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CAPE COD
COMMISSION

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DEVELOPMENT OF REGIONAL IMPACT EXEMPTION DECISION

DATE: October 26, 2023
PROJECT: Southwind Plaza ANR, Barnstable (File No. 23018)
APPLICANT &
PROPERTY OWNER: BV Southwind, LLC
c/o Bandera Ventures
5820 W. Northwest Highway, Suite 220, Dallas, TX 75225
PROPERTY/SITE: 990 Iyannough Road/Rt. 132, Barnstable, MA 02601
(Assessor's Map 294; Block 004)
65 Independence Drive, Barnstable, MA 02601
(Assessor's Map 295; Block 015; Lot X02)
(Assessor's Map 295; Block 015; Lot X02)
TITLE REFERENCE: BCRD Book 35097, Page 287

SUMMARY

The Cape Cod Commission ("Commission") hereby grants Development of Regional Impact ("DRI") Exemption, with Conditions, to BV Southwind, LLC for the division of approximately 31.13 acres of land at 990 Iyannough Road (Rt. 132) and 65 Independence Drive ("Property"; "Project Site") pursuant to a vote of the Commission at its meeting on October 26, 2023.

FINDINGS

The Cape Cod Commission hereby finds and determines as follows:

- F1. The Applicant is proposing to subdivide approximately 31.13 acres of land into four (4) separate parcels at Southwind Plaza in Hyannis ("Project"). The parcels proposed to be divided are shown on the plan titled "Plan of Land Independence Park, Existing Conditions",

dated 3/17/2023, labeled Lot 1 (9.70 acres), Lot 2 (14.89 acres), Lot 3 (3.62 acres), and Lot 4 (2.92 acres).

- F2. The Applicant submitted an application to the Town of Barnstable seeking Site Plan Review to divide the parcels as described above. The Commission received a mandatory DRI referral for the Project from the Town of Barnstable Building Commissioner on July 20, 2023.
- F3. 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, *Chapter A of the Code of Cape Cod Commission Regulations of General Application*, 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 [and is]...not otherwise exempted from review under Section 22(e) of the Act."*
- F4. Where a proposed development literally qualifies as a DRI, Section 12(k) of the Cape Cod Commission Act and Section 7 of the Enabling Regulations state:
- "Any applicant may apply to the Commission for an exemption from Commission review... where 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."*
- F5. The Applicant submitted a DRI Exemption application for the Project to the Commission on September 29, 2023. The application was determined to be complete on October 2, 2023.
- F6. The location, character and environmental effects of the Project will prevent it having any significant impacts on the values and purposes specified under the Act.
- A. The Project is a division of land and does not propose any physical building or structural development work.
 - B. The Project is consistent with values, goals and purposes of the Cape Cod Commission Act and the Regional Policy Plan.

CONCLUSION

Based on the above Findings, the Commission hereby further finds and determines that, though the Project literally qualifies as a DRI, it may nonetheless be exempted from Commission DRI review because the Project will have no significant impacts on the values and purposes specified in Section 1 of the Cape Cod Commission Act outside of the municipality in which it is proposed due to the Project location, character, and environmental effects. As such, the Commission hereby grants the DRI Exemption requested by BV Southwind, LLC for the Project described herein, subject to the Conditions, below.

CONDITIONS

- C1. This Decision shall be final when the appeal period set out in Section 17 of the Cape Cod Commission Act has elapsed without appeal (or if such an appeal has been filed, when the appeal has been finally settled, dismissed, adjudicated, or otherwise disposed of in favor of the Applicant). Thereafter, pursuant to Section 12(k) of the Act, BV Southwind, LLC has three (3) years from the date of this written decision to exercise the right granted hereunder.
- C2. A copy of the Decision, when final and prior to commencement of the Project, shall be recorded with the Barnstable County Registry of Deeds.
- C3. This Decision applies only to the division of land as described herein. If further development that meets or exceeds the mandatory DRI Review thresholds under *Chapter A of the Code of Cape Cod Commission Regulations of General Application* is proposed on the Property, the development shall be referred to the Commission.

SIGNATURE PAGE FOLLOWS

SIGNATURE PAGE

Executed this 30th day of October 2023

For the Cape Cod Commission by:



Harold Mitchell, Chair

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss

October 30, 2023

Before me, the undersigned notary public, personally appeared Harold Mitchell

in his capacity as Chair and on behalf of the Cape Cod Commission, whose name is signed on the preceding or attached document, and such person acknowledged to me that he/she signed such document voluntarily for its stated purpose. The identity of such person was proved to me through satisfactory evidence of identification, which was [] photographic identification with signature issued by a federal or state governmental agency, [] oath or affirmation of a credible witness, or [**X**] personal knowledge of the undersigned.



Notary Public

My Commission Expires: 8/28/26

