



# CAPE COD COMMISSION

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Date: April 1, 1993  
To: The Town of Provincetown  
From: Cape Cod Commission  
Re: Development of Regional Impact Partial Hardship Exemption, Section 23  
Cape Cod Commission Act.  
Project #: HDEX 93004  
Project: Solid Waste Transfer Station on Site 6 East in Provincetown  
Applicant: The Town of Provincetown  
Map/Parcel: Lot 8-1-005, Assessor's Map 8, Provincetown

## Decision of the Cape Cod Commission

### Summary

The Cape Cod Commission (Commission) hereby approves the application of the Town of Provincetown for a partial Development of Regional Impact (DRI) hardship exemption, with three conditions under section 23 of the Commission Act (Act), c. 716 of the Acts of 1989, as amended, for the limited purpose of allowing Provincetown to pursue a local Board of Health site assignment. This partial exemption shall be granted on one condition. The condition states that the project will be returned to the Commission for further consideration as a DRI should the Provincetown Board of Health issue an approval on a local site assignment for the proposed solid waste transfer station. This decision is rendered pursuant to the vote of the Commission on April 1, 1993.

### Project Description

The proposed project is a municipal solid waste transfer station and recycling center to be located on the north side of Route 6, on a Site commonly known as Site 6 East, near the intersection of Shank Painter Road. The proposal consists of a compactor and direct hopper feeding to closed roll-off containers. The solid waste would ultimately be transferred to the SEMASS burn facility located in Rochester, Massachusetts. Operation of the station would occur seven days per week during the peak season of June through September. During the off-peak season the station will operate on a five day schedule. In addition to the transfer station, a residential recycling area will be provided.

### **Procedural/Jurisdictional History**

This project meets a threshold as a DRI under section 12 (c) (8) of the Act. The applicant has applied for a partial Hardship Exemption for the limited purpose of seeking a Provincetown Board of Health Site Assignment. The subcommittee held a public hearing, at the Provincetown Town Hall, at 3:00 p.m. on March 25, 1993.

### **Materials Submitted for the record**

All information submitted for the record at public hearings, including testimony, staff reports, plans and correspondence are duly incorporated by reference.

#### Town Submittals

1. Letter from Provincetown Town Administrator, Keith Bergman, detailing Provincetown's reasons for pursuing the partial Hardship Exemption. March 25, 1993.

#### Staff Reports and Correspondence

1. Staff Report, March 19, 1993.
2. Subcommittee Report, March 25, 1993.

#### Submittals from the public.

1. Letter and fact sheet from the citizen group Peac/Clapps. March 4, 1993.
2. Letter from Mary Jo Avellar urging the Commission to mediate a settlement between the Cape Cod National Seashore and Provincetown over the use of site 9.
3. Petition in opposition to the siting of the transfer station on Site 6 East containing 119 signatures.

#### Submittals from Government Agencies

1. Letter from Andrew Ringgold, Superintendent of Cape Cod National Seashore, supporting the hardship exemption, March 25, 1993.

The application and notice of public hearings relative thereto, the Commission's staff's reports, notes and exhibits, minutes of all hearings and all written submissions received in the course of the proceedings are incorporated into the record by reference.

### **Findings**

The Commission has considered the application of the town of Provincetown for a partial hardship exemption for a solid waste transfer station. Based on consideration of such application and upon the information presented at the public hearings makes the following findings pursuant to section 23 of the Act.

1. Provincetown's Memorandum of Understanding with the National Park Service to use the

landfill currently located within the Cape Cod National Seashore boundary will end on January 1, 1994.

2. Provincetown's DEP permit to continue using the landfill within the Cape Cod National Seashore boundary will end on January 1, 1994.

3. Based upon findings 1 and 2 above, Provincetown has demonstrated a hardship with respect to time. A limited exemption from Commission review will allow Provincetown to alleviate their time constraints by allowing the Town to apply for a Board of Health site assignment. The substantive issues related to the project, and the identification of any impacts, as well as compliance with the Commission's Regional Policy Plan, will be analyzed in a future DRI review.

4. Pursuing a local site assignment will not pose a substantial detriment to the public good nor derogate from the intent and purposes of the Act, since no construction is allowed by this decision.

### Conclusion

Based on the findings above, the Cape Cod Commission hereby approves the application for a partial hardship exemption, with one condition, for the limited purpose of allowing Provincetown to pursue a local board of health site assignment. Provincetown has demonstrated a hardship with respect to time and the granting of a partial exemption will not pose a substantial detriment to the public good nor derogate from the intent and purposes of the Act. The findings above allow the Commission to conclude that granting a Board of Health site assignment will not necessarily result in a DRI approval.

### Conditions

#### Condition

1. The project shall be returned to the Commission for a full DRI review if the Board of Health approves the site assignment.

  
Alix Ritchie, Chair

4/1/93  
Date

### COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

Subscribed and sworn to before me this 1st day of April 1993

Katharine L. Peters

NAME, Notary

My Commission expires:

My Commission Expires December 31, 1997