

CAPE COD COMMISSION

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508-362-3828
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DATE: March 17, 1994 CCC# HDEX 94002
TO: Keith Bergman, Town Manager
Town of Provincetown
Town Hall, 260 Commercial St.
Provincetown, MA 02657
FROM: Cape Cod Commission
RE: Development of Regional Impact Hardship Exemption
Cape Cod Commission Act, Section 23
PROJECT: Provincetown Transfer Station - temporary municipal
solid waste transfer station and recycling facility on the
site of the existing sanitary landfill, off Race Point Rd.
BOOK/PAGE: United States of America, Barnstable Book 1361, Page
1162

DECISION OF THE CAPE COD COMMISSION

SUMMARY

The Cape Cod Commission (Commission) hereby approves with conditions the application by the Town of Provincetown for the Provincetown Transfer Station (the Project), for a Development of Regional Impact (DRI) Hardship Exemption under Section 23 of the Cape Cod Commission Act (Act), c. 716 of the Acts of 1989, as amended, for the development of a temporary municipal solid waste transfer station and recycling facility on the site of the existing sanitary landfill, off Race Point Rd. in Provincetown, MA. The decision is rendered pursuant to the vote of the Commission on March 17, 1994.

BACKGROUND INFORMATION

The Project site is the current town landfill site (Site 9), in use since 1954. Septage has also been deposited at the site, but is now prohibited and has not been brought to the site since 1991. Two-thirds of the landfill is already capped. The Department of Environmental Protection (DEP) is requiring a cessation of all landfilling through a consent order to be issued. Instead of burying waste on-site, it would be transported via the proposed transfer station to the SEMASS waste-to-energy facility in Rochester, MA. The Town has signed a 20-year agreement to send waste to SEMASS. The storage or transfer of hazardous wastes is not proposed at this site.

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Provincetown did pursue a permanent arrangement for development in Truro of a joint transfer station with the Town of Truro, but that proposal was rejected by Truro Town Meeting.

PROJECT DESCRIPTION

The proposed development is a temporary municipal solid waste transfer station and recycling facility located on the site of the current Town sanitary landfill. The project is intended to provide the Town with a means to transfer municipal solid waste from collection vehicles to larger transport vehicles (for transport to the SEMASS waste-to-energy facility in Rochester, MA). An area is also designated to receive recyclable materials and to prepare these for transport. No disposal of solid waste will occur at the site.

JURISDICTION

The proposed Project qualifies as a DRI under Section 12 (c) (8) of the Cape Cod Commission Act as a development that will provide facilities for transportation to or from Barnstable County. The application for a DRI Hardship Exemption was submitted to the Cape Cod Commission by Keith Bergman, Provincetown Town Administrator, on 2/14/94.

PROCEDURAL HISTORY

The proposed temporary PROVINCETOWN TRANSFER STATION (hereafter the Project) has been submitted to the Cape Cod Commission for a Development of Regional Impact (DRI) Hardship Exemption under the Cape Cod Commission Act, Chapter 716 of the Acts of 1989, as amended, as a development that will provide facilities for transportation to or from Barnstable County. The submission was made by the Town of Provincetown and was received by the Commission on February 14, 1994.

A DRI application, with attached site plans and construction drawings, was received on February 17, 1994, and was accepted as complete on February 24, 1994. A properly-noticed public hearing was held on March 1, 1994 at 7:30 PM in the Provincetown Town Hall to hear testimony on the application. Following closure of the public hearing and the written record, the Subcommittee met and voted unanimously to recommend approval of the DRI Hardship Exemption application, with conditions. The Subcommittee's report was submitted to, and accepted by, the full Commission on March 17, 1994.

MATERIALS SUBMITTED FOR THE RECORD

<u>From the Applicant:</u>	<u>Prepared by:</u>	<u>Date:</u>
Letter w/ cert. abutters' list	Keith Bergman	1/24/94
DRI Hardship Exemption App.	Keith bergman	2/14/94
DRI Application	Joseph J. Borgesi	2/17/94
<u>From Interested Parties:</u>	<u>Issue:</u>	<u>Date:</u>
Fax from Ben Kettlewell	Access to site	2/15/94
Ltr. from Donald R. Marquis	Access/safety	2/22/94
Ltr. from Judith Best and Mary McKenzie	Access/noise/traffic	2/28/94

Fax from Marc Thomas	Access	3/1/94
Ltr. from George D. Bryant	Support/access concerns	3/1/94
Ltr. from Andrew T. Ringgold, National Park Service	Support	3/1/94

The Commission also received oral testimony from town officials and interested parties as described in the minutes of the public hearing held on 3/1/94. The application and notice of public hearings relative thereto, the Commission's staff reports, and exhibits, minutes of all hearings and all written submissions received in the course of the proceedings, including materials submitted on file # HDEX 94002 are incorporated into the record by reference.

TESTIMONY

At the public hearings of 3/1/94, the following people testified on the proposed project:

John Georgio, Provincetown Town Council, gave an overview of the proposed Project for the Town, including the history of various other proposals for the management of solid waste, and answered questions.

Keith Bergman, Provincetown Town Administrator, cited popular support for the Project and the benefits to the environment. He said that all facets of a permanent site would be on the table in the permitting process for the permanent site.

Peter Souza, Provincetown Environmental Action Corps, spoke in favor of approving the Project, citing popular support and a lack of environmental problems.

Robert O'Malley, Chair Provincetown Planning Board and an abutter to the Project site, expressed dissatisfaction with the proposed site, especially as its entrance is directly across the street from a residential area and near to the start of a bike trail.

Andrew Ringgold, Superintendent of the Cape Cod National Seashore and representing the National Park Service, read and submitted a letter of support for the Project into the record.

Constance Black, Provincetown Environmental Action Corps, stated that an alternative access should be examined at the time of permitting for the permanent facility, suggesting that the fire road or adjacent Town DPW site be considered.

Mary Joe Avelar spoke in support of the Project, citing its location.

FINDINGS

The Commission has considered the DRI Hardship Exemption application of the Town of Provincetown for a temporary municipal solid waste transfer station and recycling facility on the site of the existing sanitary landfill, off Race Point Rd. Based on consideration of such application, the information presented and the Commission staff recommendations, the Commission makes the following findings pursuant to Section 23 of the Act and Section 4 of the Administrative Regulations:

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1. The Project meets the threshold of a Development of Regional Impact specified in Section 12 (c) (8) of the Cape Cod Commission Act as a development that will provide facilities for transportation to or from Barnstable County.
2. The Project will not create significant adverse impacts upon wildlife and plant habitat or water resources.
3. The Project will meet a significant community need in Provincetown. The proposed site, due to its location and previous uses, is suitable for the proposed transfer station/recycling facility. Moreover, the move by Provincetown from solid waste landfilling to recycling, composting and waste-to-energy conversion is positive for both the Town and the region.
4. Access to the Project is adequate, and will not generate traffic or potential conflicts significantly in excess of what has existed at the former landfill site in the past.
5. As plans, environmental impact statements and permit applications are prepared for the siting of a permanent transfer station, the design of the Race Point Road intersection (with the access drive) and the feasibility of alternative access to the site will be assessed.
6. The Minimum Performance Standards in the RPP have been satisfied.
7. The Project's benefits to the community and region exceed any detriments.
8. The Project is consistent with the Town of Provincetown's zoning bylaws.
9. The Project is not located within a District of Critical Planning Concern.
10. The Town of Provincetown provides, and shall continue to provide, curb-side pickup of its solid wastes and recyclable materials.
11. The Applicant has established that a hardship exists relative to this Project due to DEP landfill closure requirements, the contractual obligations between the Town, the National Seashore and the Town of Truro, the conditions of the DEP consent order requiring development of this facility, the nature of the site's history as a landfill, the site's future use constraints, and timing relating to potential delay in project approval should a full DRI review occur.
12. Both the Massachusetts Historical Commission and the Natural Heritage Program have commented that the Project will have no adverse impacts upon either historic or natural resources.

CONCLUSION

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

The probable benefit from the proposed development is greater than the probable detriment. This conclusion is supported by findings #2,3,4,7, 10 and 12, listed above.

The application is consistent with Commission's Regional Policy Plan. This conclusion is supported by the finding #6, listed above.

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The application is consistent with local development bylaws. This conclusion is supported by finding #8, listed above.

The application is not located within a District of Critical Planning Concern. This conclusion is supported by finding #9, listed above.

After reviewing the Project for a DRI Hardship Exemption in relation to Section 23 of the Act and Section 4 of the Administrative Regulations, the Commission concludes that a DRI Hardship Exemption may be granted without substantial detriment to the public good and without substantially derogating from the intent or purpose of the Act. This conclusion is supported by the findings listed above.

DECISION

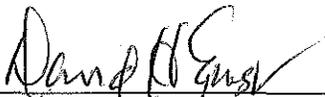
The Commission hereby approves the DRI Hardship Exemption for the Provincetown Transfer Station, pursuant to Section 23 of the Act and Section 4 of the Administrative Regulations. The following conditions are to be attached to this approval:

General Conditions:

1. Plans submitted and listed in this decision shall become a part of the written decision and any changes to these plans shall be approved by a vote of the Cape Cod 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 permanent or temporary Certificate of Occupancy for any portion of the proposed development.
3. The Applicant shall obtain all necessary state and local permits for the Project.

Specific Conditions:

4. The Applicant shall assess the design of the Race Point Road intersection (with the access drive), its effect on the bikepath and the feasibility of alternative access to the site when plans, environmental impact statements and permit applications are prepared for the siting of a permanent transfer station.



 David H. Ernst, Chair

3-17-94

 Date

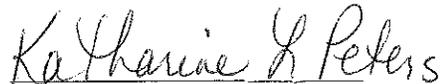
Commonwealth of Massachusetts

Barnstable, ss.

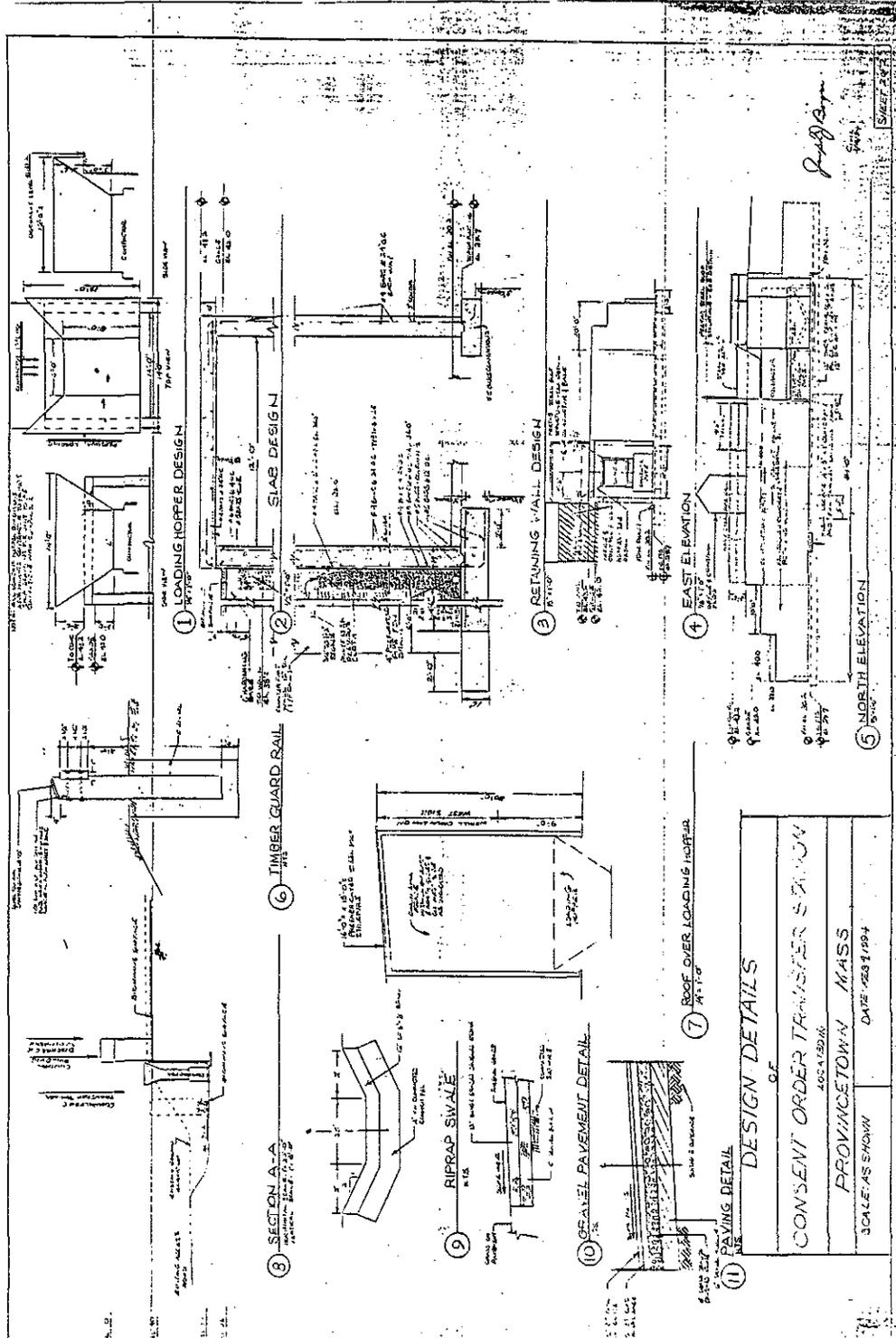
Subscribed and sworn before me this 17th day of March, 1994

My Commission expires: _____

My Commission Expires on _____, 20__



 Name, Notary Public



DESIGN DETAILS
 OF
 CONSENT ORDER TRANSFER STATION
 405-A-1994W
 PROVINCETOWN MASS
 SCALE AS SHOWN DATE 12/31/1994

Signature

SHEET 1