

# FREEMAN LAW GROUP LLC

*Attorneys at Law*

**Peter L. Freeman**

pfreeman@freemanlawgroup.com  
Tel. (508) 362-4700 Mobile (781) 854-2430

**Ilana M. Quirk, Of Counsel**

iquirk@freemanlawgroup.com  
Tel. (508) 362-4700

**Kevin T. Smith, Of Counsel**

ksmith@freemanlawgroup.com  
Tel. (508) 362-4700 (978) 369-0634  
Mobile (978) 549-3399

**BY FEDERAL EXPRESS AND E-MAIL**

December 03, 2020

eMail: [kbuckland@wareham.ma.us](mailto:kbuckland@wareham.ma.us)

Mr. Nazih Elkallassi, Chairman  
Town of Wareham Zoning Board of Appeals  
54 Marion Road  
Wareham, MA 02571

Re: Permit: Woodland Cove Apartments Comprehensive Permit  
Applicant: Dakota Partners, Inc.  
Property: 3102 Cranberry Highway  
Request: Notice of Project Change/Insubstantial Modification Request

Dear Chairman Elkallassi and Members of the Zoning Board of Appeals:

This office represents Dakota Partners, Inc. (“Dakota”), the holder of a comprehensive permit that the Zoning Board of Appeals (“Board”) issued on October 24, 2018 to Dakota to develop a rental apartment project with 174 units (“Project”) at 3102 Cranberry Highway, Wareham, MA (“Property”), in accordance with plans referenced and approved thereunder (“Approved Plans”) and that took final effect after an appeal was dismissed and the permit was recorded on May 3, 2019 in the Plymouth County Registry of Deeds at Book 51072, Pages 1-41 (“Comprehensive Permit”). The Approved Plans included a phasing plan (“Phasing Plan”) and a plan of land (“Plan of Land”). The Plan of Land was dated January 12, 2016 and was later revised through November 9, 2018 and endorsed by the Board on November 28, 2018 and then recorded on May 3, 2019 in the Plymouth Registry of Deeds at Plan Book 63, Page 505 (“Endorsed Plan of Land”). The Endorsed Plan of Land divided the Property into a new lot configuration which matched the proposed phasing of the Project. A further modification of the Endorsed Plan of Land was endorsed by the Board on May 27, 2020, to provide for revisions to the Phasing Plan and the Endorsed Plan of Land. The May 27, 2020 modification decision was recorded on July 17, 2020 in the Plymouth Registry of Deeds at Book 51072, Page 9. The revised Endorsed Plan of Land was endorsed and recorded in the Plymouth Registry of Deeds at Plan Book 64, Page 493 on July 17, 2020.

Dakota now requests a further revision to the Phasing Plan and the Endorsed Plan as shown on the plan sheets enclosed herewith that are entitled and dated as follows:

- (1) "Plan of Land, Sheet SV-1.0," dated January 12, 2018, as revised through November 24, 2020;
- (2) "Preliminary Phasing Plan, Sheet C-5.0," dated January 12, 2018, as revised through December 1, 2020;
- (3) "Preliminary Phasing Plan (Phase 1)," Sheet C-5.1, dated January 12, 2018, as revised through December 1, 2020;
- (4) "Preliminary Phasing Plan (Phase 2 or 3)," Sheet C-5.2, dated January 12, 2018, as revised through December 1, 2020; and
- (5) "Preliminary Phasing Plan (Phase 2 or 3)," Sheet C-5.3.

Dakota requests that the Board vote to determine, under 760 CMR 56.05(11), that the revisions set forth in the above materials are insubstantial in nature and that the Board then endorse the revised Plan of Land Sheet in the signature block provided.

In summary, Dakota requests that this Notice of Project Change to adjust the phasing and configuration of the Project in order to allow for the opportunity to relocate current Motel residents to the building that will be completed under Phase 1 of the Project. Under the current, approved phasing, the Motel would be demolished before completion of the building in Phase 1, potentially requiring the Motel residents to be relocated twice. A determination that this Notice of Project Change is insubstantial would allow the Motel residents to stay in place until the affordable units in Phase 1 are completed.

The enclosed materials provide for the following phasing alterations and would reconfigure the parcels as follows:

- i. Buildings E & F become Phase I (currently Phase II)
- ii. Buildings A & B become Phase II or III (currently Phase I)
- iii. Building D becomes Phase II or III (currently Phase II)
- iv. Community Building remains in Phase I as currently approved
- v. Motel to be demolished after completion of affordable units in Phase 1.
- vi. The parcel configurations are altered to conform to the new Phases.

The proposed revisions would have minimal impact as follows:

- i. Buildings E & F will provide same unit count and same affordable unit count/breakdown as Buildings A & B.
- ii. Phase I will now only include completion of Red Brook Road driveway. A temporary cul-de-sac will be built northwest of Building E to allow emergency vehicle turn around.
- iii. The driveway entrance on Cranberry Highway will be constructed at the conclusion of Phase I (after Motel demolition), but will not be used until construction of Buildings A & B.



- iv. To allow the Motel to remain for start of Phase I, sewer service connection will be relocated to a more central portion of site and run through Lot 4 to Cranberry Highway.
- v. Water, gas, electric, and telecom services will all remain the same. Water & gas service stubs will be built at the Cranberry Highway driveway location into the property during Phase I.
- vi. Phases II and III will be interchangeable.

As each phase, in turn, is constructed, each phase will have the infrastructure necessary to serve it and the necessary access easements to allow access to Cranberry Highway and Red Brook Road will be provided. Each phasing sheet details the relevant dimensional and parking details and provides a summary of the required dimensions and the proposed dimensions.

This Notice of Project is provided pursuant to the provisions of the Chapter 40B Regulations, under 760 CMR 56.05(11)(a), and Dakota requests that the Board determine that the changes proposed are insubstantial, in accordance 760 CMR 56.05(11)(a) and (b) and 760 CMR 56.07(4).

As the Board is aware, under 760 CMR 56.05(11)(a), the Board is required to determine within twenty (20) days of receipt of this Notice of Project Change request whether the proposed changes are insubstantial; and, if the Board determines that the changes are insubstantial (or if notice is not provided by the Board to the contrary within the twenty (20) day period), the Comprehensive Permit shall be deemed modified to incorporate the proposed changes. This determination process does *not* require a public hearing. A public hearing is only required if the Board were to determine that the changes are substantial and then the public hearing must be within thirty (30) days of a timely determination that the changes are substantial; however, we assert that the changes are insubstantial for the following reasons.

As you know, the Chapter 40B Regulations (under 760 CMR 56.07(4)) set forth guidelines indicating that requested modifications are generally considered insubstantial if they:

1. Do not increase the height of the buildings by more than 10% (no increase in height is proposed);
2. Do not increase the number of units by more than ten (10%) percent (the number of units and the bedroom mix and the floor area of the individual units will not change);
3. Do not reduce the size of the site by more than 10% in relation to a decrease in the number of units (no reduction in the site or decrease in units is proposed);
4. Do not change the building type (e.g., from garden apartments to high-rise)(no change in building type is proposed); and
5. Do not change the type of housing tenure (i.e., from rental to ownership or the reverse)(no change in tenure is proposed).

Since none of the standards set forth in the above guidelines are triggered by the proposed modifications, we request that the Board apply the above guidelines and vote to determine that the proposed modifications are insubstantial.

**We request that the Board please place this matter on its next available agenda**, with an indication on the agenda that a vote is expected, and that the Board then review the matter at

the meeting and vote to determine that the proposed modifications as set forth in this writing and as reflected in the enclosed plan sheets are insubstantial under 760 CMR 56.05(11) and that the Board then vote to endorse the sheets and provide the appropriate signatures in the signature block provided. A proper motion for the Board to use would be as follows:

It was MOVED and SECONDED and then VOTED by the Board to determine that the December 3, 2020 Notice of Project Change request (a copy of which is attached hereto, together with the accompanying plan sheets) for the Woodland Cove Apartments Comprehensive Permit Project proposes only insubstantial changes within the meaning of 760 CMR 56.05(11) and, further, to endorse the Plan Sheet entitled "Plan of Land, Sheet SV-1.0," dated January 12, 2018, as revised through November 24, 2020.

We thank the Board for its time and consideration look forward to meeting with you soon.

Very truly yours,



Peter L. Freeman

Encl.

cc: Dakota Partners, Inc.

1	07/20/18	REVISED LAYOUT
2	11/02/18	FOR RECORDING
3	03/02/19	PHASING REVISIONS
4	10/24/20	PHASING REVISIONS

**WOODLAND COVE**

3102 CRANBERRY HIGHWAY  
IN  
WAREHAM  
MASSACHUSETTS

PLAN OF LAND

JANUARY 12, 2018

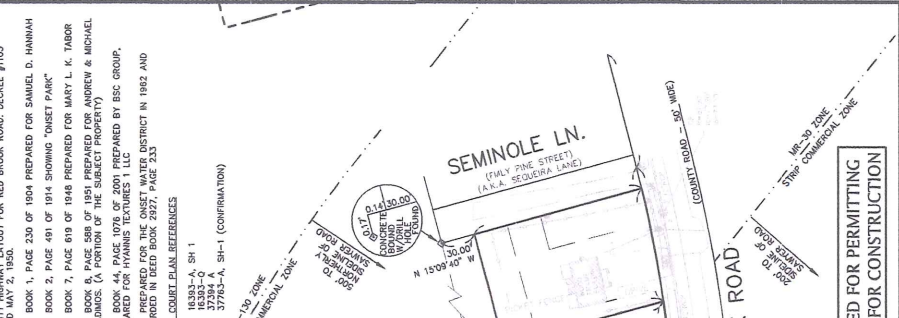
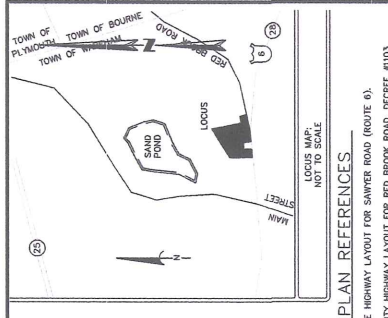
PREPARED FOR:  
DIACOTA PARTNERS  
1284 MAIN STREET  
WALTHAM, MA 02451

BSC GROUP  
803 Summer Street  
Boston, Massachusetts 02127-1601  
617.632.8277

© 2017 BSC GROUP, INC.  
SCALE: 1" = 50'  
0 25 50 75 100 FEET

FILE # 18020006/SD/DWG  
DATE: 10/24/20  
JOB NO.: 18000100

SV-1.0



**NOTE:**

1. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.

2. THE SHOWN DIMENSIONS ARE TO BE CONSIDERED AS APPROXIMATE AND SHALL BE SUBJECT TO FIELD SURVEY.

3. THE SHOWN DIMENSIONS ARE TO BE CONSIDERED AS APPROXIMATE AND SHALL BE SUBJECT TO FIELD SURVEY.

4. THE SHOWN DIMENSIONS ARE TO BE CONSIDERED AS APPROXIMATE AND SHALL BE SUBJECT TO FIELD SURVEY.

5. THE SHOWN DIMENSIONS ARE TO BE CONSIDERED AS APPROXIMATE AND SHALL BE SUBJECT TO FIELD SURVEY.

6. THE SHOWN DIMENSIONS ARE TO BE CONSIDERED AS APPROXIMATE AND SHALL BE SUBJECT TO FIELD SURVEY.

7. THE SHOWN DIMENSIONS ARE TO BE CONSIDERED AS APPROXIMATE AND SHALL BE SUBJECT TO FIELD SURVEY.

8. THE SHOWN DIMENSIONS ARE TO BE CONSIDERED AS APPROXIMATE AND SHALL BE SUBJECT TO FIELD SURVEY.

9. THE SHOWN DIMENSIONS ARE TO BE CONSIDERED AS APPROXIMATE AND SHALL BE SUBJECT TO FIELD SURVEY.

10. THE SHOWN DIMENSIONS ARE TO BE CONSIDERED AS APPROXIMATE AND SHALL BE SUBJECT TO FIELD SURVEY.

**LEGEND**

STAKE & NAIL SET

500' TO

NORTHERLY SIDELINE OF SAWYER ROAD

ROUND BOUND NTS FOUND HELD FOR REAR LINE FOR REAR LINE

119.87

133.79

0.15

APPROVED BY THE WAREHAM ZONING BOARD OF APPEALS  
PURSUANT TO RESOLUTION # [ ]  
ISSUED UNDER M.G.L. CHAPTER 40B, SECTIONS 20-23

COMPREHENSIVE PERMIT: WITH MODIFICATION  
DATE OF DECISION: OCTOBER 24, 2018  
PLANNING BOARD: WAREHAM PLANNING BOARD  
PAGE: 1

DATE OF PLAN ENDORSEMENT: 2020

WAREHAM ZONING BOARD OF APPEALS

1. LISTED TO THE BEST OF MY PROFESSIONAL KNOWLEDGE INFORMATION AS BEING TRUE. THIS PLAN HAS BEEN PREPARED IN CONFORMANCE WITH THE RULES AND REGULATIONS OF THE REGISTERED PROFESSIONAL LAND SURVEYORS OF MASSACHUSETTS.

PROFESSIONAL LAND SURVEYOR DATE: \_\_\_\_\_

FOR BSC GROUP, INC.



**WOODLAND COVE**

3102 CRANBERRY HIGHWAY  
IN  
WAREHAM MASSACHUSETTS

PRELIMINARY PHASING PLAN

JANUARY 12, 2018

COMING RINALDI, P.E. No. 46974

REVISIONS:  
 1 04/09/18 REB REVIEW COMMENTS  
 2 07/20/18 REVISED LAYOUT  
 3 08/08/18 PHASING REVISIONS  
 4 09/05/18 PHASING REVISIONS  
 5 12/07/18 PHASING REVISIONS

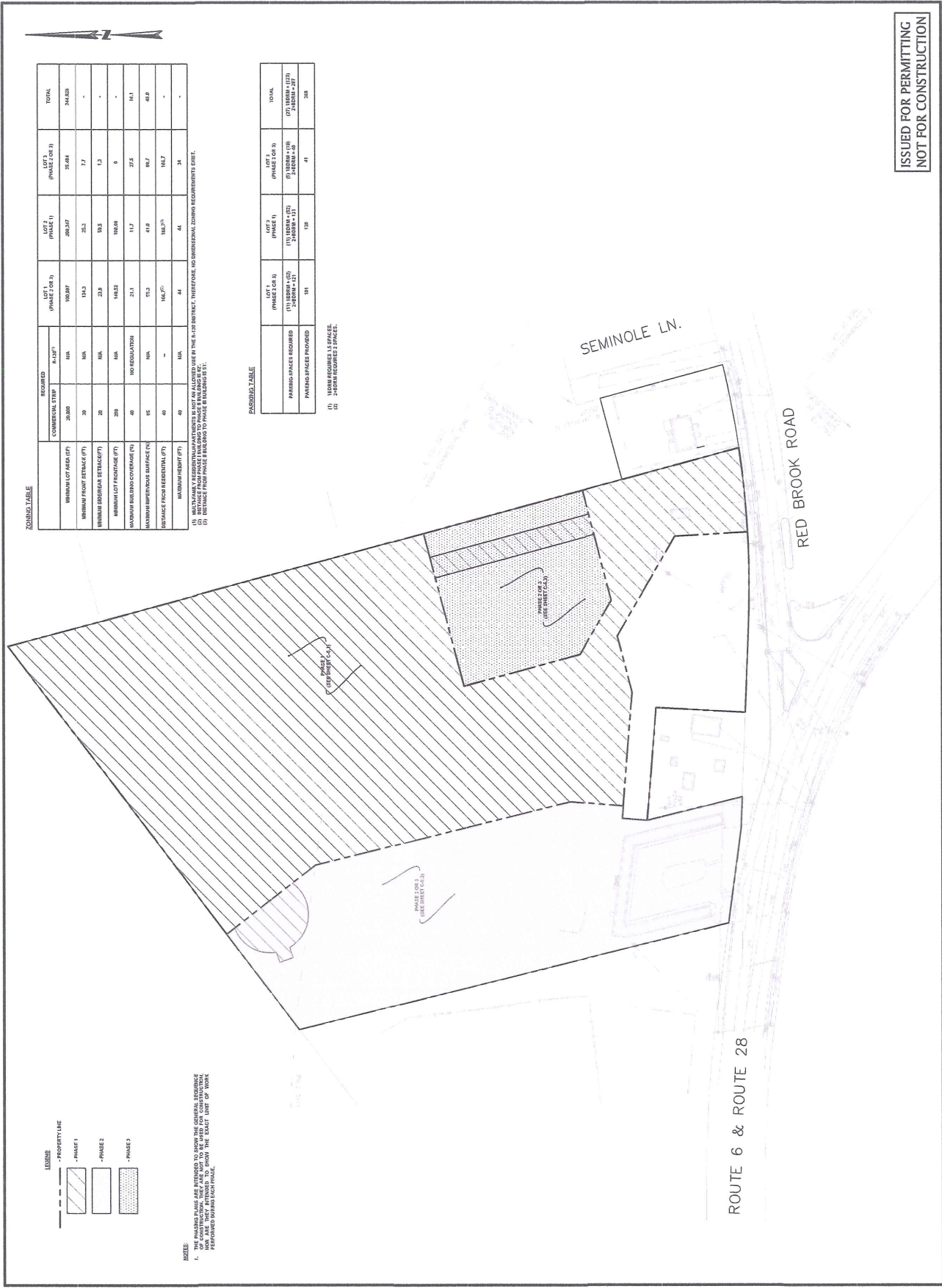
PREPARED FOR:  
 DANCOYA PARTNERS  
 1384 MAIN STREET  
 WALTHAM MA 02451

**BSC GROUP**  
 803 Summer Street  
 Boston, Massachusetts  
 02127  
 617 895 4300

© 2017 BSC GROUP, INC.  
 SCALE 1" = 50'  
 0 25 50 100 FEET

FILE: W046974-PHASE/DWG  
 DWG. NO.  
 JOB NO.: 10089000

**C-5.0**



**ZONING TABLE**

	REQUIRED	LOT 1 (PHASE 2 OR 3)	LOT 2 (PHASE 1)	LOT 3 (PHASE 2 OR 3)	TOTAL
COMMERCIAL STRIP	NA	100.00'	200.00'	50.00'	350.00'
MINIMUM LOT AREA (SQ FT)	NA	10,000	20,000	5,000	35,000
MINIMUM FRONT SETBACK (FT)	NA	10	20	5	35
MINIMUM SIDE/REAR SETBACK (FT)	NA	10	20	5	35
MINIMUM LOT FRONTAGE (FT)	NA	100	200	50	350
MINIMUM SIDEWALK COVERAGE (%)	NO REGULATION	2.5	5.0	1.25	8.75
MAXIMUM IMPERVIOUS SURFACE (%)	NA	50	100	25	75
SURFACE FLOOR HEIGHT (FT)	0	10.0'	20.0'	5.0'	35.0'
MAXIMUM HEIGHT (FT)	NA	40	40	34	40

(1) MULTIPLE Y. REVISIONS/REVISIONS ARE NOT AN ALLOWED USE IN THE 6-10 DISTRICT. THEREFORE, NO DIMENSIONAL ZONING REQUIREMENTS EXIST.  
 (2) DISTANCE FROM PHASE 2 BUILDINGS TO PHASE 1 BUILDINGS IS 10'.  
 (3) DISTANCE FROM PHASE 3 BUILDINGS TO PHASE 2 BUILDINGS IS 10'.

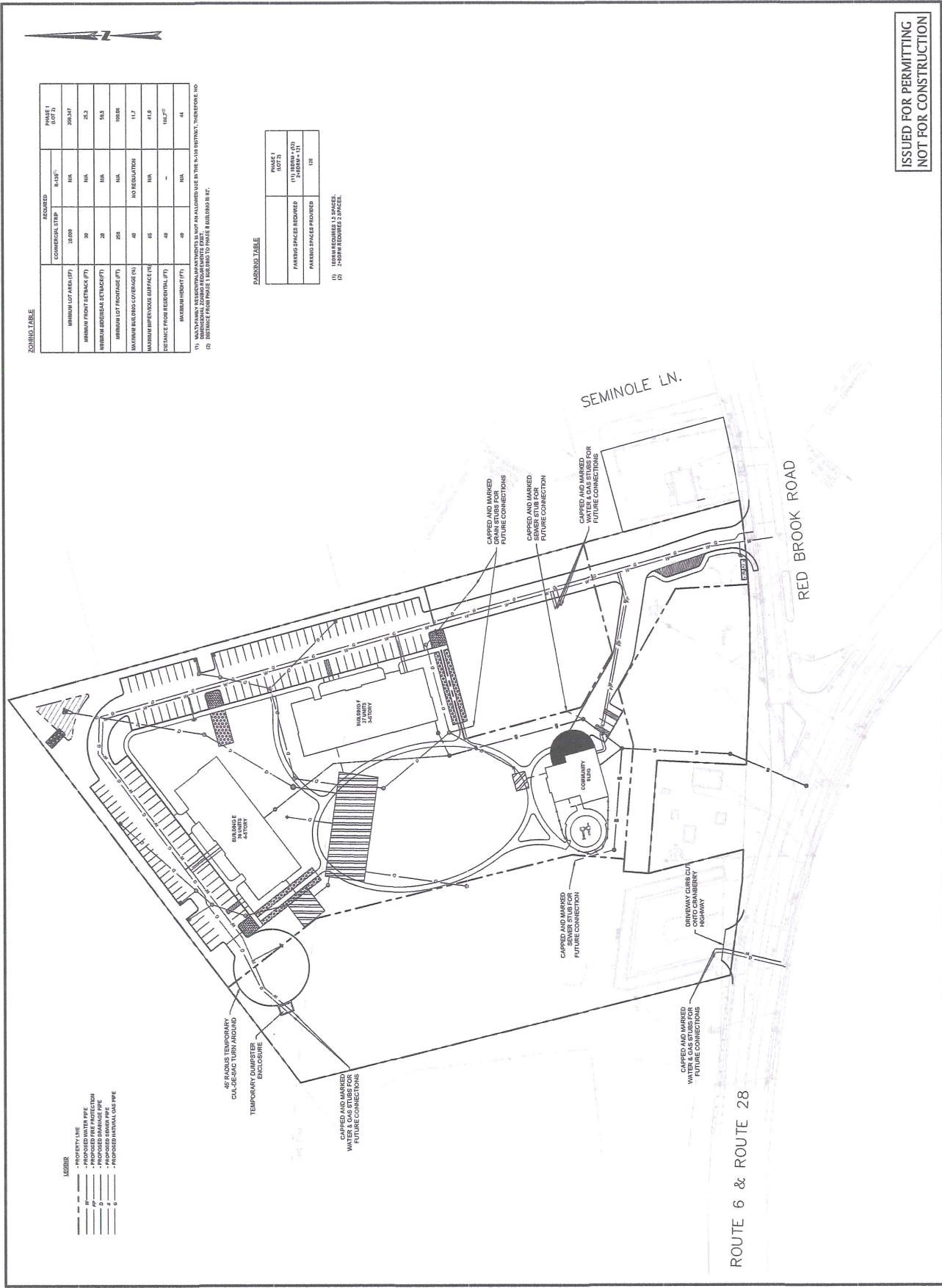
**PARKING TABLE**

	LOT 1 (PHASE 2 OR 3)	LOT 2 (PHASE 1)	LOT 3 (PHASE 2 OR 3)	TOTAL
PARKING SPACES REQUIRED	(1) 10000 + (2) 20000 = 30	(1) 20000 + (2) 20000 = 40	(1) 5000 + (2) 25000 = 30	100
PARKING SPACES PROVIDED	10	10	41	61

(1) 10000 SQUARE FEET  
 (2) 20000 SQUARE FEET

**ISSUED FOR PERMITTING  
 NOT FOR CONSTRUCTION**

COMMERCIAL REZONING PER No. 60974	<h2 style="margin: 0;">WOODLAND COVE</h2> <p style="margin: 0;">3102 CRANBERRY HIGHWAY IN WAREHAM MASSACHUSETTS</p> <p style="margin: 0;">PRELIMINARY PHASING PLAN (PHASE 1)</p> <p style="margin: 0;">JANUARY 12, 2018</p>	REVISIONS 1 04/09/18 REEVALUATED 2 07/20/18 REVISED LAYOUT 3 08/01/18 PHASING REVISIONS 4 08/01/18 PHASING REVISIONS 5 12/07/18 PHASING REVISIONS	PREPARED FOR: DANCO TA PARTNERS 1384 MAIN STREET WALTHAM MA 02461  803 Summer Street Boston, Massachusetts 02127 617 896-4300
--------------------------------------	---	--	---



**ZONING TABLE**

MINIMUM LOT AREA (SF)	MINIMUM FRONT SETBACK (FT)	MINIMUM SIDE/REAR SETBACK (FT)	MINIMUM LOT FRONTAGE (FT)	MAXIMUM BUILDING COVERAGE (%)	MAXIMUM IMPERVIOUS SURFACE (SQ FT)	MAXIMUM HEIGHT (FT)	REQUIRED		MAXIMUM (SQ FT)
							COMMERCIAL STRIP	IN-LINE	
20,000	20	10	20	40	10,000	35	100%	100%	200,000
20,000	20	10	20	40	10,000	35	100%	100%	200,000
20,000	20	10	20	40	10,000	35	100%	100%	200,000
20,000	20	10	20	40	10,000	35	100%	100%	200,000
20,000	20	10	20	40	10,000	35	100%	100%	200,000

**PARKING TABLE**

PARKING SPACES REQUIRED	PROVIDED	
	(1) TOTAL (SQ)	(2) PERM (SQ)
128	128	128

(1) 128M REQUIRED 13 SPACES.  
 (2) 128M REQUIRED 13 SPACES.

(1) MULTIPLE RESIDENTIAL UNITS IS NOT AN ALLOWED USE IN THE R-30 DISTRICT, THEREFORE, NO OVERSTREET PARKING IS ALLOWED IN THIS DISTRICT.  
 (2) PARKING SPACES SHALL BE PROVIDED TO THE MAXIMUM OF THE ABOVE TABLE.

ISSUED FOR PERMITTING  
NOT FOR CONSTRUCTION

SCALE: 1" = 50'  
 0 20 40 60 80 100 FEET  
 FILE: 180604-PHASE.DWG  
 DWG. NO.: 180604-01  
 JOB. NO.: 180604-01

C-5.1

WOODLAND COVE  
 3102 CRANBERRY HIGHWAY  
 WAREHAM MASSACHUSETTS  
 PRELIMINARY PHASING PLAN (PHASE 2 OR 3)  
 JANUARY 12, 2018

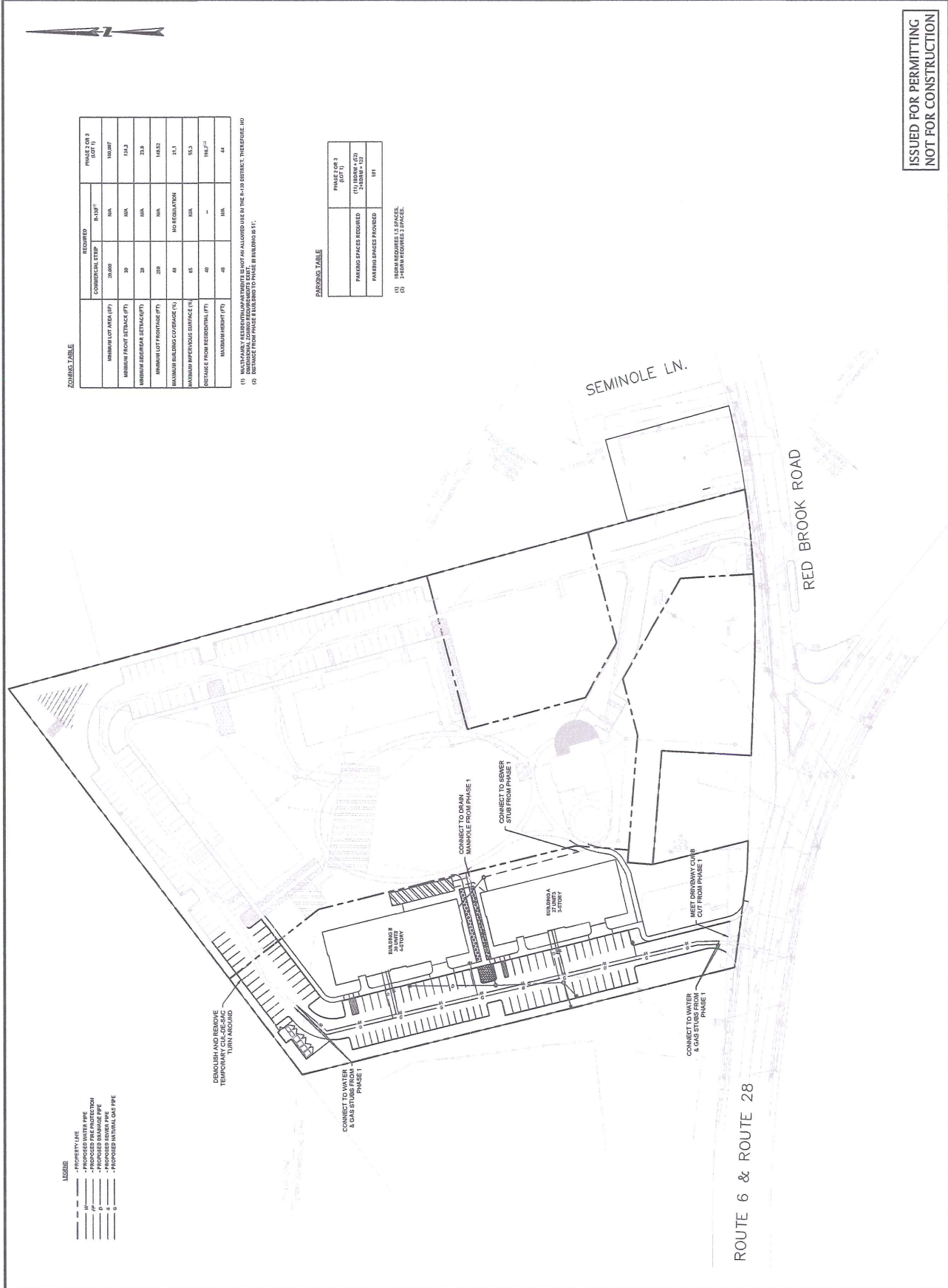
REVISIONS:

1	04/20/18	PEER REVIEW COMMENTS
2	07/20/18	REVISED LAYOUT
3	09/20/18	PEER REVIEW COMMENTS
4	10/20/18	PHASING REVISIONS
5	12/12/18	PHASING REVISIONS

PREPARED FOR:  
 DAVIDA PARTNERS  
 1264 MAIN STREET  
 WALTHAM, MA 02451

**BSC GROUP**  
 803 Summer Street  
 Boston, Massachusetts  
 02127  
 617.896.4300

SCALE: 1" = 50'  
 0 25 50 100 FEET  
 FILE: 180302-03-01-01.DWG  
 DATE: 12/12/18  
 JOB: INC. 180302-03  
**C-5.2**



**ZONING TABLE**

REQUIREMENT	RECORDED	PHASE 2 OR 3 (SOP'17)
MINIMUM LOT AREA (S.F.)	20,000	N/A
MINIMUM FRONT SETBACK (FT)	30	N/A
MINIMUM SIDE/REAR SETBACK (FT)	30	N/A
MINIMUM LOT FRONTAGE (FT)	200	N/A
MINIMUM BUILDING COVERAGE (%)	40	NO REGULATION
MAXIMUM IMPERVIOUS SURFACE (%)	45	N/A
MAXIMUM HEIGHT (FT)	45	N/A

(1) MULTIFAMILY RESIDENTIAL DEVELOPMENT IS NOT AN ALLOWED USE IN THE R-10 DISTRICT, THEREFORE, NO DISTANCE FROM PHASE 2 BUILDING TO PHASE 1 BUILDINGS IS 11'.  
 (2) DISTANCE FROM PHASE 2 BUILDING TO PHASE 1 BUILDINGS IS 11'.

**PARKING TABLE**

REQUIREMENT	RECORDED	PHASE 2 OR 3 (SOP'17)
PARKING SPACES REQUIRED	11	11
PARKING SPACES PROVIDED	101	101

(1) 105000 REQUIRES 1.5 SPACES.  
 (2) 140000 REQUIRES 1 SPACE.

**ISSUED FOR PERMITTING  
 NOT FOR CONSTRUCTION**

- LEGEND**
- PROPERTY LINE
  - PROPOSED WATER PIPE
  - PROPOSED SANITARY PIPE
  - PROPOSED DRAINAGE PIPE
  - PROPOSED MINIMUM LOT PIPE





**ZONING TABLE**

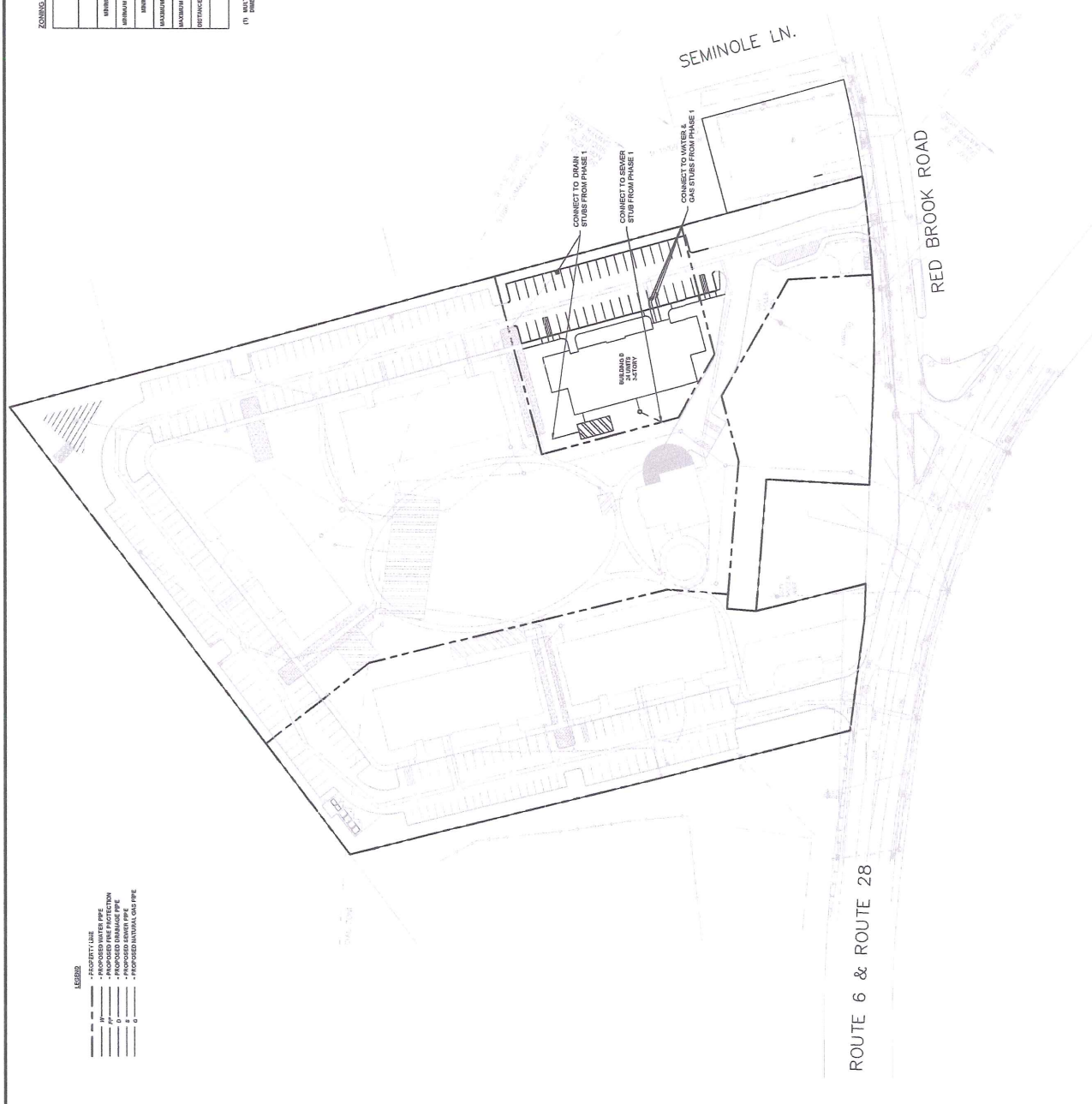
	REQUIRED	PHASE 2 OR 3 (OUT 3)
MINIMUM LOT AREA (SQ FT)	20,000	35,000
MINIMUM FRONT SETBACK (FT)	30	35
MINIMUM SIDE/REAR SETBACK (FT)	20	15
MINIMUM LOT FRONTAGE (FT)	40	50
MINIMUM BUILDING COVERAGE (%)	NO REGULATION	27.5
MAXIMUM IMPERVIOUS SURFACE (%)	65	68.7
MAXIMUM HEIGHT (FT)	40	166.7
MAXIMUM HEIGHT (FT)	40	34

(1) MINIMUM BUILDING COVERAGE SHALL NOT BE ALLOCATED TO THE 100' DISTRICT. THEREFORE, NO BARRIERS SHALL BE REQUIRED TO BE SET.

**ZONING TABLE**

PHASE 2 OR 3 (OUT 3)	PHASE 2 OR 3 (OUT 3)
PARKING SPACES REQUIRED	41
PARKING SPACES PROVIDED	41

(1) 1600M REQUIRES 1.5 SPACES.  
(2) 2400M REQUIRES 2 SPACES.



- LEGEND**
- PROPERTY LINE
  - PROPOSED WATER PIPE
  - PROPOSED SANITARY PIPE
  - PROPOSED DRAINAGE PIPE
  - PROPOSED DOWN PIPE
  - PROPOSED UNDERGROUND PIPE

WOODLAND COVE, MA 02071

**WOODLAND COVE**

3102 CRANBERRY HIGHWAY  
IN  
WAREHAM MASSACHUSETTS

**PRELIMINARY PHASING PLAN (PHASE 2 OR 3)**

JANUARY 12, 2018

**REVISIONS:**

NO.	DATE	DESCRIPTION
1	01/12/18	PREPARED FOR
2	01/20/18	REVIEW COMMENTS
3	01/20/18	REVIEW COMMENTS
4	01/20/18	PROPOSED REVISIONS
5	01/20/18	PROPOSED REVISIONS

PREPARED FOR:  
DANCTA PARTNERS  
1264 MAIN STREET  
WALTHAM, MA 02451

**BSC GROUP**  
803 Summer Street  
Boston, Massachusetts  
02127  
617.896.4300

© 2017 BSC GROUP, INC.  
SCALE: 1" = 50'  
0 25 50 100 FEET  
FILE: BSCGROUP-PHASE2.DWG  
DWG. NO.:  
JOB. NO.: B090000  
**C-5.3**

**ISSUED FOR PERMITTING  
NOT FOR CONSTRUCTION**