

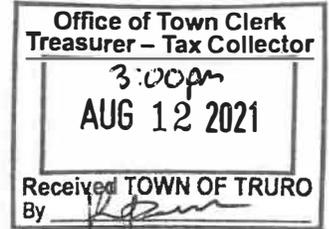


Truro Planning Board Agenda

Remote Meeting

Wednesday, August 18, 2021 – 5:00 pm

www.truro-ma.gov



Open Meeting

This will be a remote public meeting. Citizens can view the meeting on Channel 18 in Truro and on the web on the "Truro TV Channel 18" button under "Helpful Links" on the homepage of the Town of Truro website (www.truro-ma.gov). Click on the green "Watch" button in the upper right corner of the page. Please note that there may be a slight delay (approx. 15-30 seconds) between the meeting and the television broadcast/live stream.

Citizens can join the meeting to listen and provide public comment by entering the meeting link; clicking on the Agenda's highlighted link; clicking on the meeting date in the Event Calendar; or by calling in toll free at **1-866-899-4679** and entering the access code **307-004-253#** when prompted. Citizens will be muted upon entering the meeting until the public comment portion of the hearing. If you are joining the meeting while watching the television broadcast/live stream, please lower or mute the volume on your computer or television during public comment so that you may be heard clearly. Citizens may also provide written comment via postal mail or by emailing the Town Planner at planner1@truro-ma.gov.

Meeting link: <https://global.gotomeeting.com/join/307004253>

Public Comment Period

The Commonwealth's Open Meeting Law limits any discussion by members of the Board of an issue raised to whether that issue should be placed on a future agenda. Speakers are limited to no more than 5 minutes.

Board Action/Review

2021-004/PB – A-C Mobile Home Park, Inc. seeks approval of Form A – Application for Determination that Plan Does Not Require Approval (ANR) pursuant to Section 2.2 of the Town of Truro Rules and Regulations Governing the Subdivision of Land with respect to property at 10 Old Dewline Road and 67 South Highland Road, Truro, MA, Map 37/Parcel 19 and Map 37/Parcel 15. [*Material in 7/21/2021 packet*] plus *{New material in this packet}*

- ◆ Hearing Extension Form

1. Planner Report

2. Chair Report

3. Potential Bylaws for 2022 ATM

Workshops:

- ◆ September 8: Subdivision Regulations
 - Addressing impact of climate change
- ◆ September 15:
 - A) Feedback on Handbook draft
 - B) Potential Bylaw Changes
 - Definitions – Apartments and more
 - Driveway slope?
 - Other miscellaneous
 - C) Continue Subdivision Regulation discussion
- Addressing the CSP and RSP Review Criteria

Minutes – None

Next Meeting – Wednesday, September 1, 2021, at 5:00 pm

Adjourn



STAFF MEMORANDUM

To: Truro Planning Board

From: Barbara Carboni, Town Planner and Land Use Counsel

Date: August 13, 2021

Re: August 18, 2021 meeting

2021-00/PB – 10 Old Dewline Road(Map 37, Parcel 19)/67 South Highland Road (Map 37/Parcel 15). A-C Mobile Home Park, Inc. seeks endorsement of Plan as “Approval Not Required” (ANR) under the Subdivision Control Law.

Application.

A-C Mobile Home Park, Inc. has submitted a Form A, Application for Determination that Plan Does Not Require Approval (ANR), and Plan of Land depicting the (formerly) Horton’s Campground, as containing a total of 38.64 acres. The Plan proposes to carve off four “Mitigation Lots” totaling 9.61 acres from the campground property, leaving a 29.03-acre “Remainder Area” containing the upper and lower campground areas. The Mitigation Lots contain:

- A: 6.49 acres
- B: 1.06 acres
- C: 1.40 acres
- D: 0.66 acres

It is represented by the Applicant that the Mitigation Lots are to be conveyed to the Truro Conservation Trust (TCT). It is further represented that such conveyance is a condition of a permit to issue by the Natural Heritage and Endangered Species Program (NHESP) with respect to the property. This is an after-the-fact permit following an unlawful take by the Applicant of 11.6 acres of box turtle habitat through clearing of the upper campground area.

Mitigation Lot A and the Remainder Area both have frontage on South Highland Road, a public way, greater than the Zoning Bylaw Minimum of 150 feet. Mitigation Lots B, C, and D have no frontage on any way, and are identified in Plan Notes as “not to be considered building lots.” The Board’s ANR endorsement is sought pursuant to G.L. c. 41, s. 81P.

Threshold Question: Review by Cape Cod Commission as Development of Regional Impact

Section 12(h) of the Cape Cod Commission Act (“Act”) provides:

“Municipal agencies shall refer any proposed development which meets the standards and criteria set out by the commission for developments of regional impact to the commission for review, at which point the municipal agency's review shall be suspended until the commission has reviewed the proposed development.”

Act, Section 12(h)(partial). Section 12(c) of the Act contains certain standards and criteria by which proposed developments are identified for review by the Commission as Developments of Regional Impact. The Commission, empowered by the Act, has promulgated additional standards and criteria in its DRI Regulations. Pursuant to Section 2 of the DRI regulations, certain categories of proposals *must* be referred to the Commission for review (“Mandatory Jurisdiction”); other proposals *may* be referred to the Commission (“Discretionary Referral”)

Mandatory Jurisdiction/Referral

Section 2(a)(“Mandatory Jurisdiction”) requires referral to the Commission for an application that “meets or exceeds any of the standards and criteria for DRIs set forth in Section 3.” Section 3 of the Regulations identifies these mandatory referral thresholds, providing that:

“Any proposed **development** that meets or exceeds the thresholds adopted below shall be referred to the Commission as a DRI:

...

(c) 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. This threshold shall include any development activity in conjunction with Chapter A, Enabling Regulations of the Code of Cape Cod Commission Regulations of General Application Revised: May 13, 2020 Fee Schedule Effective: July 1, 2021 Page 11 of 34 any land division of 30 acres or more not otherwise exempted from review under Section 22(e) of the Act”

DRI Regulations Section 3 (partial; emphasis supplied). The term “development” is not defined in the Regulations. In the absence of a definition in the Regulations, statutory definitions apply. See Section 1(c) (“[t]he definitions contained in Section 2 of the [Cape Cod Commission] Act shall apply to these regulations.”). The term “development” is defined in Section 2 of the Act as:

(e) "**Development**", any of the following undertaken by any person: any building, construction, renovation, mining, extraction, dredging, filling, excavation, or drilling activity or operation; any material change in the use or appearance of any structure or in the land itself; **the division of land into parcels**; any change in the intensity of use of land, such as an increase in the number of dwelling units in a structure or a change to a commercial or industrial use from a less intensive use; any activity which alters a shore, beach, seacoast, river, stream, lake, pond, canal, marsh, dune area, woodland, wetland, endangered species habitat, aquifer, or other resource area, including coastal construction or other activity in Barnstable county within the jurisdictional limits of Barnstable county; demolition of a structure; the clearing of land as an adjunct of construction; or the deposit of refuse, solid or liquid waste or fill on a parcel of land or in any water area.”

Act, Section 2(e)(emphasis supplied). **Utilizing the above definition, Section 3(c) of the DRI Regulations provides that a “division of land into parcels,” where such land totals 30 acres or more in common ownership or control on or after September 30, 1994, meets the regulatory threshold, and must be referred to the Commission as a DRI.**

Application of DRI Regulations to submitted ANR Plan

An ANR plan is a “division of land into parcels”; hence, if the land subject to an ANR plan totals 30 acres or more, in common ownership or control on or after the specified date, the DRI threshold of Section 3(c) is met and DRI referral is mandatory. There seems no dispute that the Horton’s property subject to the ANR plan submitted to the Planning Board contains more than 30 acres currently held in common ownership. As such, the regulatory threshold of Section 3(c) is met and referral to the Commission as a DRI is mandatory.

It has been suggested that because certain land subject to the ANR plan (the Mitigation Lots) is promised to the Truro Conservation Trust, such intention brings this ANR submittal outside the application of regulatory threshold and mandatory DRI referral. The DRI Regulations provide no basis for such conclusion. The threshold described in Section 3(c) above is entirely indifferent to the purpose for which the land is being divided. It carves out no exemption for a division of land that is intended to effectuate conservation purposes. The municipal agency (here, the Planning Board) does not have the discretion under the Regulations to decide whether or not the nature or purpose of the proposal warrants Commission review of the proposal as a DRI. Rather, the DRI regulations identify thresholds: the threshold is either met, or it is not met. If the threshold is met, referral is mandatory. Likewise, the Planning Board does not have the discretion to decide what *the Board* believes to be a DRI. If the threshold is met, referral is mandatory.

As the Board may remember, an ANR plan was submitted to the Planning Board last year by the Perry family. The Board made a factual finding (not the one sought by the Applicants) that the land subject to the ANR totaled more than 30 acres held in common ownership on or after September 30, 1994. In that application, a donation of land to the Truro Conservation Trust was promised. The Board found that the threshold of 3(c) above was met, regardless of the intended donation, and the ANR was referred to the Commission as a mandatory DRI.

Conclusion

The ANR submitted proposes to divide a parcel of 38.64 acres, exceeding the 30-acre threshold established in Section 3(c) of the DRI Regulations, and triggering Mandatory Referral of the proposal to the Commission for review as a Development of Regional Impact.



July 6, 2021

Town of Truro Planning Board
Truro Town Offices

Re. 10 Old Dew Line Rd. & 67 South Highland Rd.

To the Planning Board

Enclosed are twelve copies of Form AANR application, twelve copies of the ANR Plan and a check made out to the Town of Truro for \$275.00.
The electronic version will be submitted to the Town Planner.

Thank you for your consideration.
Please don't hesitate to contact us with any questions at 508-255-0477.

Thank you.

Sincerely,

Dawn Sternlieb
Office Manager



Town of Truro Planning Board

P.O. Box 2030, Truro, MA 02666

FORM A

APPLICATION FOR DETERMINATION THAT PLAN DOES NOT REQUIRE APPROVAL (ANR)

To the Planning Board of the Town of Truro, MA

Date June 24, 2021

The undersigned owners of all the land described herein submitted the accompanying plan entitled:

Plan of Land A-C Mobile Home Park, INC... and dated June 16, 2021, requests a determination and endorsement by said Board that approval by it under the Subdivision Control Law is not required.

Property Location: 10 Old Dew Line Rd. & 67 South Highland Rd. Map(s) and Parcel(s): 37-19 and 37-15

Number of Lots Created: 5 Total Land Area: 38.64 Acres

The owner's title to said land is derived under deed from Robert S. Horton, dated 2/12/2012, and recorded in the Barnstable Registry of Deeds Book and Page Book 26095, Page 3 or Land Court Certificate of Title No. _____ registered in Barnstable County.

The undersigned believes that such approval is not required for the following reasons: *(check as appropriate)*

- The accompanying plan is not a subdivision because the plan does not show a division of land.
- The division of the tract of land shown on the accompanying plan is not a subdivision because every lot shown on the plan has frontage of at least such distance as is presently required by the Truro Zoning Bylaw under Section 50.1(A) which requires 150 feet for erection of a building on such lot; and every lot shown on the plan has such frontage on:
 - a public way or way which the Town Clerk certifies is maintained and used as a public way, namely South Highland Road, or
 - a way shown on a plan theretofore approved and endorsed in accordance with the subdivision control law, namely _____ on _____ and subject to the following conditions _____; or
 - a private way in existence on December 8, 1955, the date when the subdivision control law became effective in the Town of Truro having, in the opinion of the Planning Board, sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon, namely _____.
- The division of the tract of land shown on the accompanying plan is not a "subdivision" because it shows a proposed conveyance/other instrument, namely _____ which adds to/takes away from/changes the size and shape of, lots in such a manner that no lot affected is left without frontage as required by the Truro Zoning Bylaw under Section 50.1(A), which requires 150 feet.

The division of the tract of land shown on the accompanying plan is not a subdivision because two or more buildings, specifically _____ buildings were standing on the property prior to December 8, 1955, the date when the subdivision control law went into effect in the Town of Truro and one of such buildings remains standing on each of the lots/said buildings as shown and located on the accompanying plan. Evidence of the existence of such buildings prior to the effective date of the subdivision control law as follows:

Other reasons or comments: (See M.G. L., c. 41, §81-L)

Mitigation areas B,C & D lack sufficient frontage to be considered building lots

All other information as required in the Rules and Regulations Governing Subdivisions of Land shall be submitted as part of the application.

Robert Shingleton
(Printed Name of Owner)

[Signature]
(Signature)

(Printed Name of Owner)

(Signature)

905 16th Place, Vero Beach, FLA 32960
(Address of Owner(s))

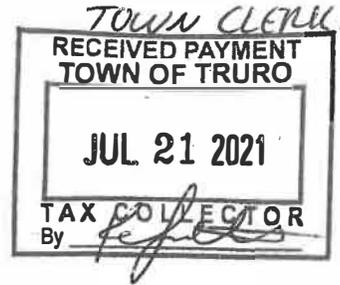
905 16th Place, Vero Beach, FLA 32960
(Address of Owner(s))

Donald Nagle
(Printed Name of Agent)

[Signature]
(Signature)

207 Front Street, Scituate, MA 02066
(Address of Agent)

File twelve (12) copies each of this form and applicable plan(s) with the Town Clerk; and a complete copy, including all plans and attachments, submitted electronically to the Town Planner at planner1@truro-ma.gov



TOWN OF TRURO

Planning Department

24 Town Hall Road, P.O. Box 2030, Truro, MA 02666
Tel: (508) 349-7004, Ext. 127 Fax: (508) 349-5505

EXTENSION AGREEMENT: ANR

I, [name] Donald Nagle, as authorized agent of [applicant] AK Mobile Home Park, Inc.; agree to an extension of time for action

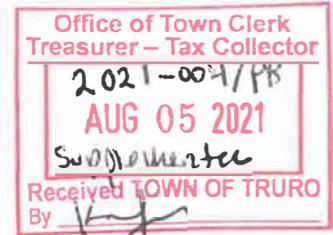
by the Planning Board on the Application for a Determination that Plan Does Not Require Approval (ANR plan) filed with the Town Clerk on July 6, 2021 pursuant to G.L. c. 41, s. 81P, with respect to property located at 10 Old Dewline Rd. & 67 South Highland Road, Case No. 2021-004/PB, through August 18, 2021.

[Signature]
Signature of Applicant/Agent

7/20/21
Date

Filed with the Planning Department: [Signature] 7/20/2021
Name Date

Filed with the Town Clerk: [Signature] 7/21/2021
Name Date



Transmittal

Name: Elizabeth Sturdy
Organization: Truro Planning Board
Delivery: drop off
Phone: 508-255-0477
From: Dawn Sternlieb
Date: 8/5/21
Subject: 10 Old Dew Line Rd. & 67 South Highland Rd.
Pages to follow: 12 copies of check list & 12 Copies of Plan

Urgent Reply ASAP Please Comment For Your Records

Comments: [Comments]

Please find 12 copies of the check list and revised plan (to replace previous plan) to accompany application dated June 24, 2021

Sincerely,

Dawn Sternlieb
Office manager

2.2 - APPROVAL NOT REQUIRED (ANR) PLAN ENDORSEMENT REVIEW CHECKLIST - Applicant

Address: 10 Old Dew Line Rd + 675 Highway Rd **Applicant Name:** Robert Singleton **Date:** 8/5/21

No.	Requirement	Included	Not Included	Explanation, if needed
2.2.2 Submission Requirements				
Any person may submit a plan seeking endorsement that the plan does not require approval under the Subdivision Control Law by providing the Board with the following:				
a.	A properly executed application for Approval Not Required Endorsement (Form A).	✓		
b.	Twelve (12) paper prints of the plan. Said plan shall be prepared in such a manner as to meet the Registry of Deeds and/or Land Court requirements for recording and shall contain the following information:	✓		
b.1	The boundaries, area, frontage and dimensions of the lot or lots for which ANR endorsement is sought.	✓		
b.2	The date of the plan, scale, north arrow and assessor's map and parcel number of all land shown on the plan and directly abutting the land shown on the plan.	✓		
b.3	The name(s) of the owner(s) of record of the lots shown on the plan and of the applicant, together with the name, address seal and signature of the land surveyor who prepared the plan.	✓		
b.4	Relevant zoning classification data.	✓		
b.5	A locus plan containing sufficient information to locate the land and showing streets bounding or providing access to the property.	✓		
b.6	The name(s) of the way(s) on which the lots front, information as to ownership of the way(s) and the physical condition of the way(s) including actual width, surface type and condition.	✓		
b.7	The location and dimension of any natural features which might affect the use of the frontage for access.	✓		
b.8	The location, including setbacks to all lot lines, of all buildings and other structures on the proposed ANR lots shown on the plan.	✓		
b.9	The location of any wetland on the land shown on the plan or within one hundred (100) feet of its boundaries.	✓		
b.10	The location of all bounds and easements on the proposed ANR lots shown on the plan.	✓		

2.2 - APPROVAL NOT REQUIRED (ANR) PLAN ENDORSEMENT REVIEW CHECKLIST - Applicant

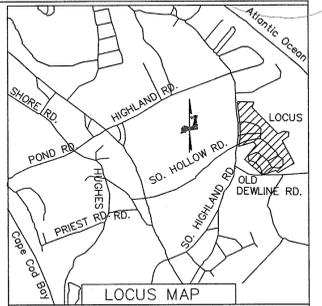
Address: 0 Old Deerline Rd + to 75 Highland Rd **Applicant Name:** Robert Sugratan **Date:** 8/5/21

No.	Requirement	Included	Not Included	Explanation, if needed
b.11	The statement "Approval under the Subdivision Control Law Not Required", and sufficient space for the date of the application submittal and the date of endorsement, docket number and the signatures of all Board members.	✓		
b.12	The statement "Planning Board endorsement of this plan indicates only that the plan is not a subdivision under MGL, Chapter 41, Section 81-L and does not indicate that a lot is buildable or that it meets Zoning, Health or General Bylaw requirements."	✓		

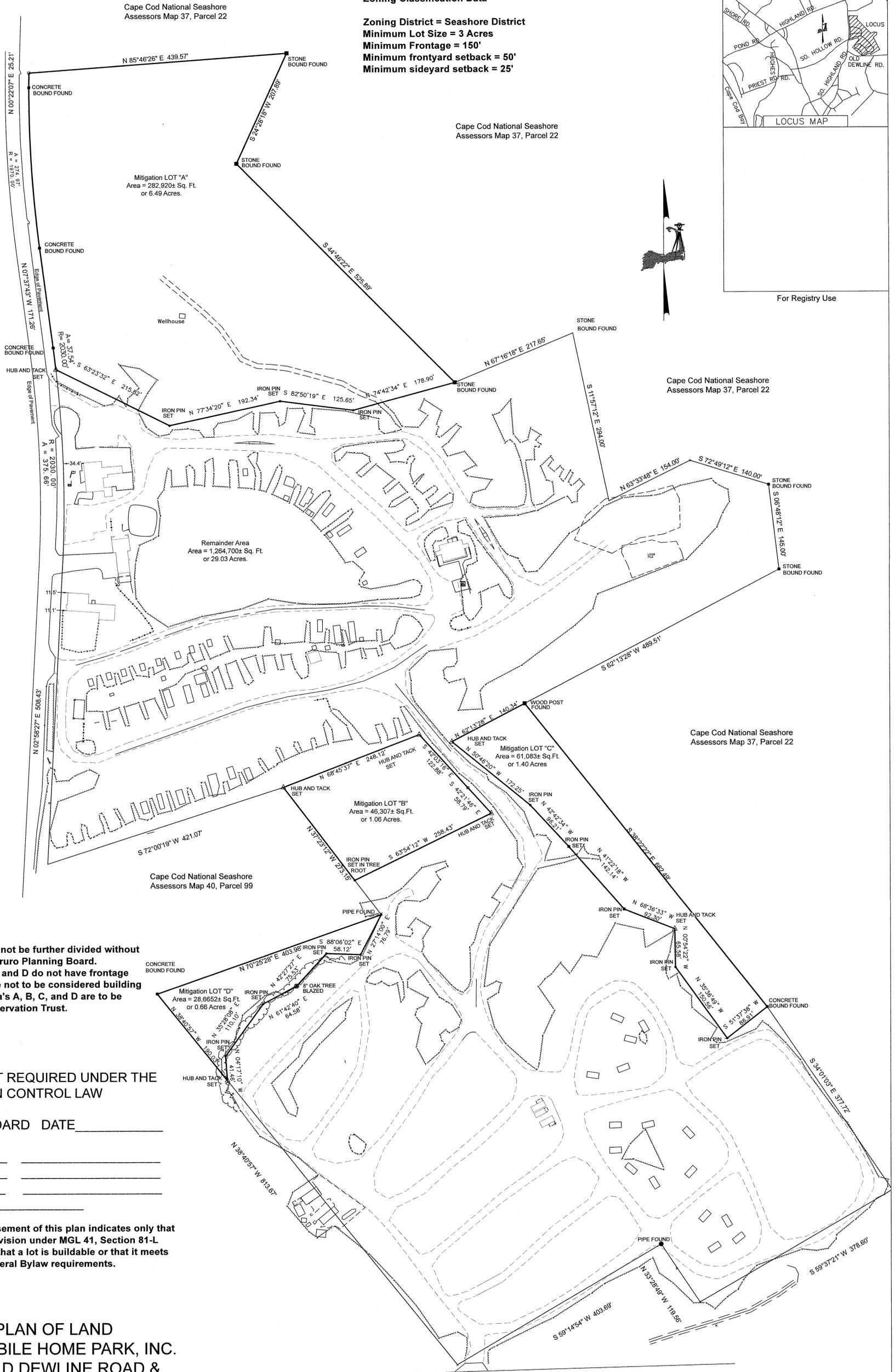
1952 LAYOUT PLAN BOOK 106, PAGE 93 SHEET AND PLAN SOUTH HIGHLAND ROAD BOOK 106, PAGE 95

Zoning Classification Data

Zoning District = Seashore District
Minimum Lot Size = 3 Acres
Minimum Frontage = 150'
Minimum frontyard setback = 50'
Minimum sideyard setback = 25'



For Registry Use



Plan Note:

- 1) Mitigation LOT A may not be further divided without endorsement by the Truro Planning Board.
- 2) Mitigation LOT's B, C, and D do not have frontage on an approved way and are not to be considered building lots. Further, Mitigation Area's A, B, C, and D are to be conveyed to the Truro Conservation Trust.

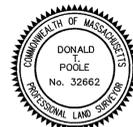
APPROVAL NOT REQUIRED UNDER THE SUBDIVISION CONTROL LAW

TRURO PLANNING BOARD DATE _____

Planning Board endorsement of this plan indicates only that the plan is not a subdivision under MGL 41, Section 81-L and does not indicate that a lot is buildable or that it meets Zoning, Health, or General Bylaw requirements.

PLAN OF LAND
A-C MOBILE HOME PARK, INC.
#10 OLD DEWLINE ROAD &
67 SOUTH HIGHLAND ROAD, TRURO MA
DEED BOOK 26095, PAGE 3
SCALE 1" = 80' June 16, 2021
ols#584001

Owner:
A/C Mobile Home Park
905 16th Place
Vero Beach, FL 32960
Assessors Map 37, Parcels 15 and 19



I hereby certify that this plan conforms to the Rules and Regulations of the Registers of Deeds adopted Jan 1, 1976, and amended Jan. 7 1988.

Donald T. Poole PLS #32662

Date

Aug 4, 2021