

CAPE COD COMMISSION

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DATE: October 5, 1995 TR# 95012

TO: Robert J. Baum, P.C.
20th Floor
Fifty Milk Street
Boston, MA. 02109

FROM: Cape Cod Commission

RE: Development of Regional Impact
Chapter A, Section 3(e), Barnstable County Ordinance 94-10

PROJECT: A proposed 22,522 sq.ft. Office/Retail development
1489-1513 Route 132, Barnstable, Massachusetts

BOOK/PAGE: Book 8779 Page 61

DECISION OF THE CAPE COD COMMISSION

SUMMARY

The Cape Cod Commission (the Commission) hereby approves with conditions the application of Brislane Limited Venture R.T. c/o Joseph Keller for a Development of Regional Impact qualifying under Chapter A, Section 3(e), Barnstable County Ordinance 94-10, as amended, for a proposed 28,838 sq.ft. office/retail development, as shown on plans entitled: Brislane Limited Venture Realty Trust, General Layout Plan, dated August 28, 1995, prepared by Peter Sullivan and William C. Nye of Baxter & Nye Inc; Osterville, MA., Preliminary Landscape Plan, dated revised September 14, 1995, prepared by Silvia and Silvia Associates, Inc., Centerville, MA., and the Potential Site Driveway Mitigation, Route 132 Development, Barnstable, MA, Figure 8A, prepared by Fay, Spofford & Thorndike, Inc., Boston, MA., in so far as they are consistent with the conditions of this decision. The decision is rendered pursuant to the vote of the Commission on September 21, 1995.

PROCEDURAL HISTORY

The proposed development was referred to the Commission on May 22, 1995 by the Barnstable Building Commissioner, Ralph M. Crossen. An application was filed on June 14, 1995 and the first public hearing was held on July 11, 1995. The hearing was continued to August 23, 1995 and the subcommittee held meetings on July 27, 1995, September 7, 1995 and September 19, 1995. The final full Commission hearing was held on September 21, 1995.

Brislane Limited Venture Realty Trust, Barnstable

DRI Decision

10/5/95

PROJECT LOCATION / DESCRIPTION:

The original proposal was for one 22,522 sq.ft. building with 123 parking spaces in front of the building. After discussions with the subcommittee the applicant redesigned the project into two buildings (11,250 sq.ft. each) with a covered walkway connecting the buildings for a total of 28,838 sq.ft.

The property is located in Barnstable (Centerville) on Route 132. The parcel is presently undeveloped, wooded and has frontage on Shallow Pond. The parcel was subdivided off the adjacent property which includes the Rainbow Motel and the Chamber of Commerce information center. The Brislane parcel currently contains the septic systems and curb-cut onto Route 132 for the information center and the Rainbow Motel.

MATERIALS SUBMITTED FOR THE RECORD

1). Letter from Attorney R.J. Baum to Commission	May 8, 1995
2). DRI Referral from Ralph Crossen	May 22, 1995
3). Notice letter from staff to applicant	May 24, 1995
4). DRI application from Attorney R.J. Baum	June 14, 1995
5). Letter of support from EDC	July 11, 1995
6). Letter of concern from S.&V. Baukus	July 25, 1995
7). Letter from Massachusetts Historic Commission	July 26, 1995
8). Letter from Massachusetts Historic Commission	Aug. 4, 1995
9). Response to staff report	Aug. 23, 1995
10). Letter from Chamber of Commerce re/closing curb-cut	Sept. 13, 1995
11). Letter on lighting from S.&V. Baukus	Sept. 18, 1995
12). Letter from Attorney Baum RE: decision	Sept. 18, 1995
13). Letter from W. Nye RE: phosphorus reduction	Sept. 18, 1995

The application and notice of the public hearing relative thereto, the Commission's staff reports, and exhibits, minutes of the hearing and all submissions received in the course of the proceedings, including materials submitted on file TR# 95012 are incorporated into the record by reference.

TESTIMONY

The following summarizes the testimony at the following public hearings and meetings:

7/11/95 PUBLIC HEARING

The hearing opened at 7:10 p.m.

Mr. Baum, Attorney for the applicant, opened his discussion by talking about the meetings he had with Commission staff prior to submitting the application. He then discussed the former project that the new submittal was based on. This former project, known as Designer Place, was required to perform an Environmental Impact Report (EIR) in 1989. The current project has been downsized from The Designer Place proposal from 29,000 sq. ft. to 22,522 sq. ft. This project will only have 3-4 tenants.

and is a very different project than Designer Place which had proposed 16 tenants. The current project has a similar footprint and the same basic design and it is the applicant's hope to have half the building used for office space and the other half as specialty retail. In addition, there will be about 60 jobs created of which 50 will be white collar, Mr. Baum stated.

Joseph Keller, the applicant, discussed prior projects that he has developed and offered to share information about these projects with the subcommittee.

William Nye, engineer for the applicant, discussed information found in the Commission staff report. He stated that they will work with the site plan to keep the project out of the buffer to the wetland. He also said that the proposed project will keep under the nitrogen loading standard of 5 ppm and will use a denitrifying system if the water resource staff and the Commission recommend it. Finally, Mr. Nye said that he would investigate alternative stormwater systems for the project site.

Mr. Kaufman asked about test wells on the site plan. Mr. Nye responded, stating that the adjacent gas station had a spill some time ago and they were required to monitor the situation.

Gordon Clark, architect for the applicant, discussed the design issues and stated that the general materials that the applicant might use will be white painted clapboard with wood trim. Mr. Clark said that most of the design issues are still up in the air.

Mr. Keller said that the basic design is the same as Designer Place.

Mr. Kaufman said that it is impossible for the subcommittee to recommend that the project be approved without a commitment to a design and materials list.

Gary Hebert, traffic consultant for the applicant, said that from a traffic perspective, this is a very different project than Designer Place. Mr. Hebert said that he received background traffic information from the town and that the town believes that over the next 5 years, approximately 525,000 additional sq. ft. can be permitted in this area. Mr. Hebert said that he looked at intersections first with emphasis on Phinney's Lane which is a controlling intersection. Mr. Hebert said that he looked at several options for mitigating the traffic at the town's suggestion, including double barrelling of Rte. 132 and a traffic signal at Huckins Neck. Mr. Hebert discussed a design concept for the double barrel issues for the purpose of fair share analysis and that he estimated the total cost at of the double barrel project at \$ 2.8 million. Mr. Hebert also stated that he is not proposing acceleration and deceleration lanes. There will be approximately 86 trips in the peak p.m. hour he said with a fair share contribution of about \$ 137, 000.

Mr. Olsen asked about the number of trips per day, about 700, as specified in the report. Mr. Hebert said that this does not account for pass by trips.

Ed Eichner, Commission water resource staff, said that the project is in a wellhead protection area and the freshwater recharge area to the pond and the proposal must

meet the 5 ppm standard.

Paul Tilton, Commission traffic staff, stated that some of the issues in the staff report have been resolved, however, there are two outstanding issues remaining. Mr. Tilton said that the project should be viewed using the shopping center land use class. Shopping center trips are a much higher traffic generator than the number of trips assigned to specialty retail. Also, if specialty retail use classification is allowed, then the Commission staff must know what types of uses will be allowed in the building.

Dennis Finn, Commission regulatory staff, presented the information found in the staff report, discussing land use, natural resources, community character and economic development. Mr. Finn added that correspondence was still needed from Natural Heritage verifying that they are comfortable with the buffer to the rare and endangered species habitat. A notice of project change must also be filed with MEPA, Mr. Finn said. This project is based on Designer Place, Mr. Finn said, and MEPA required that project to look at traffic as a shopping center land use class.

Mr. Wightman asked about the impervious areas on the site and the impact on the wetlands and habitat. Mr. Wightman also asked if the applicant would consider designing the building as a 2 story structure.

Mr. Keller said that the tenant that he has in mind may not be in the building forever and a 2 story structure would not be economically viable.

John O'Brien, Chairman of the Economic Development Council, discussed his support for the project. He said that there is a lack of class A office space in town and it is needed.

Ralph Crossen, Building Commissioner in Barnstable, said that site plan review has not formally reviewed the project. Mr. Crossen added that the zoning for the area is for Highway Business District.

Bob Bergman, Town Engineer, said that traffic was a major concern for the town. He asked that the subcommittee weigh the value of a right turn only exiting the site and he also doubts the ability of signage to control left turns out of the site.

Stan Baukus, abutter, said that he has concerns for water quality and the site's ability to handle the septic system as designed, the buffer to his commercial business, and a discrepancy in the proposed size of the building and what is indicated on the site plan.

Gerard McDonough, abutter, said he had concerns about the traffic on Rte. 132 and he also said that the hazardous waste material spill occurred on the adjacent gas station site.

The subcommittee requested that the applicant work with the staff to address the outstanding issues. They also voted to keep the hearing and the record open and that a new hearing could be noticed when the new information is submitted and analyzed.

The hearing was adjourned at 9:10 p.m.

7/27/95 SUBCOMMITTEE MEETING

The meeting opened at 1:05 p.m.

Ed Eichner, Water Resources staff member, discussed water resources issues with the subcommittee. He noted that the current nitrogen loading on the site is 13 ppm, which qualifies it as an impacted area. The RPP requires improvements in the nitrogen loading for these areas for new projects. If the proposed project installs a bioclear system and such system is also installed on the adjacent site for the Rainbow Motel and information center, this improvement will be made. It was noted that the Title V regulations do not permit septic systems on a property other than the project site. The applicant stated that the septic system on their site is currently servicing the adjacent Rainbow Motel and information center buildings will be removed.

Paul Tilton, Transportation staff member, discussed transportation issues with the subcommittee. He stated that he and the applicant's representatives had agreed on land uses that have documented ITE traffic generation, the use of 12% for pass by trips and the extension of the study area. He explained that there is a need to see an overall improvement plan, a need to determine that the applicant is proposing appropriate mitigation and that consideration should be given to making improvements to the 132 corridor prior to approval of this project.

The applicant's traffic consultant stated that they are proposing to construct a left turn lane on Route 132 into the site and only allow right turns out of the site. The subcommittee discussed other options such as a central median, jug handles and inquiring of the state which improvements they would approve of.

Mr. Baum, the applicant's attorney, reviewed the revised site plan and perspective drawings of the project with the subcommittee. He stated that the revisions reduce the strip development appearance of the project. He noted the landscaped berm, which included large trees to hide the parking, the relocation of additional parking to the rear of the building, a false second story and pitched roof to reduce the appearance of a one story structure and the shingles and white trim.

Dennis Finn and Dorr Fox, Commission staff members, discussed the design of the project, noting that it still did not meet the minimum performance standards in the RPP and that the flexibility clause would need to be invoked. Mr. Finn noted that much of the landscaped berm is in the road right of way and needs to be relocated. He also stated that even if the project meets the minimum performance standard through mitigation, the project's detriments may still outweigh its benefits, particularly with respect to traffic.

Ron Silvia, representative for the applicant, showed the subcommittee a drawing entitled Proposed Revisions to the Site Plan for Brislane Limited Venture, dated July 11, 1995 by Greg Guimond of the Commission staff, which demonstrated how the project could meet the minimum performance standards. He noted that there was a

need to have parking in front of the building because future tenants would require it. Without this parking, the project would lie vacant.

All of the subcommittee members stated that they liked the applicant's redesign of the site plan of the project. Sumner Kaufman stated he believes that the berm adequately hid the parking. Vicky Bebout suggested that the applicant explore locating more parking in the rear of the building. Paul Wightman requested that there be an environmental assessment of additional parking in the rear.

Lance Lambros inquired about the possibility of having a shared curb cut for the proposed project and the adjacent commercial development. Mr. Baum stated that providing access to another property owner presented liability issues. Mr. Baum noted that the access to the adjacent site will be closed off.

Ralph Crossen noted that the project may need a variance to the town's lot coverage requirements. He will investigate the matter.

The subcommittee noted that the Massachusetts Historical Commission (MHC) believes that there should be an archaeological survey completed on the site. Mr. Baum stated that he would coordinate this matter with MHC and Sarah Korjeff, the Commission's preservation planner. While concluding the meeting, the subcommittee confirmed that they liked the architectural design of the project and there is a need for additional transportation information. Regarding the location of the parking, Mr. Kaufman believes it is sufficient as long as it is shielded by the landscaped berm. Ms. Bebout believes that more parking from the front should be moved to the rear. The meeting was closed at 2:35 p.m.

8/23/95 PUBLIC HEARING

The hearing opened at 7:13 p.m.

Mr. Baum, the applicant's attorney, presented changes to the plans of the project. He explained that the Massachusetts Historical Commission (MHC) had withdrawn its request for an archaeological survey. Greg Guimond read a letter from MHC dated August 4, 1995 withdrawing the request. Mr. Baum stated that the applicant had modified the plans to lessen its appearance as strip development. There is a landscaped berm, the building has been repositioned, a false second story has been added as well as other architectural features and most of the parking has been removed to the rear of the building. He explained how the applicant has addressed the traffic issues that had been previously raised. The drive through use will be eliminated and when the use of buildings change in the future, the Commission will review the change. He also submitted new site plans, landscape plans, floor plans and architectural renderings.

William Nye, the applicant's engineer, reviewed the landscape plans with the committee, noting the landscaped berms and the increase in the undisturbed vegetated areas. He stated that the plans meet the zoning requirements for open space. Ralph Crossen, Building Commissioner for the Town of Barnstable, could not

verify this statement since he had not been given the plans.

Ron Silvia and Gordon Clark presented the landscape plans and the architectural renderings. They noted that the sidewalks would be made of brushed concrete, the sides of the buildings would have cedar shingles, the roof would have asphalt shingles and the HVAC equipment would be hidden by a false facade similar to a parapet. The overall look was intended to be reminiscent of a Hyannisport cottage. They also presented the design of the freestanding sign.

Gary Hebert, the traffic engineer, stated that he had spoken with Sue Pommrehn on the Commission's staff prior to the meeting and that they had resolved all the outstanding issues.

Mr. Guimond presented the staff report, stating that there are several unresolved issues. He stated that there should be sidewalks leading into the site, there should be more detail on the landscape plan, there should be increased buffers from the adjoining properties, there should be more information on outdoor lighting, a copy of the sign plan should be submitted, final site plans should be submitted showing the closed curb cut and modified road right of way and architectural renderings and landscaping plans should be submitted. Submittals should be to the Commission by August 30, 1995. Ms. Pommrehn inquired whether there would be a bank in the project. Mr. Keller, the applicant, stated that they will not propose a bank since there is concern over the amount of traffic it will generate. If a bank is eventually proposed or anything that does not fit the ITE definition of specialty retail, the applicant will return to the Commission for further review.

Mr. Hebert stated that there would be a right turn in / right turn out only in the long range plan for the project. For the first five years of the project, however, there will also be a left turn in.

Sumner Kaufman noted that a left turn into the site will be very difficult and have a major impact on traffic. Ms. Pommrehn noted that the applicant intends to widen Route 132 and install a left turn lane which also provide stacking for a few cars. She noted that following the construction of the left turn lane, the road will operate at an acceptable level of service. She noted that the plans need to be modified to reflect that the road right of way is 200 feet.

Lance Lambros inquired about the possibility of a joint entrance for this project with the adjoining building which contains the Chamber of Commerce. Mr. Baum stated that they did not wish to have a shared entrance due to liability and other legal issues. They will close off the curb cut into the adjacent building once Financial Plaza is constructed. Ms. Bebout opened the hearing to public comment. Mr. Crossen noted that several issues will be reviewed by the Barnstable Site Plan Review Committee.

Stan Baukus, the adjoining property owner of the motel noted that there is no buffer to his property from this project. He stated that he would like to see the existing trees remain as a buffer. It was noted that there is a 30 foot building setback under the

town's zoning bylaw, but the driveway can come up to the property line. The applicant stated that they could provide a buffer which could be approximately ten feet. They will return to the next meeting with revised plans.

The applicant stated that they like their project better now following the Commission's DRI review than their original proposal. Mr. Kaufman noted that he is still concerned about the allowance of cars to turn left into the site.

The public hearing was continued to the September 21, 1995 Commission meeting. A subcommittee meeting was scheduled for 11:00 a.m. on September 7, 1995.

9/7/95 SUBCOMMITTEE MEETING

The meeting was opened at 11:03 am

Staff updated the subcommittee on the review of the information submitted the previous week. A document containing draft findings and conditions was distributed. It was explained that the bold type covered areas of concern that had been raised at previous hearings and meetings. These issues needed to be reviewed to make sure they had been addressed to the satisfaction of all parties. It was recommended that the focus of the discussion today should be on the curb cut issue due to the information received this morning regarding left hand turns out of the site onto Route 132. If the traffic issues can be resolved then the discussion could proceed with reviewing the draft findings and conditions.

Ron Silvia said the applicant is willing to enhance the stormwater and septic systems. However, they would like to revise and settle the concept site plan first and then deal with changes to the other plans.

Sumner Kaufman said he believes the plans need to be finalized to address the items previously discussed and agreed to by the applicant prior to the final public hearing.

Paul Tilton discussed the site drive issue based on his phone call with the district office of the Massachusetts Highway Department (MHD). The MHD does not like raised left turn islands at the entrance of a site drive. MHD would rather have a long raised island in the middle of Route 132 to use as a median to block left hand turns. However, in this case the MHD may allow the applicant to have full access in and out of the site (left hand turns) despite Level of Service (LOS) and safety problems. This full access option would not meet the Minimum Performance Standards (MPS) of the Regional Policy Plan (RPP).

After some discussion Bob Mumford suggested that the previously suggested interconnection with the adjacent site could reduce pressure on Route 132. This would avoid the need for a new curb cut for the chamber of commerce building next door which presently uses a curb-cut on this site which the applicant has proposed to close.

Attorney Baum and Gary Hebert were strongly against the interconnection and stated the primary problem was one of liability in cases of accidents. They felt by closing the

existing curb-cut they were in a sense proposing a no net-gain regarding the curb-cut on Route 132. After more discussion on the matter Greg Guimond suggested the following options:

1. The subcommittee could approve the plan as proposed by the applicant and if MHD requires something different, than the applicant would then have to come back to the Commission for a major modification of the project. Staff would recommend this because the applicant from the beginning of the process knew of this issue and has not resolved it concurrently with the Commission and MHD as preferred by the Commission.
2. The applicant could propose to the Commission a plan to modify the median to prevent left hand turns and would meet MHD design preferences. That design could then be reviewed by the Commission now and be discussed at the final public hearing.
3. The applicant could propose an interconnect to the adjacent property thereby reducing potential left hand turns (off and on) Route 132. This design would also benefit from having public comment at the final hearing.
4. The final option is the subcommittee could recommend denial of the project at this time due to the unresolved nature of the curb-cut and the Level of Service (LOS) problems, safety problems and failure to meet the Minimum Performance Standards (MPS) of the Regional Policy Plan (RPP).

After further discussion staff recommended at this point that the subcommittee proceed with the first option and the applicant themselves would be at risk of a future delay or possible denial if the access issue can't be resolved in a way which meets the MPS.

Lance Lambros asked if we had a design on the table now which would meet the RPP and could be approved by the Commission. Staff said the raised island at the new entrance with closure of the old curb-cut would meet the RPP. However, staff is troubled by closing the existing curb-cut without a inter-connection with the adjoining parcel (Chamber of Commerce) and the potential for a additional curb-cut onto Route 132.

Vicky Bebout asked if the island is big enough and would it stop cars from taking left hand turns out of the site. Mr. Guimond said it was similar to an island recently put in at Mashpee Commons on Route 28. Mr. Mumford also said that the existing curb-cut for both properties was on this site and that the chamber may then petition for a new curb-cut. He stressed that this was similar to the Festival-South Wind connection which is a benefit to both properties and the overall traffic on Route 132.

Attorney Baum said he did not think that the town or state would allow another curb-cut on Route 132 and the applicant did not want the liability problem.

Mr. Lambros asked if the access to the Chamber of Commerce was an issue that should be before Commission. Mr. Mumford said he felt it was an important issue for the Commission because we should be promoting interaction between sites in-order to

reduce left hand turn conflicts and related issues on Route 132. He added that MHD may allow a new curb-cut for the Chamber and the opportunity for a joint solution would have been lost.

Attorney Baum said the adjoining property owner deeded away their rights to the curb-cut by selling the land. He stressed he felt this was a liability issue and MHD cannot force the interconnection or relocation of the curb-cut onto the applicant.

Ms. Bebout, Mr. Kaufman and Mr. Olsen favored going with option #1 and not require a shared access or interconnection. Mr. Lambros favored resolving the overall access issue now because he felt the Commission should be planning for improvements to the overall Land use/Route 132 traffic problems.

The discussion now focused on the revised concept site plan and the staff's recommended improvements to landscaping and lighting. Mr. Guimond reviewed the basic concern of the staff that this project would not meet the MPS 1.1.3, 7.2.1, 7.2.3, 7.2.4, 7.2.8 and 7.2.9. He presented a site plan with additional landscaping improvements to increase the buffer and screening of the project from the abutters and Route 132. It also had relocation and modifications to some of the type of light fixtures to be used. The applicant's design team questioned the need for such improvements with particular attention towards the fence on the property lines of both abutters.

After discussion on the issue, the subcommittee agreed with the staff's recommended additional landscaping and other changes to the site plan with the reduction in the height of the fence along the abutting property lines to six feet. These improvements would allow the proposed development to meet the MPS and better screen the abutters due to the project's close proximity to the side yard lines. The applicants agreed if the fence and plantings allowed the project to meet the MPS, they would put them in.

After some discussion, the subcommittee decided the remaining issues were covered in the draft conditions and findings. The subcommittee directed staff to have a draft decision ready for the Friday 9/11/95 mailing. The subcommittee set a meeting for Tuesday 9/19/95 at 2:00 pm to review the draft decision prior to the full Commission hearing on Thursday 9/21/95. The subcommittee closed the meeting at 12:30 pm.

9/19/95 SUBCOMMITTEE MEETING

Vicky Bebout opened the meeting at 2:12 p.m. Paul Wightman noted that he had an appearance of a conflict of interest due to another lawyer in his office being involved in a case opposite the applicant attorney on an unrelated issue. Mr. Baum stated that he had been informed that Mr. Wightman was not involved in the handling of the other case and therefore was not concerned that there was an appearance of conflict.

The committee reviewed the draft decision prepared by the staff and a letter from Mr. Baum stating his concerns over the decision. Most of the issues had either been resolved prior to the meeting or were resolved by the subcommittee. Issues discussed included the elimination of a condition to require a sidewalk to the adjacent site and

retention of a requirement for bike path improvements.

Mr. Baum objected to the conservation restriction on the open space buffer to the pond. He believes that the condition in the decision and the regulation in the RPP is sufficient to ensure the land will remain as open space. He is concerned about the ability of the applicant to remove the restriction. Kathy Sferra explained that the restriction is the best way to ensure that the open space is protected. The regulatory process is not as good. The committee decided to maintain the condition with the restriction.

The committee discussed the issue of joint access to the adjoining site. Bob Mumford expressed concern that there would be an increase in the number of access points onto Route 132. Mr. Baum stated his objection to a shared access drive and questioned whether Mass Highway Dept. would approve another curb cut. He also stated that he has concerns with cross access. Wendy Northcross advocated access between the two sites but did not wish to give up the curb cut to the site occupied by the Chamber of Commerce. The committee determined that they did not wish to require shared access and decided to eliminate the proposed conditions.

Mr. Wightman moved to close the meeting at 3:10 p.m. Mr. Olsen seconded the motion and it was unanimously approved.

JURISDICTION

The above referenced plan qualify as a Development of Regional Impact under Chapter A, Section 3(e), Barnstable County Ordinance 94-10, as amended, as any development(s) which proposes to create new Commercial/Office/Industrial construction with a gross floor area greater than 10,000 sq.ft.

FINDINGS

The Commission makes the following finding subject to Section 12 and 13 of the Cape Cod Commission Act:

General

- 1). The proposed development is to construct two buildings, one for office use/one for specialty retail use, 11,250 sq.ft. each, with a covered walkway connecting the buildings for a total of 28,838 sq.ft. gross floor area with access onto Route 132 in Barnstable, MA.
- 2). The applicant has stated that he is uncertain as to the types of retail and/or office uses that will ultimately occupy the building. They are required to limit the development to no more than 50% office use and 50% specialty retail use, due to the Town of Barnstable's 330 regulation. The applicant has also agreed to prohibit water consumptive uses such as restaurants under this decision.
- 3). The Commission reviewed this proposed development's retail area as specialty retail and the applicant agrees any use not included in the list provided in Condition # 7 are prohibited under this decision. The Commission shall determine what uses are

included in the specialty use category.

4). The proposed project is consistent with the Town of Barnstable Zoning by-laws.

5). The proposed development is not located within a designated District of Critical Planning Concern.

Land Use

6). The site is located north of the existing Route 132 strip commercial development area. While there are several commercial uses immediately surrounding the site they are not as heavily developed as Route 132 south of Bearses Way.

7). As originally proposed the development would create new strip commercial development. The applicant during the review process, significantly modified the proposed site plans to avoid the physical appearance of strip commercial development. These revisions included the changing from one long building into two smaller staggered buildings, the addition of facade improvements that give the impression of two stories, the relocation of 75% of the development's parking to the rear of the building and the addition of extensive landscaping plantings and features to provide improved buffers between the development, the regional roadway and the abutters.

Natural Resources

8). The original design for the proposed development had a bituminous paved area encroaching into the 100 foot buffer area to the wetlands associated with Shallow Pond. The revised plans entitled Brislane Limited Venture Realty Trust, General Layout Plan, dated August 28, 1995, prepared by Peter Sullivan and William C. Nye of Baxter & Nye Inc; Osterville, MA., and Preliminary Landscape Plan, dated revised September 14, 1995, prepared by Silvia and Silvia Associates, Inc., Centerville, MA. have all site work occurring outside of the 100' buffer area as required by Regional Policy Plan (RPP) Minimum Performance Standard (MPS) 2.3.1.2.

9). The Regional Policy Plan requires that commercial development retain 40% of the site as permanently protected open space. The proposed development site consists of 3.11 acres of upland of which 1.35 acres are to remain in a natural state thereby meeting the requirement of the RPP.

Traffic

10). The proposed development is located on Route 132 which is classified as a Class A Major Regional Roadway in the RPP.

11). The existing Route 132 curb-cut straddles the property line of the proposed Brislane development and the site containing the adjacent motel/ office building. It provides direct access from Route 132 to the Brislane property and the adjacent parcel containing a motel and office building.

12). The site containing the motel and office building has an existing curb-cut onto Old Strawberry Hill Road just south of Route 132.

13). The proposed plan will result in the elimination of the existing direct access onto Route 132 for the adjacent motel and office building property. There will be no vehicular access between the parcels. Tenants of the adjacent office building have indicated that they will seek a new curb-cut onto Route 132.

14). Trip generation of the proposed project was based on the ITE Trip Generation manual. The land-uses and sizes used to calculate the trip generation were specialty retail (11,261 square feet) and general office (11,261 sq. ft.). The applicant estimates that the proposed retail and office development project will generate a total of 843 daily trips (574 + 269).

15). The applicant used a pass-by rate of 12.5% to account for vehicles already on Route 132 travelling into the site.

16). The applicant has analyzed a study area which includes the following intersections:

- a. Route 132 at Route 6 Eastbound Ramps,
- b. Route 132 at Route 6 Westbound Ramps,
- c. Route 132 at Phinney's Lane,
- d. Route 132 at Shoot Flying Hill Road
- e. Route 132 at Huckins Neck Road,
- f. Route 132 at Old Route 132,
- g. Route 132 at Old Strawberry Hill Road, and
- h. Route 132 at Bearses Way
- i. Route 132 at Site Driveway.

17). The Route 132 corridor within the vicinity of the site is characterized by significant congestion and frequent accidents. Traffic volumes during the summer reach 25,000 to 30,000 vehicles per day on this section of Route 132. The most recent three years of accident data show high frequency accident locations at Phinney's Lane (24/year), Shoot Flying Hill Road (11.7/year), and Route 6 Ramps (6.7/year). Additional curb cuts and traffic will exacerbate the existing problems along this corridor. Traffic impacts along the Route 132 corridor caused by the project require mitigation.

18). The RPP's minimum performance standard 4.1.1.1 and 4.1.1.2 requires DRI's to mitigate intersections or roadways degraded below LOS C as a result of the project traffic. The applicant has identified the need to mitigate six off-site intersections.

19). The applicant is willing to commit to a fair share contribution of \$44,060 to alleviate the project's impact on the surrounding roadway and intersections. The fair share analysis assesses the applicant's proportional fair share of costs for improvements needed to alleviate the project traffic.

20). Currently, extensive planning studies are being conducted for improvements on the Route 132 corridor from Interchange 6 to the Airport Rotary. The applicant has based the project's fair share mitigation on a parkway design being considered for

Route 132. It should be noted that occupancy of the proposed development is expected to occur before these improvements take place. Therefore, traffic from the proposed site will negatively impact the existing transportation system.

21). The study area section of Route 132 from Shoot Flying Hill Road to Phinney's Lane is designated as the Boston to Cape Cod Bikeway. The applicant has included provisions for bikeway improvements as part of their fair share analysis.

22). To meet Minimum Performance Standard 4.1.2.1 of the RPP, the applicant has committed to an alternate transportation mode contribution of \$60,836 to alleviate 20% of their project traffic.

Economic Development

23). The application indicates that the project would be approximately 22,500 square feet, with 50% used for retail and 50% for office space. The applicant indicates that the building would house potentially 60 jobs, with 50 office workers and 10 retail workers. The applicant indicates that 40 of the potential jobs will be "highly professional, educated, upper-end financial/managerial jobs with above-average pay scales and benefits."

Water Resources

24). The proposed Brislane Financial Plaza is located within a Wellhead Protection Area and is also within a Freshwater Recharge Area to Shallow Pond. Because of the location of the site within the two recharge areas, RPP water resource protection minimum performance standards for both areas apply.

25). Projects within Wellhead Protection Areas are required to meet the 5 ppm nitrogen loading standard in the RPP. The project as proposed (50% office; 50% retail) would have a nitrogen loading of 5.8 ppm. If the office percentage increased above 50%, the nitrogen loading impact would also increase; up to a maximum of 6.6 ppm if the whole building was used as office space. Reductions in the nitrogen load to meet the 5 ppm standard could be accomplished by the use of a denitrifying septic system. The applicant has agreed to install a denitrifying septic system.

26). Phosphorus from future development within the Shallow Pond watershed has previously been identified as likely to push the trophic condition of Shallow Pond from mesotrophic to eutrophic (KV Associates, 1982).

27). Projects within Freshwater Recharge Areas are required by the standards in the RPP to have septic systems located beyond 300 feet of mean high water in order to lessen phosphorus inputs from the systems. The applicant has proposed the location of all leaching pits serving the building to be located beyond the 300 ft setback.

28). Road surface catch basins can contribute significant amounts of phosphorus to freshwater systems, such as Shallow Pond. The road and parking lot catch basins for the proposed project are located within the 300 ft setback area. Phosphorus from the road surfaces has been approximated by staff as the annual equivalent of five

residential septic systems using criteria developed for phosphorus loads by the Maine Department of Environmental Protection (1989). Although this project meets the minimum performance standards of the RPP for Freshwater Recharge Areas, the applicant has agreed to develop a stormwater design to reduce the potential phosphorus impacts from stormwater.

Community Character

29). The proposed development will have a significant visual impact on the Regional road network. The proponent will provide mitigation through natural buffers, landscaping, limitations on signage and lighting design.

30). The proposed project meets the RPP MPS 7.2.8 which requires the location of parking to the side and rear of the building unless this is completely infeasible. The intent of this standard is to avoid the visual appearance of excessive parking which is characteristic of strip commercial development. The original development plan showed all the parking in the front of the building. The current design meets the intent by limiting the visual impact of the parking, through locating the majority of the parking in the building's rear and providing extensive landscaping in front as a visual buffer.

Solid and Hazardous Wastes

31). Significant amounts of solid waste will be generated by the retail and offices uses proposed on the site. The applicant agreed to implement a recycling program for demolition and construction debris as well as for future tenants in order to comply with the Solid Waste performance standards of the RPP.

32). The tenants on the site may be using, storing, selling or disposing of hazardous materials. The applicant agreed to limit the quantity of these materials allowed on-site by non-retail uses to household quantities.

CONCLUSION

Based on the findings above, the Cape Cod Commission hereby concludes:

- 1). The benefits of the proposed development outweigh the detriments.
- 2). The proposed development meets the performance standards of the RPP.
- 3). The proposed development is consistent with local development regulations.
- 4). The proposed development site is not within a DCPC.

The Commission hereby approves with the following conditions the Development of Regional Impact Application of Brislane Limited Venture R.T. c/o Joseph Keller pursuant to Chapter A, Section 3(e), Barnstable County Ordinance 94-10 and Section 12 and 13 of the Cape Cod Commission Act, as amended.

CONDITIONS

PROCEDURAL:

- 1). The final revised site plan, utility, grading, drainage, landscape plans and architectural elevations in so far as they are consistent with the conditions of this decision, shall become part of the decision and any changes shall be approved by the Commission.
- 2). The Applicant shall obtain a Certificate of Compliance from the Commission or its designee before the local official responsible for issuing Certificates of Occupancy may issue a temporary or permanent Certificate of Occupancy for the proposed development and before any portion of the proposed development is opened for business to the public.
- 3). The Applicant shall obtain all necessary state and local permits for the project, consistent with this decision. If changes are required through the state or local permitting process, the Applicant shall notify the Commission of the changes and the project may require modification to the approved August 28, 1995 General Layout Plan and the September 14, 1995 Landscaping plan and the Commission decision.
- 4). Should the Applicant decide not to construct both buildings at the same time, the applicant shall apply to the Regulatory Committee of the CCC for approval of a phasing plan and request a Partial Certificate of Compliance. The phasing plan shall include appropriate bonding or other provisions to ensure all conditions of this decision are complied with.

WATER RESOURCES:

- 4). The applicant shall provide the Commission with a Town of Barnstable Board of Health approval of an appropriate denitrifying septic system prior to issuance of a Building Permit.
- 5). The applicant shall design an alternative stormwater system, consistent with the September 18, 1995 letter to the Commission from William Nye, to reduce the potential phosphorus impacts on Shallow Pond prior to issuance of a Building Permit. This design shall be developed in coordination with the Town of Barnstable.

ECONOMIC DEVELOPMENT:

- 6). The Applicant shall provide a report to the Commission on the use of Cape Cod suppliers and sub-contractors for the construction of the development prior to issuance of a Certificate of Compliance from the Commission.

TRANSPORTATION:

- 7). The two proposed specialty retail stores in the development shall be limited to the following land-uses.
 - i. Quality apparel (clothing store)
 - ii. Hard goods (computer store)
 - iii. Dance studio

- iv. Real estate office
- v. Furniture store
- vi. Hardware/paint store
- vii. Health club
- viii. Racquet club

Uses other than those listed above will require review as a DRI and may involve additional mitigation.

- 8). The applicant shall provide a one time payment of \$44,060, to be held in escrow by the Commission, as its fair share contribution towards necessary traffic mitigation. Monies shall be used to benefit transportation along the Route 132 corridor. Monies not expended or obligated for the design and/or construction of transportation improvements within ten (10) years of the date of deposit shall revert to the Cape Cod Regional Transit Authority for general transit service expenses in the Town of Barnstable. The escrow shall be of a form and content satisfactory to the Commission's counsel.
- 9). The applicant shall contribute a one-time payment of \$60,836, to be held in escrow by the Commission, as its trip reduction contribution towards alternate modes for transportation in the Town of Barnstable. Monies not expended within ten (10) years of the date of deposit shall revert to the Cape Cod Regional Transit Authority for general transit service expenses in the Town of Barnstable. The escrow shall be of a form and content satisfactory to the Commission counsel.
- 10). A separate and distinct pedestrian-only walkway shall be provided to accommodate pedestrian activity within the site. This sidewalk shall be constructed from Route 132 to the site.
- 11). In order to accommodate bicyclists within the vicinity of the site, the applicant shall:
- i. Include provisions for the accommodation of bikeways in the construction of the site drive.
 - ii. Provide a secure bicycle rack for customers and employees wishing to use their bicycles.
- 12). The applicant shall perform a 72-hour traffic volume count on an average summer weekday at the site drive, one year following from the date of issuance of a final Certificate of Compliance from the Commission. The traffic volume data shall be submitted to the Commission staff.
- 13). The applicant's proposed site drive currently meets RPP Minimum Performance Standards. However, final design of the site drive is contingent upon Massachusetts Highway Department (MHD) approval. Alterations made to the plan to comply with MHD design standards shall require Commission review before a building permit is issued to determine compliance with RPP standards. If the Commission or its designee determines that the changes do not meet the RPP, the project shall be

deemed a major modification requiring Commission approval.

SOLID WASTE:

14). The Applicant shall assure the recycling of construction and demolition debris. Brush and stumps generated by clearing of the site shall be chipped and used or sold as mulch. The Applicant shall maintain a tally of the tonnages of this material and provide it to the Commission prior to the issuance of a Certificate of Compliance.

15). The Applicant shall comply with the following requirements:

- i. All corrugated cardboard generated on the project site shall be collected, separated and recycled;
- ii. A separate bottle return section in each retail business shall be provided to enhance the return/recycling of glass and aluminum;
- iii. All businesses shall be supplied with receptacles for the collection of recyclable products;
- iv. Each retail business shall provide for the collection/recycling of both plastic and paper bags and shall provide for the repair or recycling of all wooden pallets.

HAZARDOUS WASTE:

16). Construction equipment fueling shall take place at a designated portion of the site to be shown on a plan and submitted to the CCC prior to the issuance of a building permit with copies also be provided to the Barnstable Health Department and Hyannis Fire Department. Any spills shall be reported to the Barnstable Fire and Health Departments. Prior to any development activities on the project site, the Applicant shall submit a program for separating empty hazardous waste containers from general construction debris to the Commission for approval. The above information must be approved by the Commission staff in order to be in compliance with this condition. All hazardous and potentially hazardous material utilized during construction shall be stored in a construction trailer or in a fenced area and disposed of separately from general debris generated by construction activities. The Commission staff will provide the Applicant with additional technical assistance in the development of Contingency Plans for hazardous materials/waste management for the spaces of currently unknown occupancy.

17). All material considered hazardous which is being held as inventory prior to being offered for sale by the tenant stores shall be stored on concrete pad storage areas with berms. All tenant stores shall be required to both report and clean up releases of any hazardous material or waste.

18). Prior to the applicant signing a lease with any retail tenant, the applicant submit a Contingency Plan to the town Health Department, Hyannis Fire Department and Cape Cod Commission Hazardous Waste Planner. The Plan must be approved by Commission staff in order to be in compliance with this condition. The contingency plan shall include:

- i. The person(s) responsible for coordinating a spill response; and/or managing disposal of hazardous waste with their contact numbers;

- ii. Inspection schedule for waste storage areas;
- iii. Locations of spill containment products;
- iv. Emergency evacuation procedures that shows the location of exits, fire escape routes, safety apparatus, indoor and outdoor storage areas;
- v. A post-emergency cleanup information that includes a list of cleanup contractors and notification to the state;
- vi. Employee training information that details a schedule for familiarizing employees with evacuation procedures, waste and materials handling, and spill response protocols;
- vii. Procedures for removing hazardous wastes by a licensed hazardous waste hauler.

19). Non-retail businesses shall have no more than 275 gallons of hazardous material and hazardous waste on site at any one time. The applicant, prior to signing leases, shall submit, for approval by the Cape Cod Commission staff, the contingency plan. Copies of the approved plan shall also be provided to the Barnstable Health Department and Hyannis Fire Department.

NATURAL RESOURCES/OPEN SPACE:

20). No disturbance of the 100' buffer to the wetlands bordering Shallow Pond shall be permitted. Existing grassed areas within this 100' buffer shall be allowed to revegetate naturally.

21). The applicant shall provide the Cape Cod Commission with a site plan showing the 40% of the site to be permanently restricted as open space in compliance with the Regional Policy Plan. The applicant shall also provide the Cape Cod Commission with copies of draft conservation restriction language for review and approval by Commission Counsel prior to approval by the Town of Barnstable. This requirement shall be met prior to issuance of a Certificate of Compliance for the project.

22). The open space designated in Condition #21 above shall remain permanently protected open space and shall be used solely for this purpose. No future development may occur within the open space area. The applicant shall provide proof of recording of the open space restriction at the Barnstable County Registry of Deeds to the Cape Cod Commission.

SITE DESIGN/LANDSCAPING:

23). Site landscaping shall be undertaken per the Preliminary Landscape Plan L1 prepared by Silvia and Silvia received on September 14, 1995, except as amended in this decision. Prior to any development activity as defined by Section 2(e) of the CCC Act, all undisturbed buffer areas along the site periphery shall be surrounded with construction fencing and approved by Commission staff. Prior to issuance of a Certificate of Compliance, all site/landscape improvements shall be in all material respects completed as per landscape plans and construction documents listed above. Any substantial deviations from the plans as submitted shall require the approval of the Commission.

24). Plant materials for the proposed development shall consist of the following:

<u>Quantity</u>	<u>Size</u>	<u>Description</u>
25	3" B&B	Japanese Zelkova/Littleleaf Linden/White Oak
10	2" B&B	Kousa Dogwood
100	18 - 24"	Compact Holly/Yew
55	3 - 4'	Privet
1,025	18 - 24"	Spreading Juniper/flowering shrubs of at least 3-4' height at maturity

25). All plant materials shall be maintained. Maintenance shall include but not be limited to watering, fertilization and pest management. Installation of an irrigation system is recommended.

26). Planting in addition to the approved landscape plan may be specified by the Town of Barnstable through the local review process, however, plans approved by the Commission reflect the minimum plantings allowed.

27). The installation of billboards, free standing signs, roof signs, off-site advertising and internally lit or flashing signs shall not be permitted on the building or the project site or within the building in windows facing the roadway.

28). Entrance signs for the development shall be limited to informational sign according to plan dated July 11, 1995.

29). Attached building signage for the building shall be limited to two signs, one located on the building's front facade above the awning and below the roof and the other located on the east side.

30). The exterior of the structures within the development shall consist of clapboard, cedar shingles, or brick masonry.

31). Total cutoff of all light shall occur within the property lines of the parcel to be developed.

32). Parking areas shall have luminaires with fixtures that have a total cutoff of all light at less than 90 degrees and a beam cutoff less than 75 degrees.

33). Parking area luminaires shall maintain a minimum 1.0 footcandle measured on the ground surface at the point of least illumination, and maintain a maximum 8.0 (initial) footcandle measured on the ground beneath the light source. The maximum luminaire wattage shall be restricted to 250 watts with maximum luminaire height for parking areas restricted to 20 feet.

34). Wall pack lighting shall have a 45 degree cutoff and shall have a maximum initial footcandle of 8.0 measured on the ground.

35). Pedestrian lighting shall have a maximum luminaire wattage of 175 watts for luminaries with less than a 45 degree cutoff. Pedestrian luminaire height shall be restricted to 15 feet.

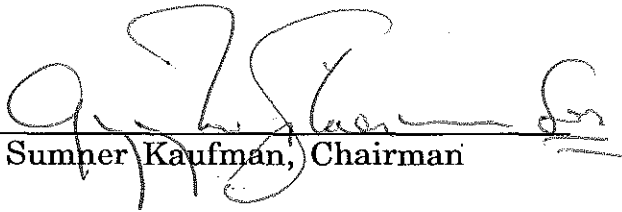
36). The applicant shall install and maintain a six (6) foot high opaque wooden fence along 180 linear feet of the western property line and 255 linear feet on the eastern property line.

37). The applicant shall install and maintain a six (6) foot high opaque fence around the dumpster.

38). The applicant shall provide a security lighting plan if the site is to remain illuminated past 10:00 p.m..

39). The covered walkway shall not be enclosed to create or to be used as additional office or retail floor area.

Based on the findings and conditions above, the Cape Cod Commission hereby grants Brislane Limited Venture R.T. c/o Joseph Keller an approval with conditions a Development of Regional Impact, pursuant to Chapter A, Section 3(e), Barnstable County Ordinance 94-10 and Section 12 and 13 of the Cape Cod Commission Act, as amended.

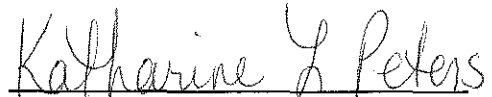

Sumner Kaufman, Chairman

10/5/95
Date

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

Subscribed and sworn to before me this 5th day of Oct 1994⁵


NAME, Notary

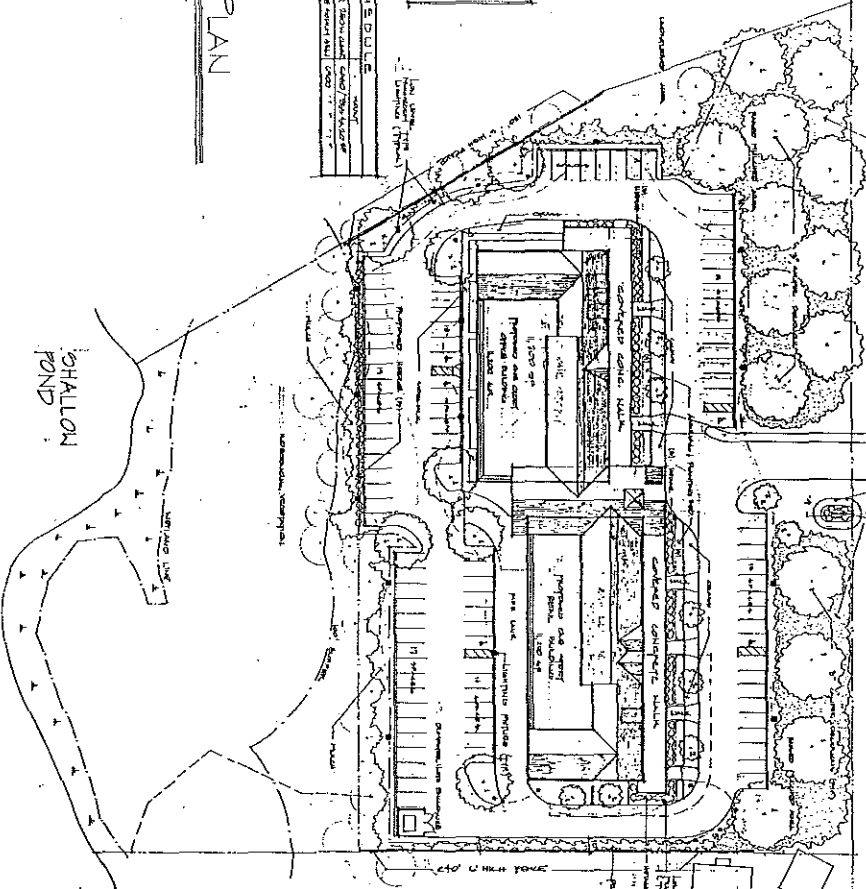
My Commission expires: September 1995

ROUTE 132

CAPE COD COMMISSION

PLANT LIST

NO.	PLANT NAME	QTY	DATE
1
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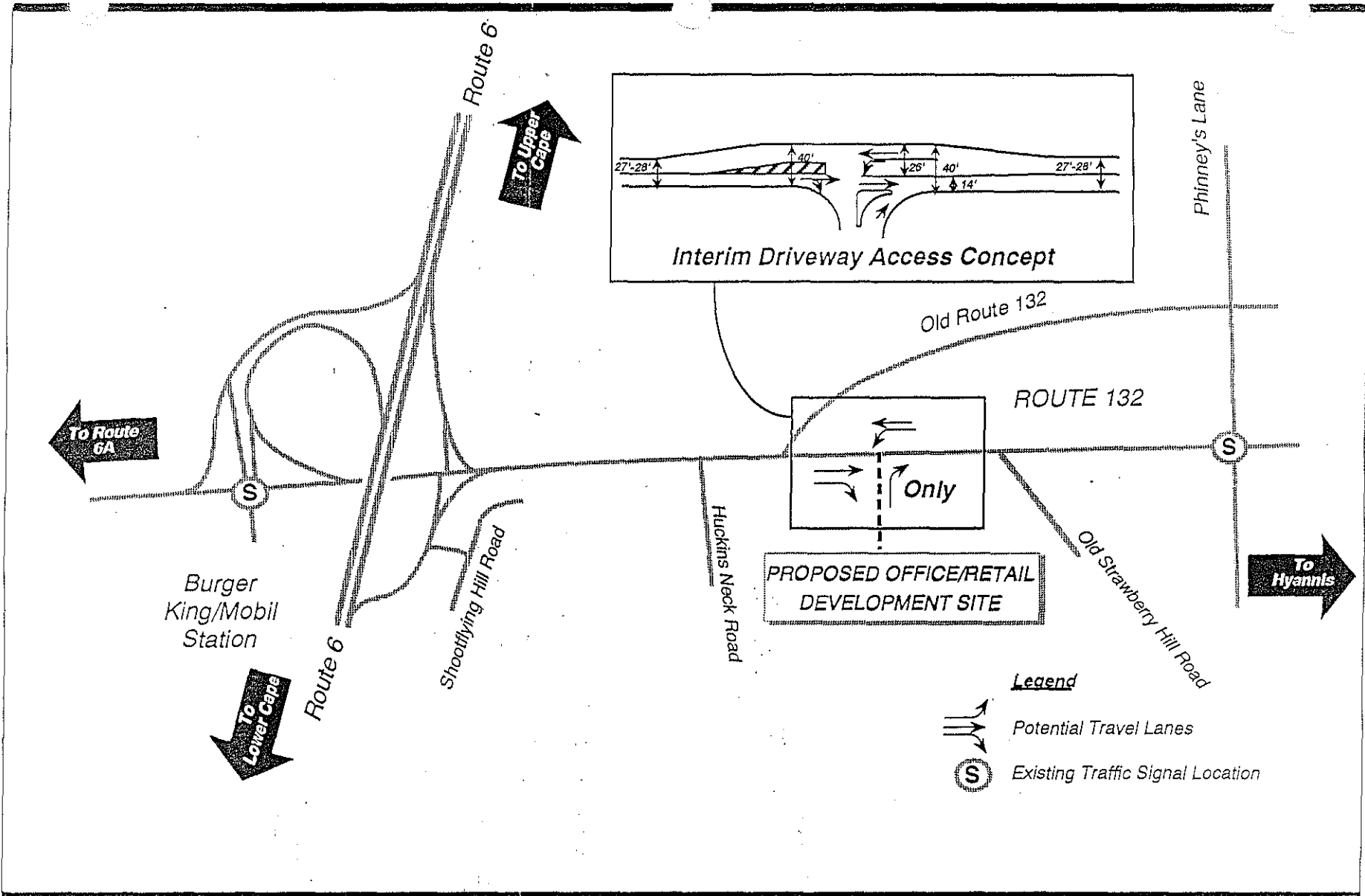
LANDSCAPE PLAN

RECEIVED
SEP 14 1995
CAPE COD COMMISSION

PLANT LIST

NO.	PLANT NAME	QTY	DATE
1
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DATE: August 1995	PROPOSED LANDSCAPE PLAN	<p>Silvia & Silvia Associates, Inc.</p> <p>215 Main Street, Cape Cod, MA 02532</p> <p>TEL: 508-799-7344</p>	<p>CONTRIBUTOR: ...</p> <p>... ..</p>	DATE	REVISIONS	DESIGN
SHEET NO. 11	ROUTE 132 - BARNSTABLE - MA.			DATE	REVISIONS	DRAWN



NOT TO SCALE

Fay, Spofford & Thorndike, Inc.
 Engineers • Planners • Scientists

**Potential Site Driveway Mitigation
 Route 132 Development
 BARNSTABLE, MA**

Figure 8A