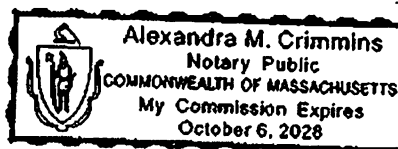
On this 30th day of March, 2022, before me, the undersigned notary public, personally appeared, the above David J. Mallen, the Authorized Signatory of OCW RETAIL – HYANNIS, LLC, a Delaware limited liability company, proved to me through satisfactory evidence of identification, which was personally known to me, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose in my presence as Authorized Signatory of OCW RETAIL – HYANNIS, LLC.

GIVEN under my hand and Notarial Seal this 30th day of March, 2022 .

  
Notary Public

My Commission Expires: October 6, 2028

[Signature Page to Quit Claim Deed for OCW]



**EXHIBIT A**

**LEGAL DESCRIPTION OF LAND**

Real property in the City of Hyannis, County of Barnstable,

Commonwealth of Massachusetts, described as follows:

**Parcel I (Fee)**

The land with the buildings thereon, containing 31.1 Acres, more or less, and being shown on a plan of land entitled "81-X Plan of Land Independence Park #900 Iyannough Road (Route 132) and #65 Independence Drive in the Town of Barnstable Massachusetts (Barnstable County)" prepared for Richard A. Ellis The Flatley Company, dated May 1, 2007 and prepared by BSC Group, 349 Main Street, Unit D, Route 28, W. Yarmouth, MA 02673, Scale 1" = 80', and recorded with the Barnstable County Registry of Deeds in Plan Book 617, Page 35.

And also being more particularly described as follows:

The Properties defined by this section are situated in Hyannis, Barnstable County, Massachusetts, 02601 and numbered 990 Iyannough Road (Route 132), Whole Foods Parcel, and 65 Independence drive and Iyannough road, Southwind plaza. The land with buildings thereon, containing 1,356,114 square feet more or less and 31.13 acres more or less, is known as the shopping center.

The following is intended to be a running description of these properties:

Beginning at the intersection of Independence Drive and Attucks Lane extension at the point of curvature of a curve tangent to Independence Drive layout, shown as "Point of beginning shopping center" on this plan, thence by a curve turning to the left running along the side line of Independence Drive with an arc length of 747.61', and a radius of 586.42', to a point;

Thence South 22°48'51" East a distance of 200.00' running by the westerly side line of Independence Drive, to a point;

Thence with a curve turning to the right with an arc length of 336.48', and a radius of 591.19';

Thence South 09°47'47" West a distance of 314.25' running by the side line of Independence Drive to a lot corner;

Thence North 59°06'45" West a distance of 42.35' by land n/f Ruth C. Moy to a corner;

Thence North 30°54'00" East a distance of 35.65' by land n/f Ruth C. Moy;

Thence North 59°18'45" West a distance of 200.02' by land n/f Ruth C. Moy;



Thence South 30°53'19" West a distance of 310.78' by land n/f Ruth C. Moy to a point;

Thence South 30°53'15" West a distance of 124.17' by land n/f Ruth C. Moy to the side line of Iyannough road to a corner;

Thence North 59°06'45" West a total distance of 436.29' by the northerly side line of Iyannough road to a corner;

Thence North 12°52'45" East a distance of 534.23' by land n/f AMR Real Estate Holdings LLC to a corner;

Thence North 80°29'31" West a distance of 269.36' by land n/f AMR Real Estate Holdings LLC to a lot corner;

Thence North 12°27'34" East a distance of 88.90' by land n/f 1040 Iyannough Road LLC to a point;

Thence North 13°01'42" East a distance of 300.36' by land n/f Festival of Hyannis LLC to a point; Thence North 14°41'13" East a distance of 385.18' by land n/f Festival of Hyannis LLC to a point;

Thence North 13°59'16" East a distance of 382.92' by land n/f Festival of Hyannis LLC to the sideline of Attucks Lane extension;

Thence North 22°24'17" East a distance of 49.99' by the easterly sideline of Attucks Lane extension;

Thence with a curve turning to the right with an a length of 40.65' and a radius of 35.01' by Attucks Lane extension;

Thence with a curve turning to the right with an arc length of 196.97', with a radius of 850.00' by Attucks Lane extension;

Thence North 55°37'28" East a distance of 16.45' by Attucks Lane extension;

Thence South 76°07'42" East a distance of 351.59' by Attucks Lane extension;

Thence with a curve turning to the right with an arc length of 203.63', with a radius of 295.00' by Attucks Lane extension;

Thence South 06°49'35" West a distance of 54.97' by Attucks Lane extension to the point of beginning.

There is included in the above description parcels of registered land shown as Lot 1-A LCC Plan

13216B, Lot 1-E on subdivision plan 13216C and that certain parcel being shown as Lot 11 on land court plan no. 33817C.

Total Lot area 1,355,756 square feet, (31.1 acres)

Parcel II – (Easement)

Together with the rights, benefits and easements contained in Agreement between Thomas J. Flatley and the Trustees of the Campbell/Massachusetts Trust dated September 19, 1997 and registered as Document No. 739724 and recorded in Book 11700, Page 171.

Together with the rights, benefits and easements contained in Agreement between Thomas J. Flatley and the Trustees of the Campbell/Massachusetts Trust dated September 19, 1997 and registered as Document No. 739725 and recorded in Book 11700, Page 179.

Together with the rights, benefits and easement contained in Grant of Easement to Thomas J. Flatley dated March 7, 1997 and recorded March 11, 1997 in Book 10644, Page 344.



SCALE: 1" = 80'  
 508 778 8919  
 05673  
 369 Route 28, Unit D  
 W. Vermont, Massachusetts  
**BSC GROUP**  
 5820 W. NORTHWEST HWY., STE 200  
 DALLAS, TX 75225  
 BY SURVEYOR, LLC  
 4922888 PLS

NO.	DATE	DESCRIPTION
1	7/17/23	RE-CONTRACT LOTS 2&4

REVISIONS:

MARCH 17, 2023

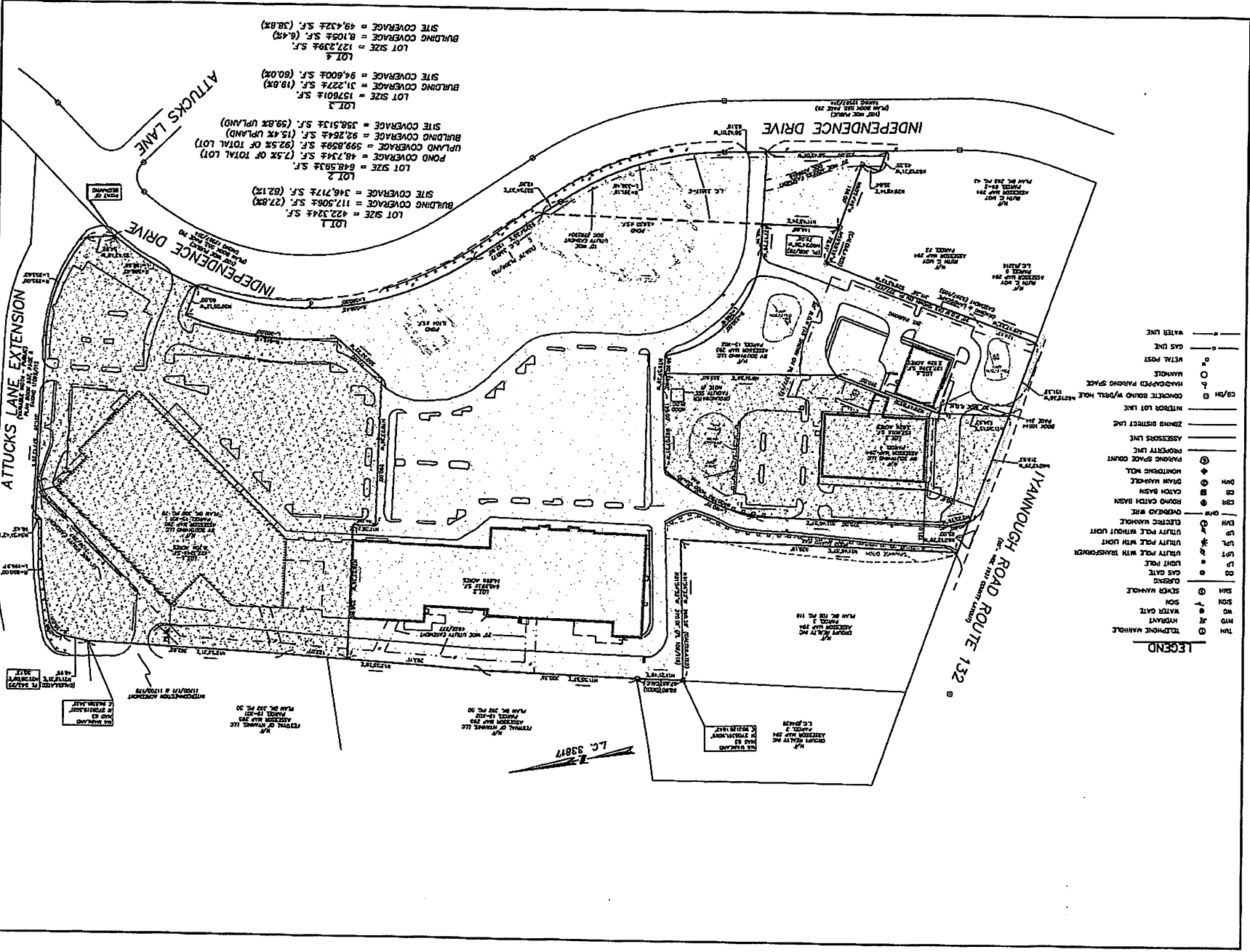
EXISTING CONDITIONS  
 (BARNSTABLE COUNTY)  
 BARNSTABLE  
 IN  
 65 INDEPENDENCE DR.  
 (ROUTE 132)  
 990 IVANNOUGH ROAD  
 INDEPENDENCE PARK  
 FROM THE BSC GROUP INC.  
 DATE

PLAN OF LAND

1. CERTIFY TO THE BEST OF MY PROFESSIONAL KNOWLEDGE, INFORMATION AND BELIEF THAT THIS PLAN COMPLETION AND REVISIONS TO THE BEST OF MY KNOWLEDGE.

LOCUS MAP: NOT TO SCALE

FOR THE BSC GROUP INC.



**LEGEND**

—	WATER LINE
—	GAS LINE
—	UTILITY POST
—	UTILITY
—	CONCRETE RAMP / POLE HOLES
—	INTERIOR LOT LINE
—	ZONING DISTRICT LINE
—	ASSESSMENT LINE
—	PROPERTY LINE
—	PARKING SPACE
—	LANDSCAPING WELL
—	DRAIN MANHOLE
—	CATCH BASIN
—	ROAD CATCH BASIN
—	OVERHEAD WIRE
—	UTILITY POLE WITHOUT LIGHT
—	UTILITY POLE WITH LIGHT
—	LIGHT POLE
—	GAS GATE
—	DRAINAGE
—	SEWER MANHOLE
—	STORM MANHOLE
—	WATER GATE
—	HYDRANT
—	TELEPHONE MANHOLE

**PLAN OF LAND**  
 990 WYANNOUGH ROAD  
 (ROUTE 132)  
 65 INDEPENDENCE DR.  
 IN  
 BARSTABLE  
 MASSACHUSETTS  
 (BARSTABLE COUNTY)  
 EXISTING CONDITIONS

MARCH 17, 2023

DATE FOR THE BSC GROUP, INC.  
 FROM A HEAVY PLS

1. CENTER TO THE BEST OF MY PROFESSIONAL KNOWLEDGE, INFORMATION AND BELIEF THIS PLAN COMINGS TO THE RULES AND REGULATIONS OF THE REGISTRY OF DEEDS.

LOCUS MAP: NOT TO SCALE

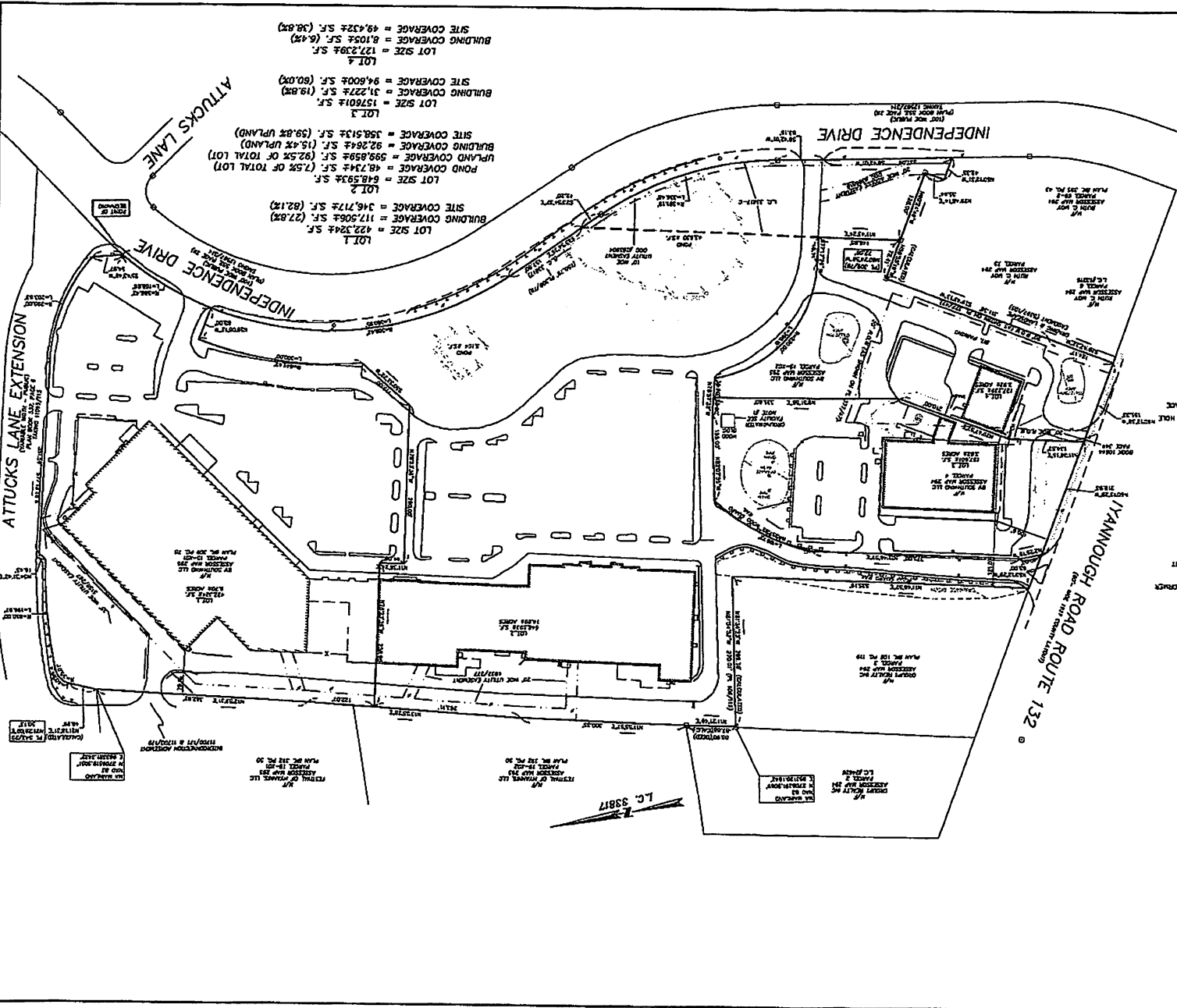
LOCUS MAP: NOT TO SCALE

LOOKS  
 HARBOR  
 AIRPORT  
 WYANNOUGH ROAD  
 INDEPENDENCE DRIVE  
 FALMOUTH ROAD

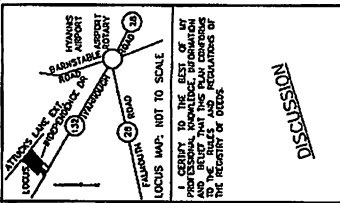
DATE FOR THE BSC GROUP, INC.  
 FROM A HEAVY PLS

1. CENTER TO THE BEST OF MY PROFESSIONAL KNOWLEDGE, INFORMATION AND BELIEF THIS PLAN COMINGS TO THE RULES AND REGULATIONS OF THE REGISTRY OF DEEDS.

LOCUS MAP: NOT TO SCALE



- LEGEND**
- 1" = 10' TELEPHONE MANHOLE
  - 2" = 10' WATER PILE
  - 3" = 10' MANHOLE
  - 4" = 10' SIDE
  - 5" = 10' SEWER MANHOLE
  - 6" = 10' GAS CHUTE
  - 7" = 10' GAS CHUTE
  - 8" = 10' UTILITY POLE WITH TRANSFORMER
  - 9" = 10' UTILITY POLE WITHOUT LIGHT
  - 10" = 10' UTILITY POLE WITHOUT LIGHT
  - 11" = 10' ELECTRIC MANHOLE
  - 12" = 10' OVERHEAD WIRE
  - 13" = 10' ROUND CATCH BASIN
  - 14" = 10' CATCH BASIN
  - 15" = 10' ROUND MANHOLE
  - 16" = 10' PAVING SPACE COUNT
  - 17" = 10' PROPERTY LINE
  - 18" = 10' ACCESSORY LINE
  - 19" = 10' ZONING DISTRICT LINE
  - 20" = 10' METHEM LOT LINE
  - 21" = 10' CONCRETE BOUND W/DRILL HOLE
  - 22" = 10' MANHOLE
  - 23" = 10' METAL POST
  - 24" = 10' GAS LINE
  - 25" = 10' WATER LINE



**DISCRESSION**

**PLAN OF LAND**  
**INDEPENDENCE PARK**  
**65 INDEPENDENCE DRIVE**  
**LOT 1**

"HOME DEPOT"  
 IN  
 BARNSTABLE  
 MASSACHUSETTS  
 (BARNSTABLE COUNTY)

**EXISTING CONDITIONS**

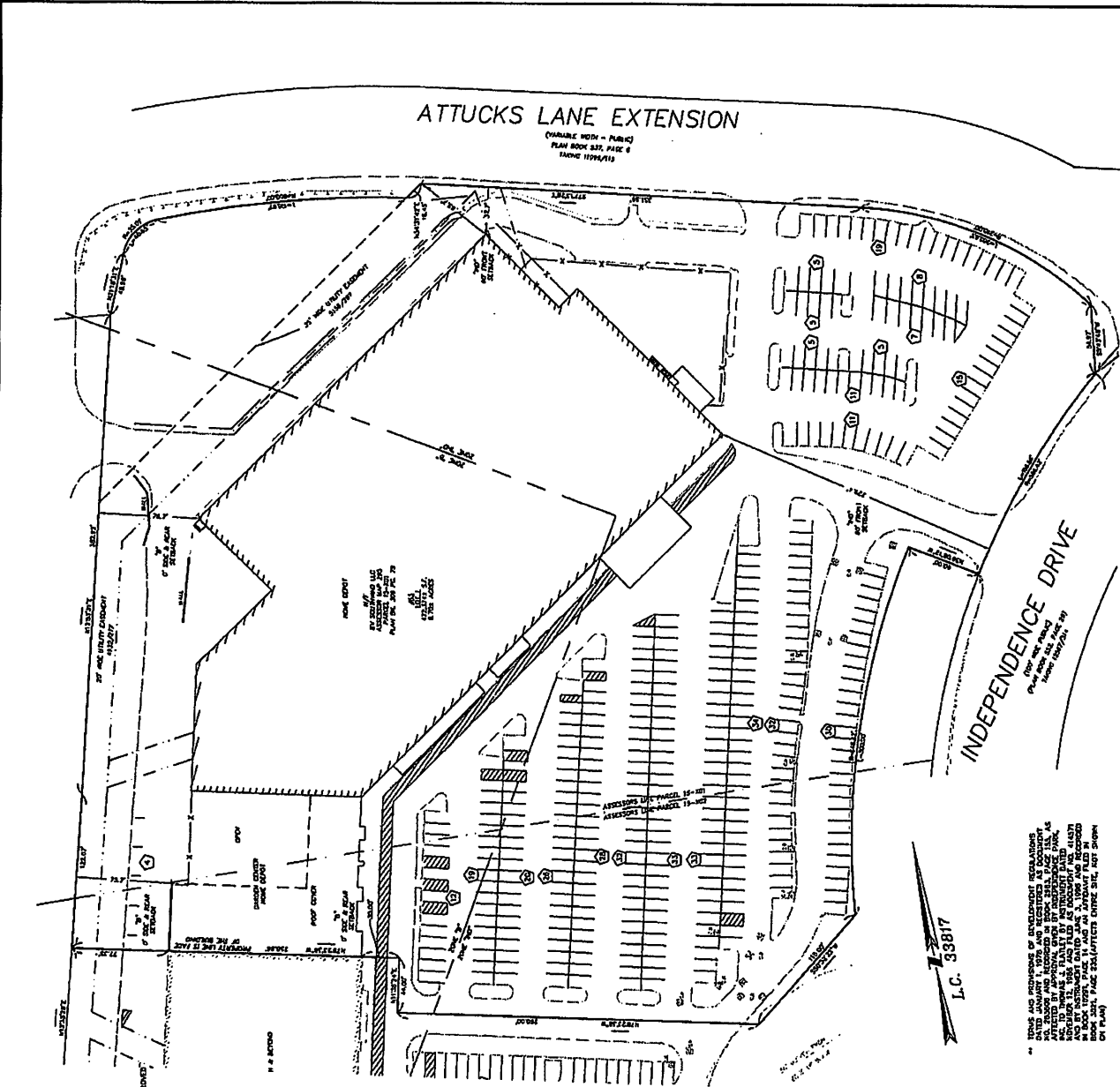
JUNE 21, 2023

FOR THE USE GROUP NO. DATE

**BSC GROUP**  
 BY SOUTHWARD, LLC  
 C/O BANDBA VENTURES  
 9820 W. NORTHWEST HWY., STE 200  
 DALLAS, TX 75225  
 508 778 9919

**REVISIONS**

NO.	DATE	REVISION



**LOCUS INFORMATION**

CONDOIT OWNER: BY SOUTHWARD, LLC  
 TITLE REFERENCE: CONDOIT REFERENCE  
 DEED BOOK 33072, PAGE 287  
 PLAN REFERENCES: L.C. PLAN 33017-75  
 L.C. PLAN 33014-75, PAGE 25  
 ASSESSORS PARCELS 15-201

**MAX. BLD. COVERAGE:** 31%  
**MAX. SITE COVERAGE:** 50%  
**MAX. LOT WIDTH:** 100'  
**FRONT SETBACK:** 5 FT.  
**REAR SETBACK:** 5 FT.  
**FRONT DISTRICT SETBACKS:** FRONT 49 FT. 133  
 SIDE 30 FT. 133  
 REAR 30 FT. 133  
**ZONING DISTRICT SETBACKS:** FRONT 49 FT. 133  
 SIDE 30 FT. 133  
 REAR 30 FT. 133

**FROM ATTUCKS LANE:** 60 REQUIRED  
**WEST SIDE/FROM PARK LANE:** 75.7 REQUIRED AND PROPOSED  
**SIDE:** 30 REQUIRED AND PROPOSED  
**FRONT:** 30 REQUIRED AND PROPOSED  
**FRONT PROPOSED DR. 60 REQUIRED** 253.4' DASHING AND PROPOSED

**DISTING BUILDING COVERAGE:** 11.2324 SF. (23.4%)  
**DISTING TOTAL LOT AREA:** 482,844 SF. (N.R. AREA)

**BUILDING COVERAGE:** N/A  
**PARKING COVERAGE:** N/A  
**FRONTAGE:** N/A

**PARCELS OF SIZE:** N/A  
**PROPOSED ZONING:** N/A  
**PREVIOUS ZONING:** N/A

**OVERLAY DISTRICTS:** OP - GROUNDSWATER PROTECTION DISTRICT  
 S - SOLAR PHOTOVOLTAIC OVERLAY DISTRICT

**FEMA FLOOD ZONE DISTRICT:** COMMUNITY PANEL 685085648

NO.	DATE PREVIOUSLY APPROVED	NO.	DATE PREVIOUSLY APPROVED
1002	3/28/20	46322	5/1/21
300*	6/1/20	172694	5/1/21
300*	6/1/20	172694	5/1/21
N/A	N/A	172694	5/1/21

**LEGEND**

- W/M TELEPHONE MANHOLE
- W/W WATER GATE
- S/W SINK
- S/M SINK MANHOLE
- CS CURB
- LP LIGHT POLE
- UP LIGHT POLE WITH TRANSFORMER
- UP LIGHT POLE WITHOUT LIGHT
- EH ELECTRIC MANHOLE
- D/W OVERHEAD WIRE
- CB RACING CATCH BASIN
- CB CATCH BASIN
- D/W DRAINAGE W/LL
- PS PARKING SPACE DRIVE
- RESIDENTY LINE
- ASSESSORS LINE
- ZONING DISTRICT LINE
- H/DRIVE DRIVE
- CONCRETE DRIVE/WORK HOLE
- UNPAVED PARKING SPACE
- MANHOLE
- METAL POST
- GRASS LINE
- WATER LINE

**NOTES**

- THE DRIVE SITE IS DERIVED BY THE TOWN OF BARNSTABLE FROM PARCEL.
- UTILITIES AND SETBACKS (INCLUDING THE MAXIMUM BUILDING FOOTPRINT) ARE AS SHOWN ON THESE PLANS. SETBACKS MAY BE LOCATED ON THE SITE BY THE SETBACKS ARE AVAILABLE AT 1-508-778-2220-2220-2220.
- THE SETBACKS SHOWN ON THESE PLANS ARE NOT TO BE CONSIDERED AS A GUARANTEE OF THE SETBACKS. SETBACKS MAY VARY FROM THOSE SHOWN ON THESE PLANS DUE TO CHANGES IN THE SETBACKS OR OTHER FACTORS.

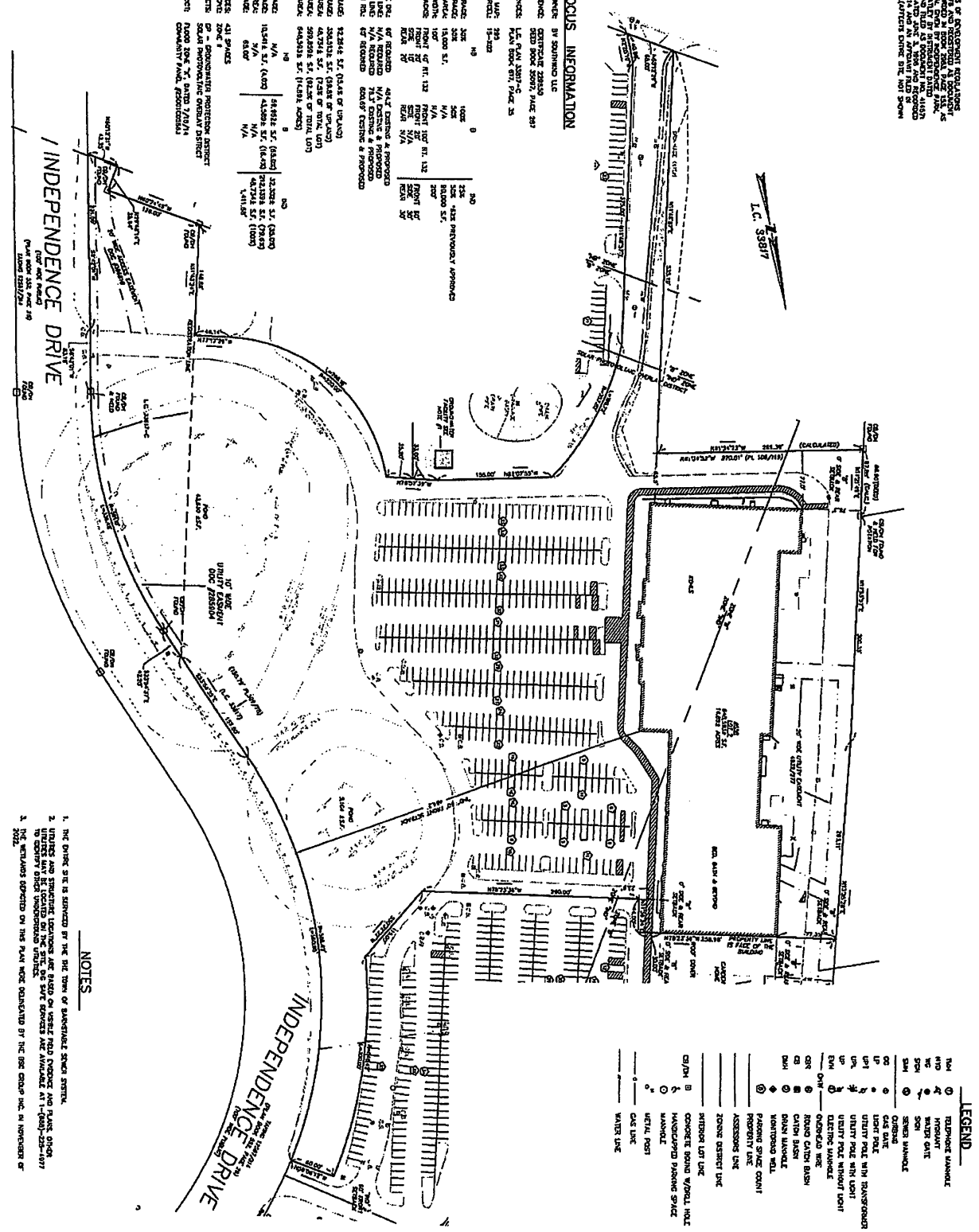
THESE AND PROVISIONS OF GOVERNMENT REGULATIONS...  
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# LYANNOUGH ROAD

## LOCUS INFORMATION

OWNER: BY SOUTHWIND, LLC  
 TITLE: CONCEPT PLAN  
 PLAN NUMBER: L.C. PLAN 2007-5  
 ASSESSOR'S PARCEL: 14-000

TYPE	NO.	DATE	DESCRIPTION
EXISTING	1	10/10/06	EXISTING BUILDING CONSTRUCTION
EXISTING	2	10/10/06	EXISTING PAVED AREA
EXISTING	3	10/10/06	EXISTING DRIVE
EXISTING	4	10/10/06	EXISTING DRIVE
EXISTING	5	10/10/06	EXISTING DRIVE
EXISTING	6	10/10/06	EXISTING DRIVE
EXISTING	7	10/10/06	EXISTING DRIVE
EXISTING	8	10/10/06	EXISTING DRIVE
EXISTING	9	10/10/06	EXISTING DRIVE
EXISTING	10	10/10/06	EXISTING DRIVE
EXISTING	11	10/10/06	EXISTING DRIVE
EXISTING	12	10/10/06	EXISTING DRIVE
EXISTING	13	10/10/06	EXISTING DRIVE
EXISTING	14	10/10/06	EXISTING DRIVE
EXISTING	15	10/10/06	EXISTING DRIVE
EXISTING	16	10/10/06	EXISTING DRIVE
EXISTING	17	10/10/06	EXISTING DRIVE
EXISTING	18	10/10/06	EXISTING DRIVE
EXISTING	19	10/10/06	EXISTING DRIVE
EXISTING	20	10/10/06	EXISTING DRIVE
EXISTING	21	10/10/06	EXISTING DRIVE
EXISTING	22	10/10/06	EXISTING DRIVE
EXISTING	23	10/10/06	EXISTING DRIVE
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EXISTING	45	10/10/06	EXISTING DRIVE
EXISTING	46	10/10/06	EXISTING DRIVE
EXISTING	47	10/10/06	EXISTING DRIVE
EXISTING	48	10/10/06	EXISTING DRIVE
EXISTING	49	10/10/06	EXISTING DRIVE
EXISTING	50	10/10/06	EXISTING DRIVE
EXISTING	51	10/10/06	EXISTING DRIVE
EXISTING	52	10/10/06	EXISTING DRIVE
EXISTING	53	10/10/06	EXISTING DRIVE
EXISTING	54	10/10/06	EXISTING DRIVE
EXISTING	55	10/10/06	EXISTING DRIVE
EXISTING	56	10/10/06	EXISTING DRIVE
EXISTING	57	10/10/06	EXISTING DRIVE
EXISTING	58	10/10/06	EXISTING DRIVE
EXISTING	59	10/10/06	EXISTING DRIVE
EXISTING	60	10/10/06	EXISTING DRIVE
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EXISTING	72	10/10/06	EXISTING DRIVE
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EXISTING	95	10/10/06	EXISTING DRIVE
EXISTING	96	10/10/06	EXISTING DRIVE
EXISTING	97	10/10/06	EXISTING DRIVE
EXISTING	98	10/10/06	EXISTING DRIVE
EXISTING	99	10/10/06	EXISTING DRIVE
EXISTING	100	10/10/06	EXISTING DRIVE



- NOTES**
1. THE DRIVE IS SERVED BY THE TOWN OF BARNSTABLE STATE.
  2. UTILITIES AND STRUCTURE LOCATIONS ARE BASED ON UTILITY ROAD ENGINE AND PLANS ONCE UTILITIES ARE LOCATED ON THE SITE, THE SITE ENGINEER WILL PROVIDE A UTILITY PLAN.
  3. THE METERS SERVED ON THIS PLAN WERE OBTAINED BY THE BSC GROUP INC. IN NOVEMBER OF 2007.

**LEGEND**

THICK LINE	TEMPORARY WALL
THIN LINE	PERMANENT WALL
WAVE LINE	WATER
...	...

## DISCUSSION

PLAN OF LAND  
 INDEPENDENCE PARK  
 65B INDEPENDENCE DRIVE  
 LOT 2

BARNSTABLE  
 MASSACHUSETTS  
 (BARNSTABLE COUNTY)

JUNE 21, 2007

**BSC GROUP**  
 349 Route 2A, Unit D  
 W. Barnstable, Massachusetts  
 02672  
 508 778 9319

BY SOUTHWIND, LLC  
 C/O BARNSTABLE VENTURES  
 5820 W. NORTHWEST HWY., STE 200  
 DALLAS, TX 75226

SCALE: 1" = 20'  
 SHEET 2 OF 4

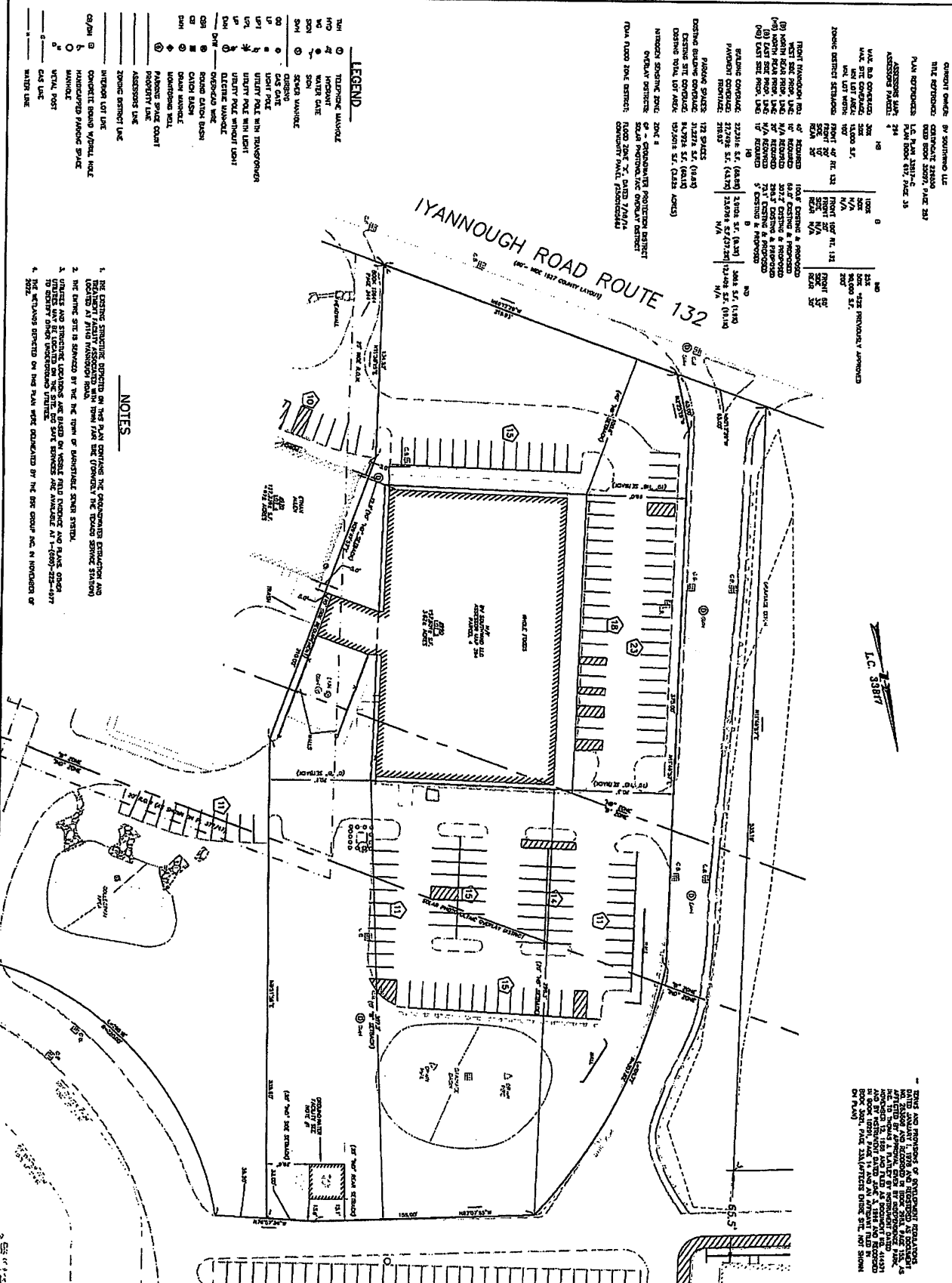
**LOCUS INFORMATION**

CLIENT: BSC GROUP, LLC  
 PROJECT: 28380  
 DATE: 06/21/2023  
 PLAN: 28380-03  
 ADDRESS: 990 IYANNOUGH ROAD, SUITE 200, DALLAS, TX 75243

DATE	DESCRIPTION	BY	DATE	DESCRIPTION	BY
06/21/2023	ISSUED FOR PERMITS	JL	06/21/2023	ISSUED FOR PERMITS	JL
06/21/2023	ISSUED FOR PERMITS	JL	06/21/2023	ISSUED FOR PERMITS	JL

**PLANNING NOTES:**  
 1. THE EXISTING STRUCTURE IS TO BE DEMOLISHED AND A NEW 100,000 SQ. FT. BUILDING IS TO BE CONSTRUCTED.  
 2. THE EXISTING SITE IS TO BE REDEVELOPED AND A NEW 100,000 SQ. FT. BUILDING IS TO BE CONSTRUCTED.  
 3. THE EXISTING SITE IS TO BE REDEVELOPED AND A NEW 100,000 SQ. FT. BUILDING IS TO BE CONSTRUCTED.  
 4. THE EXISTING SITE IS TO BE REDEVELOPED AND A NEW 100,000 SQ. FT. BUILDING IS TO BE CONSTRUCTED.

**IYANNOUGH ROAD ROUTE 132**



- LEGEND**
- 1. TELEPHONE MAINTENANCE
  - 2. HIGHWAY
  - 3. WATER MAIN
  - 4. WATER SERVICE
  - 5. SLOPE
  - 6. CAS DATE
  - 7. LIGHT POLE
  - 8. UTILITY POLE WITH TRANSFORMER
  - 9. UTILITY POLE WITH LIGHT
  - 10. UTILITY POLE WITHOUT LIGHT
  - 11. ELECTRICAL MOUNTING
  - 12. SLOPE
  - 13. SLOPE
  - 14. SLOPE
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  - 16. SLOPE
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  - 94. SLOPE
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  - 98. SLOPE
  - 99. SLOPE
  - 100. SLOPE

- NOTES**
1. THE EXISTING STRUCTURE IS TO BE DEMOLISHED AND A NEW 100,000 SQ. FT. BUILDING IS TO BE CONSTRUCTED.
  2. THE EXISTING SITE IS TO BE REDEVELOPED AND A NEW 100,000 SQ. FT. BUILDING IS TO BE CONSTRUCTED.
  3. THE EXISTING SITE IS TO BE REDEVELOPED AND A NEW 100,000 SQ. FT. BUILDING IS TO BE CONSTRUCTED.
  4. THE EXISTING SITE IS TO BE REDEVELOPED AND A NEW 100,000 SQ. FT. BUILDING IS TO BE CONSTRUCTED.

**DISCUSSION**

1. THE EXISTING STRUCTURE IS TO BE DEMOLISHED AND A NEW 100,000 SQ. FT. BUILDING IS TO BE CONSTRUCTED.

**PLAN OF LAND INDEPENDENCE PARK**  
 990 IYANNOUGH ROAD (ROUTE 132)  
 LOT 3  
 "WHOLE FOODS"  
 IN BARNSTABLE MASSACHUSETTS (BARNSTABLE COUNTY)

**EXISTING CONDITIONS**

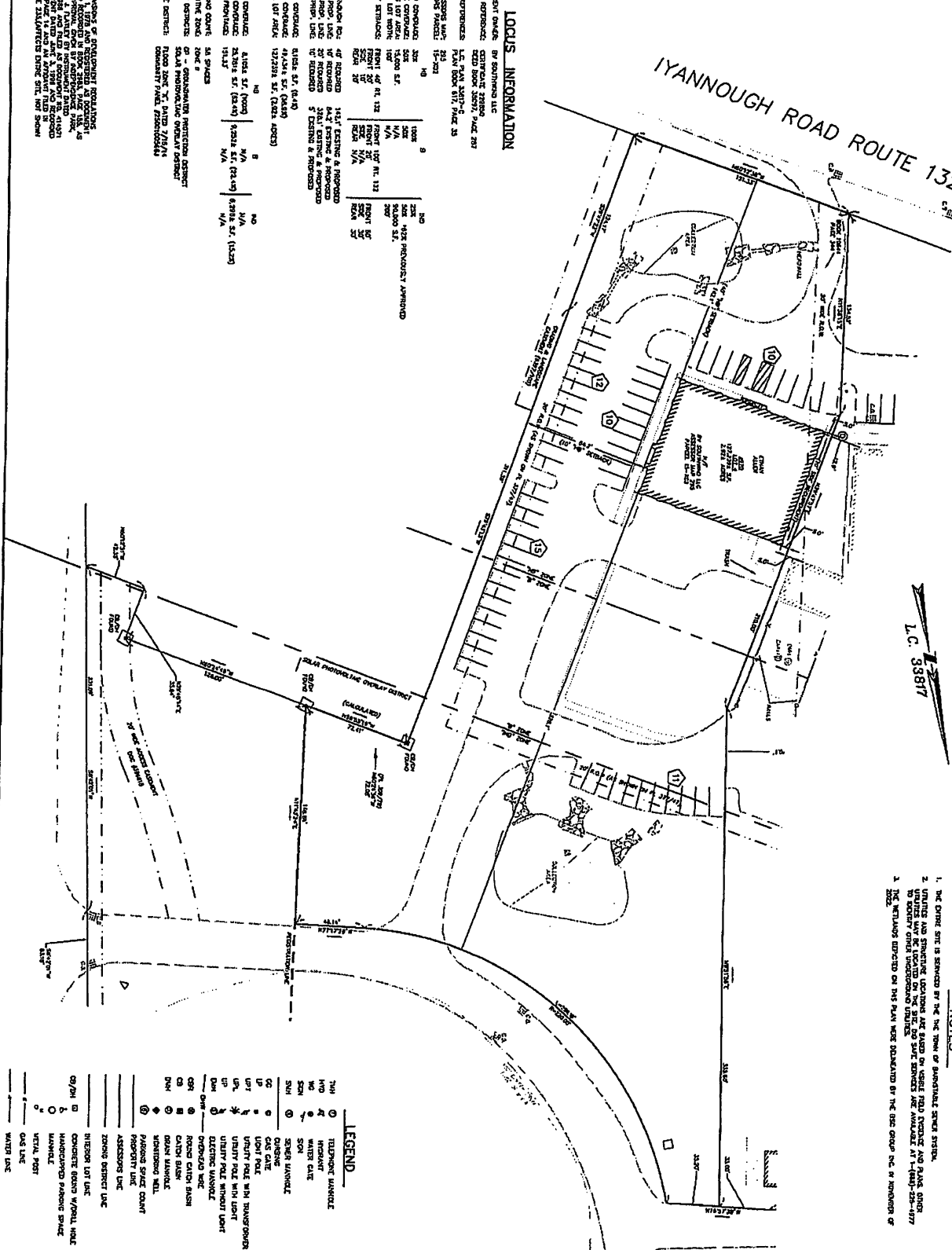
JUNE 21, 2023

BY: BSC GROUP, LLC  
 C/O BARBARA VENTURES  
 5820 W. NORTHWEST HWY., STE 200  
 DALLAS, TX 75243

349 Route 28, Unit D  
 W. Yarmouth, Massachusetts  
 02873 508 778 8919

SCALE: 1" = 30'  
 DATE: 06/21/2023  
 SHEET 3 OF 4

# IYANNOUGH ROAD ROUTE 132



L.C. 33817

### NOTES

1. THE DRIVE SITE IS SERVED BY THE TOWN OF BARNSTABLE STREET SYSTEM.
2. UTILITIES AND STRUCTURE LOCATIONS ARE BASED ON USGS PHOTO COPIES AND PLANS OBTAINED FROM THE TOWN OF BARNSTABLE. THE TOWN OF BARNSTABLE IS NOT RESPONSIBLE FOR THE ACCURACY OF THESE UTILITIES AND STRUCTURE LOCATIONS.
3. THE UTILITIES SHOWN ON THIS PLAN WERE OBTAINED BY THE GSE GROUP INC. IN NOVEMBER OF 2022.

### LOCUS INFORMATION

COMPUTER DRAWN BY BARNSTABLE LLC  
 DATE: 06/21/2023  
 PLAN NUMBER: L.C. PLAN 23-01-05  
 PLAN BOOK: 017, PAGE 23  
 ASSESSOR: PLAN 23-01-05

NO.	DATE	DESCRIPTION	NO.	DATE	DESCRIPTION
1	06/21/2023	INITIAL PLAN	1	06/21/2023	INITIAL PLAN
2	06/21/2023	REVISIONS	2	06/21/2023	REVISIONS
3	06/21/2023	REVISIONS	3	06/21/2023	REVISIONS
4	06/21/2023	REVISIONS	4	06/21/2023	REVISIONS
5	06/21/2023	REVISIONS	5	06/21/2023	REVISIONS
6	06/21/2023	REVISIONS	6	06/21/2023	REVISIONS
7	06/21/2023	REVISIONS	7	06/21/2023	REVISIONS
8	06/21/2023	REVISIONS	8	06/21/2023	REVISIONS
9	06/21/2023	REVISIONS	9	06/21/2023	REVISIONS
10	06/21/2023	REVISIONS	10	06/21/2023	REVISIONS
11	06/21/2023	REVISIONS	11	06/21/2023	REVISIONS
12	06/21/2023	REVISIONS	12	06/21/2023	REVISIONS
13	06/21/2023	REVISIONS	13	06/21/2023	REVISIONS
14	06/21/2023	REVISIONS	14	06/21/2023	REVISIONS
15	06/21/2023	REVISIONS	15	06/21/2023	REVISIONS

### LEGEND

- THIN LINE: TELEPHONE WAREHOUSE
- THICK LINE: WATER CURB
- SPR: SPR
- SH: SEWER LINED
- OS: OILING
- OP: GAS CAGE
- UP: OPEN POLE WITH TRANSDUCER
- UP: UNDER POLE WITH UNDER
- UP: UNDER POLE WITHOUT UNDER
- DM: ELECTRIC WAREHOUSE
- DM: OPEN-POLE USE
- DM: ROAD CATCH BASIN
- DM: CATCH BASIN
- DM: ROAD MANHOLE
- DM: WARDROOM MANHOLE
- DM: PAVEMENT SURFACE DRAIN
- DM: PROPERTY LINE
- DM: ASSessor'S LINE
- DM: INTERIOR LOT LINE
- DM: CONCRETE DRIVE/WALK WAY LINE
- DM: UNCOMPLETED PAVEMENT DRIVE
- DM: WALKWAY
- DM: DRIVE POST
- DM: GAS LINE
- DM: WATER LINE

### DISCUSSION

1. REFER TO THE GSE GROUP INC. FOR THE LOCATION OF ALL UTILITIES AND STRUCTURES. THE GSE GROUP INC. IS NOT RESPONSIBLE FOR THE ACCURACY OF THESE UTILITIES AND STRUCTURE LOCATIONS.

PLAN OF LAND  
 INDEPENDENCE PARK  
 970 IYANNOUGH ROAD  
 (ROUTE 132)  
 LOT 4  
 "ETHAN ALLEN"  
 IN  
 BARNSTABLE  
 MASSACHUSETTS  
 (BARNSTABLE COUNTY)  
 EXISTING CONDITIONS  
 JUNE 21, 2023

DESIGNED BY: BARNSTABLE LLC  
 DATE: 06/21/2023

BY: BARNSTABLE LLC  
 DATE: 06/21/2023

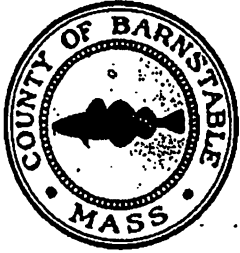
349 Route 28, Unit D  
 W. Barnstable, Massachusetts  
 02573  
 508 778 9319

THE PLAN IS THE PROPERTY OF BARNSTABLE LLC. IT IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF BARNSTABLE LLC.

SCALE: 1" = 20'

DATE: 06/21/2023

SHEET 4 OF 4



# CAPE COD COMMISSION

3225 MAIN STREET  
P.O. Box 226  
BARNSTABLE, MA 02630  
508-362-3828  
FAX: 508-362-3136

Date: December 16, 1993  
To: Thomas J. Flatley  
From: Cape Cod Commission  
Re: Development of Regional Impact, Section 12, Cape Cod Commission Act  
Project #: TR 930014  
Project: Southwind Plaza 20,000 Square Foot Retail Expansion  
Applicant: Thomas J. Flatley  
Lot/Parcel: 1A & 1E  
Land Court Certificate of Title # # 101815 - Book # 831, Page 55

## Decision of the Cape Cod Commission

### Summary

The Cape Cod Commission (Commission) hereby approves with conditions the application of The Flatley Company for a Development of Regional Impact (DRI) permit, with 8 conditions under Section 12 and 13 of the Commission Act (Act), c. 716 of the Acts of 1989, as amended. This decision is rendered pursuant to a vote of the Commission on December 16, 1993.

### Project Description

The proposed Southwind Plaza project is a 20,000 sq. ft. addition to the Southwind Plaza strip mall in Barnstable. The existing plaza has a footprint of 175,860 square feet and the additional retail space would bring the mall to 195,860 square feet. The Southwind Plaza Mall is located adjacent to the intersection of Route 132 and Independence Way with the proposed expansion occurring to the back side of the mall between the Stop and Shop and the Bradlees. The site is within the Industrial Park referred to as Independence Park and lies within the Wellhead Protection Area in the Town of Barnstable. The applicant has stated that they do not currently have a tenant for the space once it is constructed.

Southwind Plaza Decision  
TR930014

1





# CAPE COD COMMISSION

3225 MAIN STREET  
P.O. BOX 226  
BARNSTABLE, MA 02630  
(508) 362-3828  
FAX (508) 362-3136  
E-mail: 74260.3152@compuserve.com

Date: December 5, 1996

Applicant: Gibbs Management Corp.  
50 Braintree Hill Office Park  
P.O. Box 850226  
Braintree, MA 02185-0226

Project #: TR960010  
Project: Victory Fish  
990 Iyanough Road, Route 132  
Hyannis, MA

Re: Development of Regional Impact (DRI)  
Cape Cod Commission  
DRI Thresholds and Enabling Regulations

Lot/Parcel: 294-04, Bk. 7815, p. 108  
Owner: Gibbs Management Corp.

Olsen	
Kaufman	
Wightman, CHAIR	
Benway	
Ritchie	
AHJ	
Travelo	YES
Lambros	
(Pance)	

## DECISION OF THE CAPE COD COMMISSION

### SUMMARY

The Cape Cod Commission (Commission) hereby approves with conditions the application of Gibbs Management Corporation for the Victory Fish redevelopment project, TR960010, as a Development of Regional Impact (DRI) under the DRI thresholds and Enabling Regulations as "new construction with a gross floor area greater than 10,000 square feet." The decision is rendered pursuant to a vote of the Commission on December 5, 1996.

Victory Fish DRI Review - Hyannis, MA  
Cape Cod Commission Decision - #TR960010  
December 5, 1996

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss:

LAND COURT  
Misc. 281116

\*\*\*\*\*

HOME DEPOT U.S.A., INC.

Plaintiff

v.

THE CAPE COD COMMISSION

Defendant

\*\*\*\*\*

FILED  
LAND COURT  
05 DEC 29 PM 12:47

M.R. BOOK 10132 PAGE 51

**MOTION FOR RELIEF FROM JUDGMENT  
AND FOR ENTRY OF AMENDED JUDGMENT**

The parties move, pursuant to Massachusetts Rules of Civil Procedure 58(a) and 60(b)(5) and (6), that the judgment which entered on July 25, 2003 be vacated and that a new judgment in the form attached hereto be entered. The July 25, 2003 judgment was entered pursuant to an agreement between the parties settling all of their differences and specifically provided in paragraph 18 thereof that the parties would meet to review and reassess the reporting and other requirements of their Agreement in light of information and experience developed during the first two years that the Agreement was in effect.. The parties have made such a reassessment and now wish to amend the agreement to reclassify certain products which have minimal hazardous characteristics and to modify certain reporting and other requirements in light of the parties' actual experience with the Agreement. Accordingly, the parties have amended and restated the Agreement which was the predicate for the July 2003 judgment. As a result it is no longer equitable that the July 2003 judgment have prospective application and there are good and