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CAPE COD  
COMMISSION

## Cape Cod Commission Staff Memo

DATE: October 24, 2023  
TO: Cape Cod Commission  
RE: Development of Regional Impact Exemption  
Southwind Plaza ANR (CCC File No. 23018)

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### ***Project Description***

The Applicant, BV Southwind, LLC, proposes to divide approximately 31.13 acres of land into four (4) separate parcels (the Project). The parcels comprise the Southwind Plaza retail properties located at Rt. 132 (Iyannough Road), Independence Drive, and Attucks Lane Extension in Hyannis. No new development or expansion of existing development is proposed as part of this division. The parcels proposed to be divided are shown on the plan titled "Plan of Land Independence Park, Existing Conditions" dated 3/17/2023.

### ***Procedural History***

The Cape Cod Commission received a mandatory Development of Regional Impact (DRI) referral from the Town of Barnstable Building Commissioner on July 20, 2023. The Applicant subsequently submitted a DRI Exemption Application for the Project on September 29, 2023. The Application was determined to be complete on October 2, 2023. The Project will require site plan review by the Town of Barnstable following DRI exemption approval by the Commission.

### ***Commission Jurisdiction***

The Project literally qualifies as a DRI because it meets or exceeds the DRI review threshold appearing in Section 3(c) of the Enabling Regulations Governing Review of Developments of Regional Impact, as amended November 17, 2021 ("Enabling Regulations"). Said Section 3(c) provides: *"Any development that proposes to divide parcel(s) of land totaling 30 acres or more in common ownership or control on or after September 30, 1994, including assembly and recombination of lots..."*

Where proposed development literally qualifies as a DRI, Section 12(k) of the Cape Cod Commission Act and Section 7 of the Enabling Regulations allow the Applicant to apply to the Commission for an exemption from Commission review *"because the location, character and*

*environmental effects of the development will prevent its having any significant impacts on the values and purposes protected by the Act outside of the municipality in which the development is to be located.”*

### **Review of Exemption Request**

- Portions of the Project parcel are subject to two prior DRI decisions by the Commission: Southwind Plaza CCC# TR930014 (1993), and Victory Fish CCC# TR900010 (1996).
- The Commission is a party to a settlement agreement with Home Depot, a tenant of Southwind Plaza (*Home Depot U.S.A., Inc. v. The Cape Cod Commission*, Land Court Case No. 02 MISC 2816).
- The Project is a division of land and does not propose any physical building or structural development work.
- The requested DRI exemption, if granted, will not authorize any additional development beyond that allowed pursuant to the existing DRI decisions and settlement agreement.
- Staff suggest that the proposed land division is unlikely to have significant impacts beyond the Town of Barnstable and the Project is likely consistent with the values, goals and purposes of the Cape Cod Commission Act and the Regional Policy Plan.