

# THE LAW OFFICES OF BELLO & MORTON, LLC

184 Main Street Wareham, Massachusetts 02571 · 508-295-2522

April 1, 2021

Zoning Board of Appeals of Wareham

Memorial Town Hall

54 Marion Road

Wareham, MA 02571

*Re: Application for Special Permit for 3095 Cranberry Highway, Wareham MA 02571*

1. Petitioners

Mr. Peter Luciani

3095 Cranberry Highway

East Wareham, MA 02530

2. Recorded Owner:

David and Susan Spillane

299 Raymond Road

Plymouth, MA 02630

3. Certified Abutters List:

Copy Attached as Exhibit A

4. Current Deed and Trust Documents:

Plymouth County Registry of Deeds Book 45004, Page 124 (Deed). Exhibit B.

5. Building Inspector's Notice of Violation Letter:

Violation Letter dated February 11, 2021 attached here as Exhibit C from the Building Commissioner referencing Appeal to Zoning Board of Appeal is necessary.

6. Plan of Lot:

Attached as Exhibit D is a copy of Map and Lot as well as photos of the inside of the shop. Please note our Parcel is in the Commercial Strip District.

7. Letter from Owner:

Letter from the Owner of the Property Mr. David Spillane in support of this Petition as Exhibit E. This letter also indicates the manufacturing machines that my client is looking to purchase- including a mechanical brake/bending machine and a tig welder.

8. Pictures of the work LuciGold provides for clients as Exhibit F.

9. Letter of Intent

Dear Mr. Chairman,

I represent the applicant Mr. Peter Luciani, owner of LuciGold here in Wareham re the above application for a Special Permit for a Manufacturing Use on the premises of 3095 Cranberry Highway.

**Background:**

My client is the owner and operator of a unique business called LuciGold. This family owned business provides custom egress solutions for homeowners and businesses alike. LuciGold custom designs, builds & installs light-weight all aluminum egress products for safe & easy access

to your cellar. There approach hands-on approach from start to finish ensures you will receive the right basement bulkhead door for your specific needs.

The purpose of this petition is to allow approval for a Special Permit for the owner to manufacture the fitting and doors on the premises. Currently he uses a provider who makes these but with the ever busy contracting and building demand these days, it's been an extreme delay to receive his materials, therefore delaying his delivery of his doors to his eager clients.

As noted in the Commissioner's denial letter, the applicant needs relief from the Board in the form of a Special Permit for this Use per Article 3, Section 320, Table of Principal Use Regulations.

**Relevant By Law for Relief: Special Permit**

We are seeking a Special Permit for this Manufacturing use as procedurally set out in the Wareham Zoning By-Laws in the Article 3, Section 320, Table of Principal Use Regulations.

When looking at the approval of a Use Special Permit the Zoning Board of Appeals shall look at the following factors as set out in the By-Laws 1461:

*The Board of Appeals or Planning Board shall not approve any application for a Special Permit unless it finds that in its judgement, all of the following conditions are met:*

- 1. The Use as developed will not adversely affect the neighborhood.*
- 2. The specific site is an appropriate location for such a Use, structure, or condition.*
- 3. There will be no nuisance or serious hazard to vehicles or pedestrians.*
- 4. Adequate and appropriate facilities will be provided for the proper operation of the proposed Use. This includes the provision of appropriate sewage treatment facilities which provide for denitrification, when the permit granting authority deems such facilities necessary for protection of drinking water supply wells, ponds, or saltwater embayments.*
- 5. The Use or structure as proposed does not pose a substantial detriment to the town or neighborhood in which it is proposed.*
- 6. The proposal, as approved, conforms to all other applicable provisions of the Wareham Zoning By-law*

**Standard as Applied to our case:**

This property is located in a busy commercial section of Cranberry Highway and is abutted by other businesses including Sullivan Tire.

1. Mr. Luciani's application should be approved as there it is not substantially detrimental to the neighborhood for him to manufacture his bulkheads on site. No hazardous waste is produced from this process. The property is located in the heart of an industrial part of the Highway as noted before and would not hurt the area but only add to the services he is able to provide for his clients and improve his turn around times on his product.
2. The site is an appropriate location again because it fits in with the nature of this area bordered by many used car dealerships and mechanic shops. It has past history of a glass manufacturing and a machine shop.
3. This use will not affect the surrounding drinking water supplies etc. The lot actually had a full environmental review in 2010 and passed Phase I testing. The Phase I report indicated that this site used to be in 1989 as a glass business and then a motorcycle repair shop since 2000. In that report, they indicated that the stormwater runoff and leaching basins are in good condition. The manufacturing will be done inside and in a controlled environment and not be done outside the premises. The process does not produce any hazards to pedestrians or vehicles again because it will be inside.
4. My client has upkeep the property very well, including an organized shop inside and showroom for clients. The machines inside will be located in a secure area. My clients recently had the Fire Department inspect the premises as well with no issues. **Also, the premises are equipped with a working sprinkler system as well.**
5. The Use we are requesting is not outside the scope of other businesses in this immediate area. Mr. Luciani has shown through the upkeep of his premises and his quality of work that he will take all the precautions in this limited manufacturing. There is no threat as this is controlled manufacturing, not on an industrial scale, but rather creating custom curated pieces for clients.
6. This proposal does comply with all other zoning bylaws and warrants approval based on the precautions my client has taken.

All things considered allowing this Use Special Permit would not be detrimental to the neighborhood and certainly would not derogate from the intent of the Zoning By Law.

Respectfully submitted,

By 

Jilian A. Morton, Esq.

TOWN OF WAREHAM  
ZONING BOARD OF APPEALS

APPLICATION FOR A PUBLIC HEARING FOR A VARIANCE/SPECIAL PERMIT

Certain uses are allowed in several zoning districts only by means of a Variance and/or Special Permit from the Zoning Board of Appeals. Those uses are indicated in the Wareham Zoning By-Laws. To apply for a Variance/Special Permit from the Zoning Board of Appeals, please do the following:

- o Complete this form.
- o Complete information packets. (Directions attached)
- o Submit application form and packet to Town Clerk for signature.
- o Submit application form and packet to Town Collector for signature.
- o Submit completed form, packets, and appropriate fees\*\* to the Zoning Board of Appeals secretary.

\*\*Permits may be issued only after a public hearing. There is a filing fee of \$300.00 per lot, per application for all non-conforming residential lots, whether built upon or not. There is a filing fee of \$750.00 per lot, per application for all commercial applications. In the case of a multi-family development, the fee is \$300.00 plus an additional \$50.00 for every unit over two (2). Please make check payable to the Town of Wareham.

\*\*A check to cover two (2) legal advertisements for the public hearing should be made payable to Wareham Week in the amount of \$80.00.

\*\*The applicant will also be responsible for the costs of sending out abutter notifications by Certified Mail. The cost is \$6.11 per certified letter to each abutter. Please see Zoning Board secretary for cost of mailings. Please make check payable to the Town of Wareham.

I hereby apply for a Variance/Special Permit for a use to be made of the following described place:

STREET & NUMBER: 3095 Cranberry Highway LOT: 10 MAP: 1019  
ZONING DISTRICT: CS  
USE REQUESTED: Manufacturing  
OWNER OF LAND & BUILDING: David + Susan Spillane TEL.# N/A  
ADDRESS OF OWNER: 299 Raymond Rd, Dymath MA  
PERSON(S) WHO WILL UTILIZE PERMIT: Peter Luciani of LuciGold  
ADDRESS: 3095 Cranberry Hwy, East Wareham, MA 02538  
DATE: 3/26/2021 SIGNATURE: [Signature]  
This application was received on the date stamped here:

Town Clerk: \_\_\_\_\_ Date: \_\_\_\_\_  
Tax Collector: \_\_\_\_\_ Date: \_\_\_\_\_  
Planning/Zoning Dept.: \_\_\_\_\_ Date: \_\_\_\_\_  
Application fee paid: \_\_\_\_\_ Check #: \_\_\_\_\_ Receipt: \_\_\_\_\_  
Advertising fee paid: \_\_\_\_\_ Check # \_\_\_\_\_ Receipt: \_\_\_\_\_  
Abutters fee paid: \_\_\_\_\_ Check # \_\_\_\_\_ Receipt: \_\_\_\_\_

C/O Attorney  
Jillian  
Morton

TOWN OF WAREHAM

APPLICANT/CONTRACTOR/REPRESENTATIVE INFORMATION SHEET

Check One:  Variance  Special Permit  Site Plan  Appeal

Date stamped in: \_\_\_\_\_ Date decision is due \_\_\_\_\_

Applicant's Name: Peter Luciani c/o Jilian Morton, ESQ

Applicant's Address: 184 Main Street, Wareham MA

Telephone Number: 508-295-2522 02571

Cell Phone Number: N/A

Email Address: jam@mortonlawllc.com

Address of Property/Project: 3095 Cranberry Highway, East Wareham 02538

Landowner's Name: (property deed) David Spillane + Susan Spillane

Owner's Address: 3095 Cranberry Hwy, East Wareham, MA 02538

Telephone Number: 508-295-2522

Contact Person: Atty Jilian Morton Telephone Number: \_\_\_\_\_

Map 10 Lot 1019 Zone CS

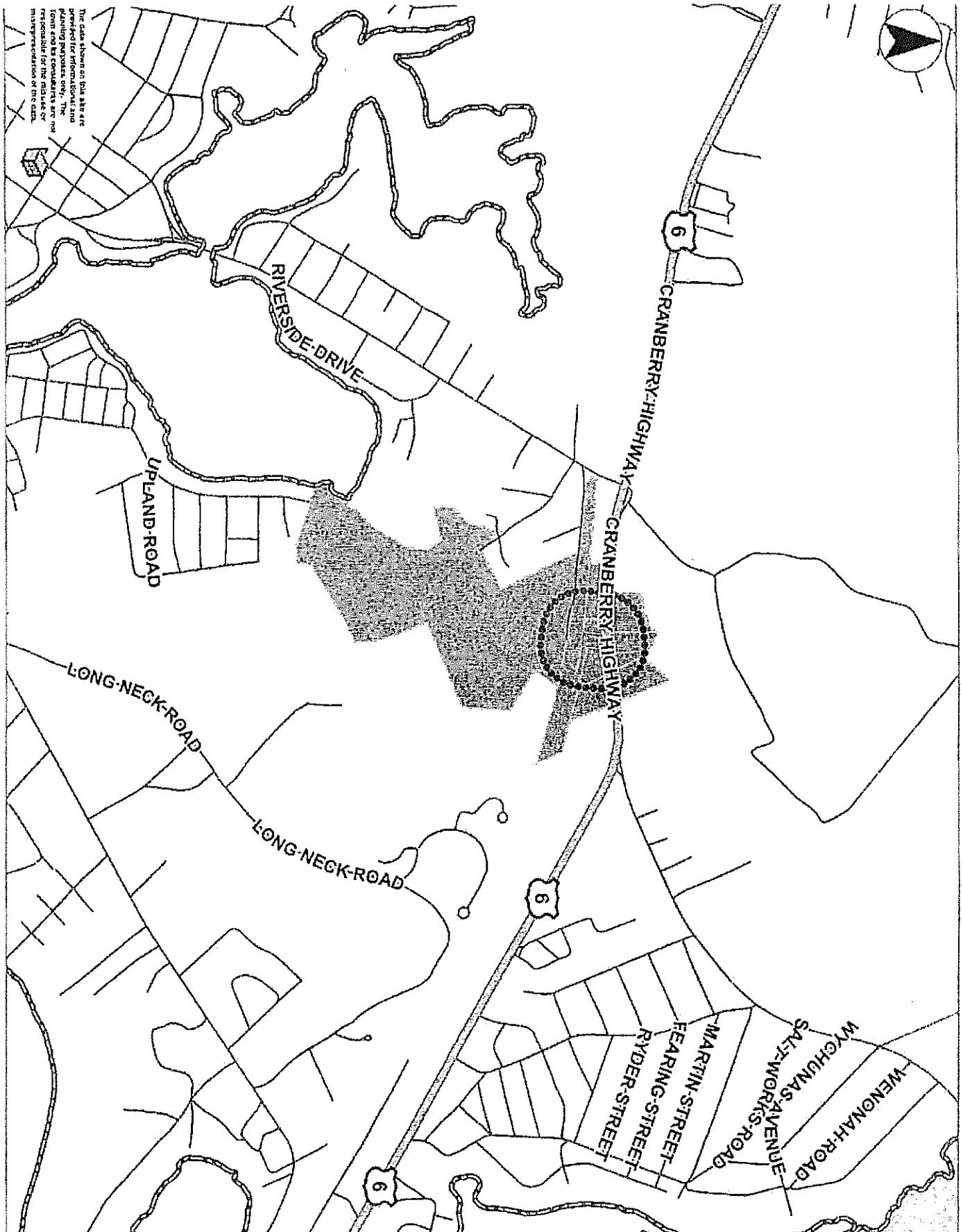
Date Approved \_\_\_\_\_ Date Denied \_\_\_\_\_

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

# EXHIBIT A

TOWN OF WAREHAM ABUTTERS						
MAP 10 LOT 1019						
OWNER DAVID A SPILLANE & SUSAN R BRIEN-SPILLANE						
MAP & LOT	OWNER	CO-OWNER	STREET ADDRESS	TOWN	STATE	ZIP CODE
10-1001	CRYSTAL CLEAN REALTY OF WAREHAM, INC.	C/O SOF-TOUCH REALTY	PO BOX 1212	WESTBOROUGH	MA	01581
10-1010/A	PISCITELLI PAUL J & MARYLOU E	C/O DIANA PISCITELLI	PO BOX 106	E WAREHAM	MA	02538
131-LC26	PALAZESI LENI J TRUSTEE OF	CRANBERRY NOMINEE TRUST	P O BOX 2144	SANDWICH	MA	02563
10-1021	COMM OF MASS	EXEC OFFICE OF TRANS & CONSTRUCT	10 APRK PLAZA RM 3170	BOSTON	MA	02116
10-1018	SPILLANE DAVID A	BRIEN-SPILLANE SUSAN R	299 RAYMOND RD	PLYMOUTH	MA	02360
131-LC27	C C & C OF WAREHAM LLC	C/O COLLINS, CROMIN & CORCORAN	PO BOX 51687	NEW BEDFORD	MA	02745
131-LC28	NLUOVO FRANK J+ANGUS DONALD H TRS	C/O NANCY ANGUS	PO BOX 270	BUZZARDS BAY	MA	02532
10-1002	SULLIVAN ROBERT D TR OF WAREHAM	3099 CRAN HWY REAL ESTATE TR	41 ACCORD PARK DR	NORWELL	MA	02018
10-1003	FINE BROTHERS LLC		PO BOX 535	NO EASTON	MA	02356
CERTIFIED ABUTTERS AS THEY						
APPEAR ON OUR TAX ROLLS						
AS OF 2/15/2021						
<i>Jillian Morton</i>						
ASSESSORS OFFICE						
REQUESTED BY JILLIAN MORTON						
508 295-2522						
JAM@MORTONLAWLLC.COM						





The data shown on this site are provided for informational and planning purposes only. The Town and its consultants are not responsible for the misuses or misrepresentation of the data.

- MA Place
- Fire Station
- Police Station
- Town Hall
- Public Library
- School
- Buildings
- Open Area
- Water
- Town Boundary
- MA Highways
- Interstate
- US Highways
- Numbered Road
- Streets
- Barren
- Bathymetry
- 5-10 ft
- 10-15 ft
- 15-20 ft
- 20-30 ft
- 30-40 ft
- 40-50 ft
- 50-60 ft
- 60-70 ft
- 70+ ft
- Abutting Town Levels
- Abutting Towns

1200 2400 ft

Printed on 03/22/2021 at 02:48 PM

MapOnline by PeopleGIS

# EXHIBIT B

... Electronic Recording ...  
Doc# 00089271  
Bk: 45004 Pg: 124 Page: 1 of 2  
Recorded: 12/02/2014 10:10 AM  
ATTEST: John R. Buckley, Jr. Register  
Plymouth County Registry of Deeds

MASSACHUSETTS EXCISE TAX  
Plymouth District ROD #11 001  
Date: 12/02/2014 10:10 AM  
City: Plymouth County Registry of Deeds  
Fee: \$ 00 Cons: \$1 00

QUITCLAIM DEED

I, DAVID A. SPILLANE, of 299 Raymond Road, Plymouth, Massachusetts 02360  
for consideration paid, and in full consideration of One Dollar (\$1.00)

grant to DAVID A. SPILLANE and SUSAN R. BRIEN-SPILLANE, husband and wife, of 299  
Raymond Road, Plymouth, Massachusetts 02360  
held as Tenants by the Entirety  
with QUITCLAIM COVENANTS

a certain parcel of land, with the building(s) thereon, situated on the southerly side of Cranberry  
Highway (formerly known as Sandwich Road) and also being Massachusetts State Highway  
Route 6 and 28, situated in Wareham, Plymouth County, Massachusetts, more particularly  
bounded and described as follows:

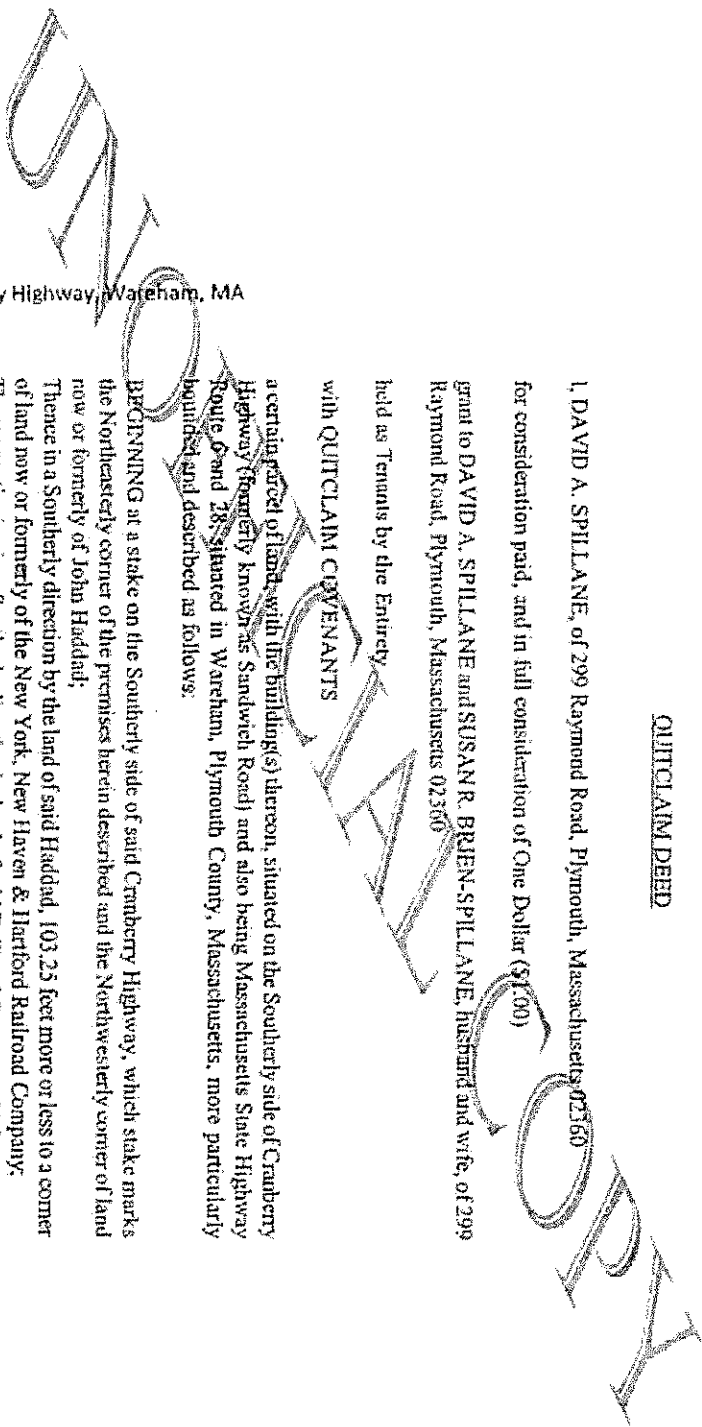
BEGINNING at a stake on the southerly side of said Cranberry Highway, which stake marks  
the Northeastly corner of the premises herein described and the Northwesterly corner of land  
now or formerly of John Haddad;

Thence in a Southerly direction by the land of said Haddad, 103.25 feet more or less to a corner  
of land now or formerly of the New York, New Haven & Hartford Railroad Company;  
Thence continuing in a Southerly direction by land of said Railroad Company, 50 feet more or  
less to a point for a corner;

Thence turning and running Northwesterly by said Railroad Company, 90 feet to a point for a  
corner;  
Thence turning and running by other land, Northerly to a point on the Southerly side of said  
Cranberry Highway, which point is 90 feet Westerly from the point of beginning;  
Thence turning and running Easterly by the Southerly shoreline of said Cranberry Highway, 40  
feet to the point of beginning.

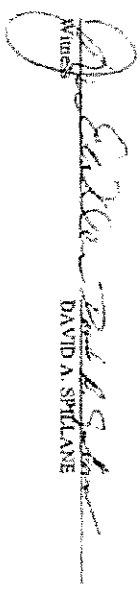
Property Address: 3095 Cranberry Highway, Wareham, Massachusetts

Being the same premises conveyed to the Grantor herein by deed of David A. Veracka dated  
October 14, 2011, and recorded at the Plymouth County Registry of Deeds in Book 40498, Page  
285



Property Address: 3095 Cranberry Highway, Wareham, MA

WITNESS my hand and seal this 02 day of December, 2014

  
WITNES  
DAVID A. SPILLANE

COMMONWEALTH OF MASSACHUSETTS

BRISTOL, ss

December 2, 2014

Then personally appeared the above-named DAVID A. SPILLANE who proved to me through satisfactory evidence of identification which was MA-9 DYNALIS LLC CA SS to be the person whose name is signed on this document, and acknowledged to me that he signed it voluntarily for its stated purpose before me.

  
Robert E. Whelan, Notary Public  
My Commission Expires: 3/26/2015

**DRAFT COPY**

# EXHIBIT C



# TOWN of WAREHAM

*Massachusetts*

## BUILDING DEPARTMENT

David L Riquinha  
Director of Inspectional Services

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Peter Luciani  
3095 Cranberry Highway  
East Wareham, MA 02538

February 17, 2021

RE: 3095 Cranberry Highway

Map #10, Lot #1019

I have reviewed your application to change the Use of your building at 3095 Cranberry Highway in Wareham, MA. You are proposing to expand the use of your exiting business to include a manufacturing component where your products will be created within the facility. This is an Industrial Use known as "Manufacturing" and it requires a Special Permit from the Zoning Board of Appeals.

Your application to create a new Manufacturing Use in the CS Zoning district is being denied under the following sections of the Wareham Zoning By-Law:

- **Article 3, Section 320, Table of Principal Use Regulations**, The Manufacturing Use requires a Special Permit in the CS Zoning district.
- **Article 14, Section 1471, Use Variances**, "The Board of Appeals is specifically empowered to grant variances from the restrictions imposed by this By-law as to Use".

The subject building is located in CS Zoning district.

Respectfully,

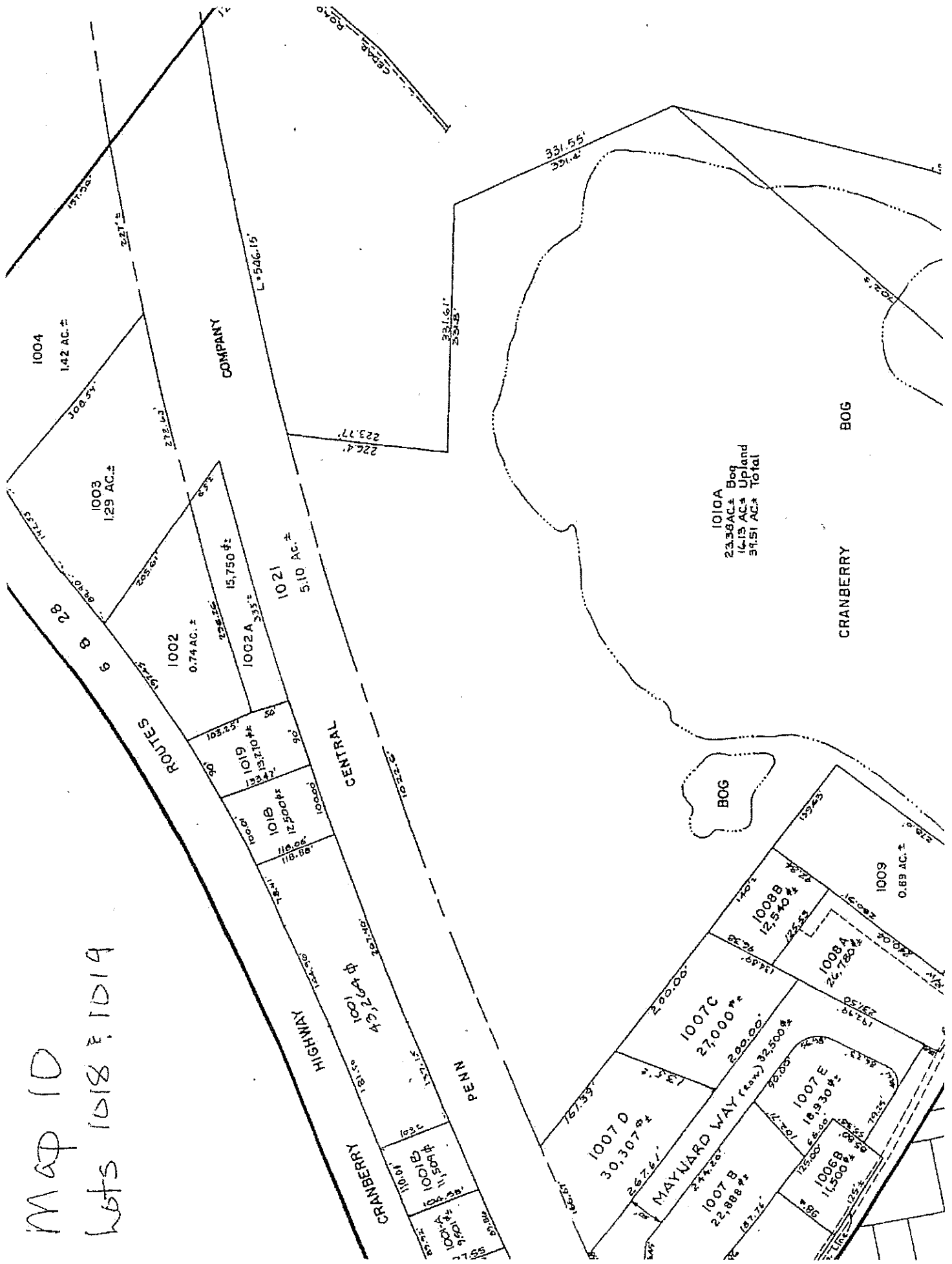
David Riquinha  
Building Commissioner  
Zoning Enforcement Officer

It is the owners' responsibility to check with other departments, i.e. Health, and conservation, etc. to ensure full compliance.

In accordance with the provisions of MGL chapter 40A §§ 15, you may apply to the Zoning Board of Appeals for the above noted relief within thirty (30) days of receipt of this letter.

# EXHIBIT D

Map 10  
 Lots 1018 & 1019



1010A  
 23.38 AC. Bog  
 16.13 AC. Upland  
 31.51 AC. Total

BOG

CRANBERRY

BOG

CRANBERRY HIGHWAY

CENTRAL

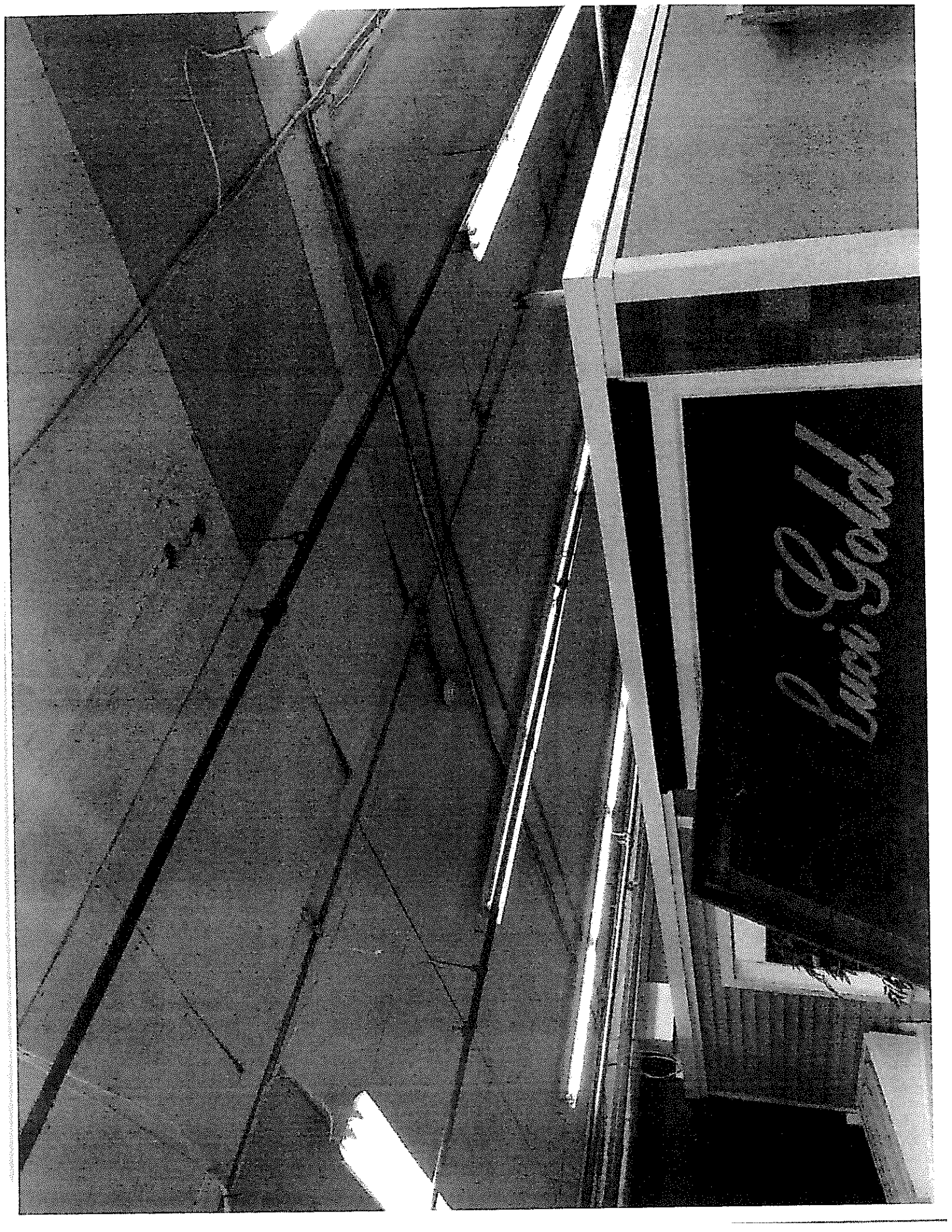
PENN

MAYNARD WAY

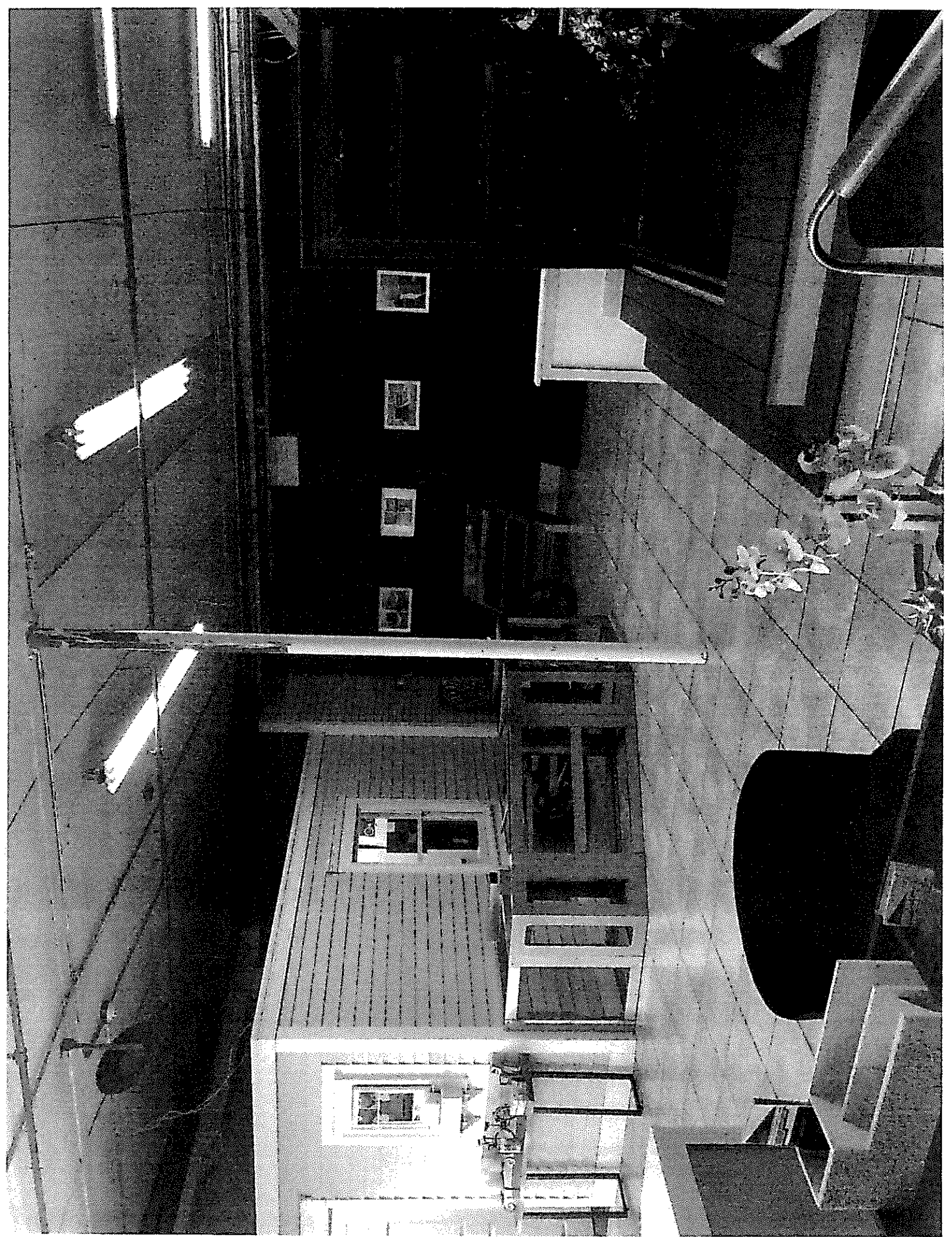
ROUTES

COMPANY



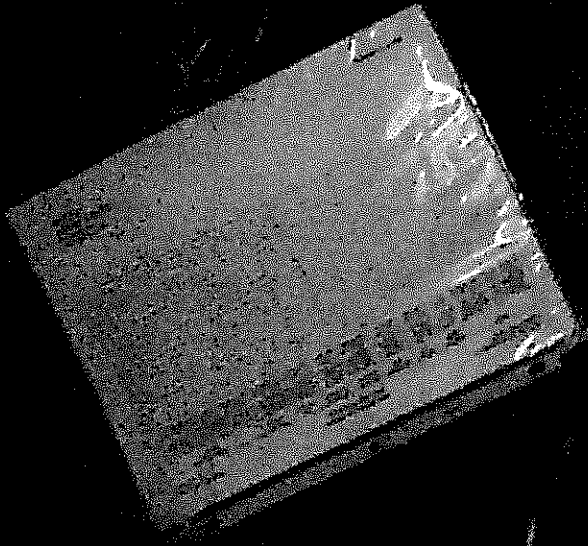


Lumi Gold



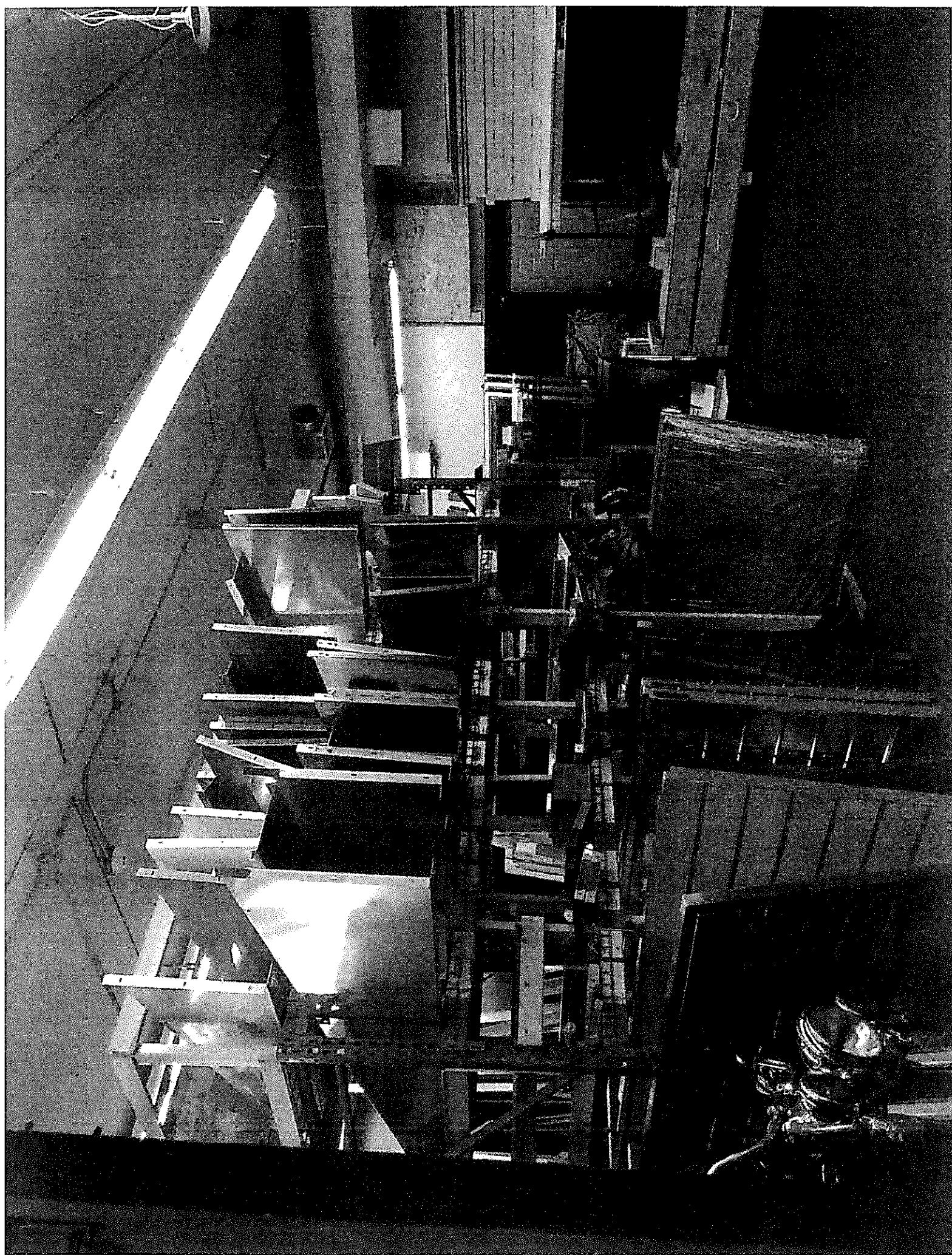




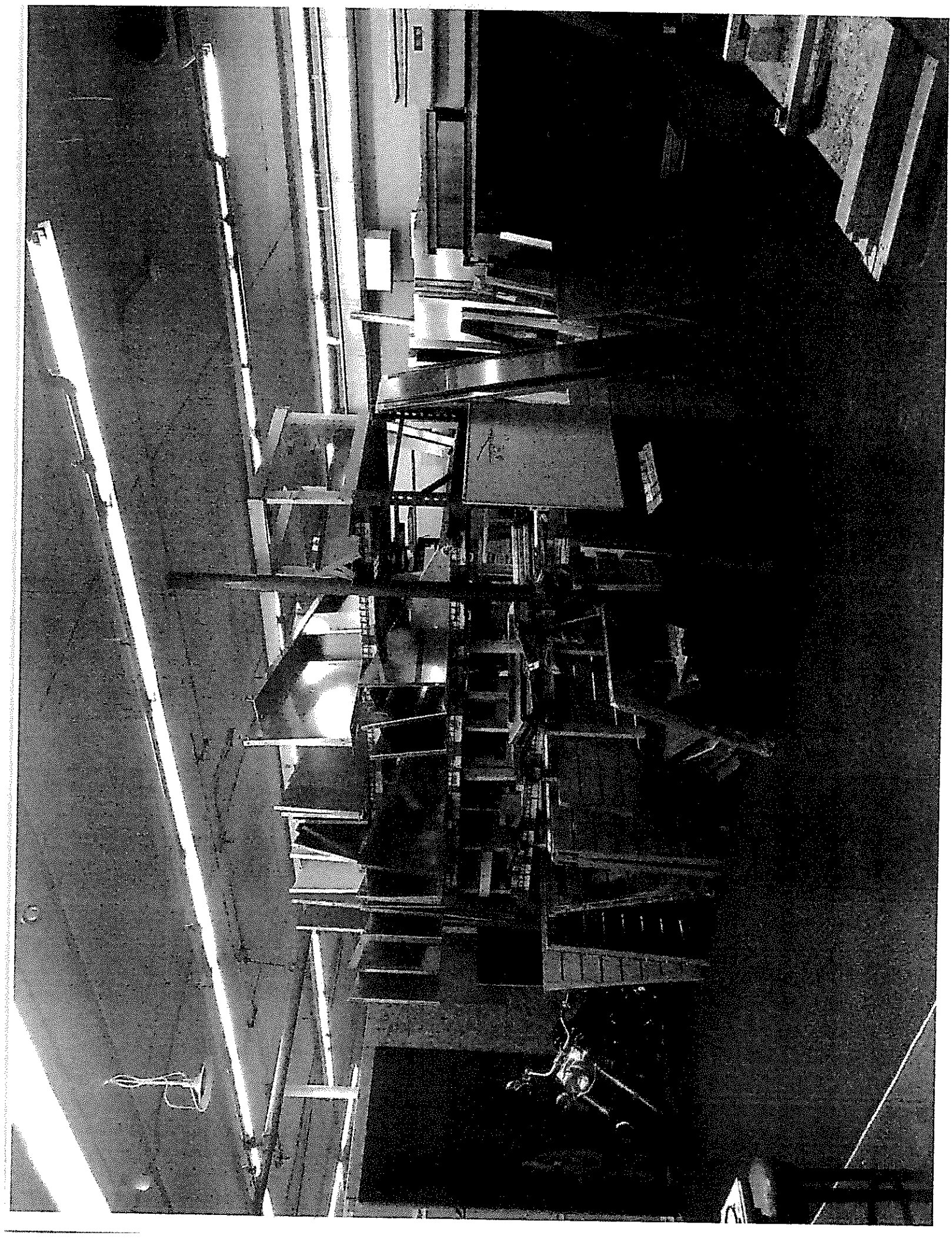


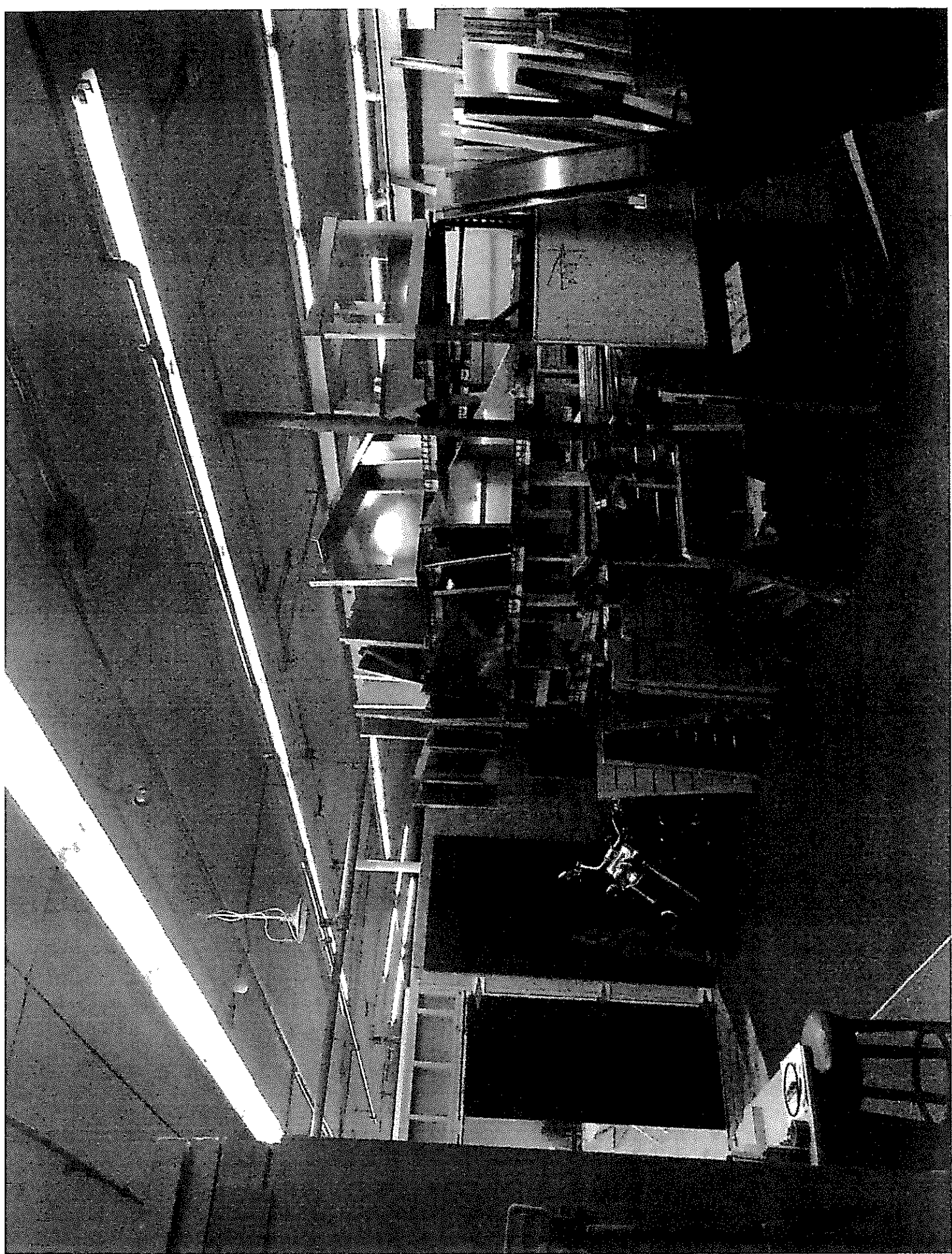












# EXHIBIT E

Dear members of the Board,

My name is David Spillane, Owner operator of Spillane's Automotive since 2007, and owner of 3091 & 3095 Cranberry hwy..

I was fortunate enough to meet Pete Lucianni in 2018. I entered into a lease with him at #3095 Cranberry Hwy..This building was originally a MLB baseball manufacturing facility. Pete sells & installs high quality aluminum bulkheads & other egress systems as well as hurricane shutter window systems.

As soon as Pete started up , it was clear he was a very driven individual & a perfectionist at what he does. He constantly comes up with new and innovative ideas that have only expanded his business.

With that said, as any business grows there is a need for expansion. Unfortunately he has out grown his facility @ #3095 Cranberry Hwy. in just four short years.

Peter has expressed interest in leasing my adjacent location @ #3091 Cranberry Hwy, which shares the same parking lot.

I am ready to retire and would like nothing more that to turn the building over to Pete. You would be hard pressed to find an individual more honest, hard working and conscientious than him. His business sense and strict safety guidelines are a perfect fit for the location and for the town.

Pete would be investing in mechanical brake / bending machines & a tig welder so he could manufacture his own products in house rather than having to rely on outside vendors. This would increase his quality control and lower his costs at the same time.

Now, when I say manufacturing, please don't visualize a "Henry Ford" assembly line where sparks are flying, Smokey byproducts pouring out windows, and noise heard blocks away. Nothing could be farther from the truth.

The fact is , brake bending machines are quieter than the motors on my three car lifts in my automotive repair shop. Tig welders run at very low voltage and produce no sparks & very little fumes. One study showed that being exposed to fumes for 15 hours of tig welding was the equivalent of smoking one cigarette. However Pete would have the ventilation ,filters & sprinkler system in place to make his product safely.

Bear in mind there are different types of manufacturing. Large scale, Discrete, repetitive manufacturing, process manufacturing, batch manufacturing, and Job Shop manufacturing. Peter would fall under Job Shop manufacturing where unlike discrete or large scale manufacturing, Job Shop makes use of production "areas" rather assembly lines. This is because the work stations are organized to make one version of a custom product which can be made to order or made to stock.

The Cranberry highway is littered with business that weld on a consistent basis. Kent's Welding , Spillane's Automotive, Discount Collision, Robertsons GMC, Master Muffler, Scag Transmission & every gas station that does repairs. Peters operation would be a clean controlled environment safer than any of the business I just mentioned .

Please take these facts into consideration before rendering your decision.

*David A. Spillane*

3-27-21

# EXHIBIT F



# All Aluminum Egress Solutions Custom Design Specialists

Lucit  
Ware  
Sales  
m  
508-7

Home

Our Products

About Us

Request Estimate

## BASEMENT BULKHEADS: WE DESIGN, BUILD INSTALL EACH CELLAR DOOR

At Egress Solutions, we take great pride in finding solutions for unique challenges. Though some projects can be quite simple, so we offer standard sizes too.

CALL US!

EMAIL US!

### DESIGN & FABRICATION

#### The Last Basement Bulkhead Door You'll Ever Need!

Our all aluminum infrastructure with stainless steel hinges is water and rust resistant. It incorporates flanges around the opening that fit inside the channels of the cellar door for a tight seal. Designed to withstand the harshest of outdoor conditions. Ideal for any area that promotes rust and is regularly exposed to moisture, including basements. Light weight, structurally sound doors with gas assisted pistons provide smooth dependable motion, so our doors are a breeze to open and close on your head.

