



# CAPE COD COMMISSION

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DATE: September 18, 1997

TO: Shankpainter Associates, Inc.

FROM: Cape Cod Commission

RE: Development of Regional Impact  
Cape Cod Commission Act, Section 12 and 13

APPLICANT: Shankpainter Associates, Inc.  
226A Bradford Street  
Provincetown, MA 02657

PROJECT: Shankpainter Subdivision  
Route 6 and Province Road  
Provincetown, MA 02657

PROJECT #: TR95007

BOOK/PAGE: Book 2570, Page 249  
Plan Book 521, Page 93

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## DECISION OF THE CAPE COD COMMISSION

### SUMMARY

The Cape Cod Commission (Commission) hereby approves with conditions the application of Shankpainter Associates, Inc. as a Development of Regional Impact (DRI) pursuant to Sections 12 and 13 of the Cape Cod Commission Act, c. 716 of the Acts of 1989, as amended, for a six-lot subdivision in Provincetown, MA of Lot 2 of a plan previously granted a Hardship Exemption by the Cape Cod Commission on December 14, 1995. The decision is rendered pursuant to a vote of the Commission on September 18, 1997. The preliminary 19-lot subdivision plan for this property originally referred to the Commission as a DRI on February 15, 1995 has been modified through the Commission's review and was withdrawn on September 15, 1997.

### PROPERTY DESCRIPTION

The property that is the subject of the original DRI referral consists of approximately 34.2 acres of land at the intersection of U.S. Highway Route 6 and Province Road in Provincetown, MA. The Cape Cod Commission previously granted a Hardship Exemption with conditions for the entire 34.2-acre site. Shankpainter Pond and associated wetlands account for approximately 22 acres of the 34.2 acre site. The Cape Cod National Seashore lies directly west of the project site with single

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family residential use to the east. The majority of the property is zoned Class B Residential with approximately 3.3 acres of the site zoned Class P Commercial. This 3.3 acre parcel contains an existing 15,000 s.f. warehouse. The entire 34-acre property is within an estimated habitat for rare and endangered species.

#### PROJECT DESCRIPTION

The original referral to the Commission consisted of a 19-lot preliminary subdivision plan of land for the 34-acre site. This decision is rendered for Lot 2 of a previously-approved five-lot ANR plan submitted as part of file #HDEX95020 which was granted a Hardship Exemption on December 14, 1995. Lot 2 comprises approximately 7.52 acres of the 34.2 acre parcel. During the course of Commission review, the 19-lot subdivision plan was modified to a six-lot subdivision of Lot 2 bordering Shankpainter Pond, including five residential building lots (Lots 2A, 2C, 2E, 2F, 2G) with a sixth lot (Lot 2H) identified as an open space lot. Access to the subdivision is proposed from Route 6.

The land proposed for the six-lot subdivision consists of scrub pine/oak woodlands colonizing a barrier beach/dune system with considerable topographic relief. Elevations range from a low of four feet above sea level at the edge of the Shankpainter pond wetlands to a high point of approximately 50 feet above sea level. Two small wetlands subject to Cape Cod Commission jurisdiction are also located in depressions within the upland portion of the 7.52 acres of land.

#### PROCEDURAL HISTORY

A 19-lot preliminary subdivision plan filed by Shankpainter Associates, Inc. was referred as a DRI under Section 3(c) of the DRI Enabling Regulations, Barnstable County Ordinance 90-12 by Mr. Gordon Gaskill, Chair of the Provincetown Planning Board on February 15, 1995. A public hearing on the preliminary subdivision plan was opened by a hearing officer of the Commission on April 12, 1995 and continued to June 14, 1995 due to the failure of the Applicant to submit a completed application. On June 14, 1995 a hearing officer of the Commission closed the public hearing. A subcommittee meeting was held on June 22, 1995. On June 22, 1995 the Commission and Applicant agreed to extend the decision period on the 19-lot preliminary subdivision plan until January 19, 1996.

On October 6, 1995 the Applicant submitted an application for a Hardship Exemption for a five-lot ANR Plan which encompassed the same acreage as the 19-lot preliminary subdivision plan. On December 14, 1995, the Cape Cod Commission granted a Hardship Exemption with conditions for the five-lot ANR plan submitted by Shankpainter Associates, Inc. One of the conditions attached to the Hardship Exemption decision required that any further subdivision of Lot 2 of the five-lot ANR plan be reviewed by the Commission as a Development of Regional Impact (DRI).

On January 16, 1996 the Commission and Applicant agreed to an extension of the project until March 29, 1996. A public hearing before the full Commission was opened and closed without testimony on January 18, 1996. On March 4, 1996 the Commission received an application from Shankpainter Associates, Inc. for an eight-lot subdivision of Lot 2 as a DRI. On March 11, 1996 the Commission and Applicant agreed to a further extension of the decision deadline until September 20, 1996.

A duly noticed subcommittee hearing on the eight-lot subdivision of Lot 2 was opened on April 30, 1996 in the Provincetown Town Hall, Provincetown, MA and continued to June 13, 1996. The June 13, 1996 hearing was continued without testimony by a hearing officer of the Commission to June 19, 1996. On June 19, 1996 the public hearing was closed by the subcommittee of the Commission. Subcommittee meetings on the eight-lot plan were held on July 11, 1996, July 23, 1996, August 15, 1996, and September 3, 1996. At the September 3, 1996 subcommittee meeting, the subcommittee voted unanimously to recommend denial of the proposed eight-lot subdivision to the Commission. Also on September 3, 1996, the Commission and Applicant agreed to an extension of the decision period until November 1, 1996.

A final public hearing before the full Commission was opened on September 19, 1996 without testimony and continued to October 31, 1996, January 23, 1997, and March 20, 1997. The Applicant requested and the Commission granted extensions of the decision period to January 10, 1997, February 7, 1997, and March 21, 1997. The full Commission public hearing was closed without testimony by a hearing officer on March 20, 1997 as the Applicant indicated they were no longer pursuing the eight-lot subdivision and would be submitting a revised plan for six lots on Lot 2. Accordingly, the Commission and Applicant agreed to extensions of the decision period to April 4, 1997, June 20, 1997, August 22, 1997, September 5, 1997, and October 10, 1997.

A duly noticed subcommittee hearing on a revised plan for the subdivision of Lot 2 into five residential lots and one open space lot was opened on June 17, 1997 in the Provincetown Town Hall, Provincetown, MA. The public hearing was closed on June 17, 1997. Subcommittee meetings on the revised six-lot plan were held on July 10, 1997, September 4, 1997 and September 10, 1997. At the July 10, 1997 subcommittee meeting, the subcommittee voted unanimously to recommend approval of the revised six-lot plan to the Commission with conditions. A final public hearing before the full Commission was opened on August 21, 1997 in the Chamber of the Assembly of Delegates, Barnstable, MA and continued without testimony by a hearing officer to September 18, 1997. At the September 18, 1997 continued hearing, the Commission voted unanimously to approve the revised six-lot plan as a DRI, subject to conditions. The public hearing and record were closed on September 18, 1997.

#### Materials submitted for the Record

##### From the Applicant:

- Preliminary Subdivision Plan of Land in Provincetown, MA dated October 27, 1988, prepared by Nickerson & Berger, Inc., 1 sheet
- letter from Donald T. Poole, PLS, to Provincetown Planning Board, dated January 31, 1995
- letter from Donald T. Poole, PLS, to Provincetown Town Clerk, received February 16, 1995
- letter from Christopher J. Snow, Esq, Snow & Snow, to Sharon Rooney, Commission staff, dated April 10, 1995 w/ abutters list attachment
- letter from Christopher J. Snow, Esq, Snow & Snow, to Sharon Rooney, Commission staff, dated June 14, 1995
- letter from Christopher J. Snow, Esq, Snow & Snow, to Patricia Daley, Commission staff counsel, dated June 15, 1995
- Plan of Land in Provincetown, MA for Shankpainter Associates, Inc. dated July 31, 1995 prepared by Coastal Engineering Co. Inc., 1 sheet
- Plant and Wildlife Habitat Assessment for Shankpainter Associates, Inc. & Coastal Engineering Co. Inc. Using DRI Guidelines, Mario DiGregorio, P.W.S., dated October 31, 1995

- letter from Thomas W. Joy, P.E., Coastal Engineering Co. Inc. to Cape Cod Commission requesting extension, dated January 10, 1996
- letter from Christopher Snow, Esq. to Sharon Rooney dated January 16, 1996
- Subdivision plan of land for lot 2 in Provincetown, MA for Shankpainter Associates, Inc. dated February 28, 1996, revised June 13, 1996 prepared by Coastal Engineering Co., 1 sheet
- Cluster Subdivision plan of land for lot 2 in Provincetown, MA for Shankpainter Associates, Inc. dated February 29, 1996 prepared by Coastal Engineering Co., 1 sheet
- DRI Application for eight-lot subdivision dated March 4, 1996 with attachments
- letter from Christopher Snow, Esq. to Sharon Rooney dated March 6, 1996
- letter from Christopher Snow, Esq. to Sharon Rooney dated March 8, 1996
- letter from Christopher Snow, Esq. to Sharon Rooney dated March 13, 1996
- letter from Christopher Snow, Esq. to Sharon Rooney dated March 21, 1996
- Vernal Pool Assessment received from Sabatia dated May 31, 1996
- Traffic Memorandum received from HSA Corporation dated June 10, 1996
- facsimile from Patrick I. Patrick, Shankpainter Associates, Inc. to Sharon Rooney dated June 11, 1996
- letter report summary of Phase I archaeological survey from Alan E. Strauss, Director, Cultural Resource Specialists of New England, dated June 12, 1996
- letter from Christopher Snow, Esq. to Mrs. Elizabeth Patrick dated June 12, 1996
- Road Plan & Profile for Subdivision of Lot 2 for Shankpainter Associates, Inc. dated June 13, 1996 prepared by Coastal Engineering Co., 1 sheet
- letter from Christopher Snow, Esq. to Sharon Rooney dated June 18, 1996
- Memorandum of Shankpainter Associates, Inc., 23 pages, received June 19, 1996
- Site photographs, received on June 19, 1996
- letter from Christopher Snow, Esq. to Thomas Broidrick dated June 20, 1996
- letter from Christopher Snow, Esq. to Sharon Rooney dated June 24, 1996, and July 29, 1997
- letter from Coastal Engineering Co. with attachments to Sharon Rooney dated July 5, 1996
- Box Turtle Survey prepared by Sabatia, dated July 23, 1996
- letter from Coastal Engineering Co. with revised subdivision plans A & B dated August 8, 1996
- reduced revised subdivision plan of land sent by facsimile from Coastal Engineering Co. on August 29, 1996
- letter from Christopher Snow, Esq. to Sharon Rooney dated August 30, 1996
- letter from Christopher Snow, Esq. to Patricia Daley dated October 24, 1996
- letter from Christopher Snow, Esq. w/attachment to Patricia Daley dated October 25, 1996
- letters from Christopher Snow, Esq. to Sharon Rooney dated October 30, 1996, January 23, 1997, January 27, 1997, March 12, 1997
- letter from Ronald E. Friese, Esq. to Sharon Rooney dated January 2, 1997
- Subdivision Plan of Land in Provincetown, MA for Shankpainter Associates, Inc. revised May 19, 1997 prepared by Coastal Engineering, Inc., 1 sheet
- Road Plan and Profile for Shankpainter Associates, Inc. dated May 19, 1997 prepared by Coastal Engineering, Inc., 1 sheet
- cover letter from Coastal Engineering, Inc. dated May 19, 1997
- Wetlands & Wildlife Site Assessment for Shankpainter Associates, Inc. prepared by SITEC, Inc. dated April 24, 1997
- cover letter with extension agreement dated May 30, 1997 and July 29, 1997
- letter w/attachments from Richard G. McKenzie, attorney at law to U.S. Bankruptcy Court Clerk, dated May 29, 1997
- Subdivision plan of land and Road Plan and Profile prepared for Shankpainter Associates,

revised 6/16/97 by Coastal Engineering, Inc., 2 sheets

- list of probable wildlife and confirmed wildlife species submitted by SITEC, Inc. on June 17, 1997, 4 sheets
- Subdivision Plan of Land prepared for Shankpainter Associates, Inc. by Coastal Engineering, Inc. revised July 15, 1997, 1 sheet
- letter from Christopher Snow, Esq. to Sharon Rooney dated August 11, 1997
- facsimile from Thomas W. Joy, Coastal Engineering Co. Inc., 2 pages, dated September 8, 1997
- letter from Christopher Snow, Esq. dated September 15, 1997 with attachment withdrawing original 19-lot plan

Cape Cod Commission:

- memorandum from Commission staff to local officials re: public hearing schedule dated February 22, 1995
- Extension Agreements between the Cape Cod Commission and Shankpainter Associates, dated June 22, 1995, January 16, 1996, March 11, 1996, September 20, 1996, November 1, 1996, January 10, 1997, February 7, 1997, March 21, 1997, April 4, 1997, June 20, 1997, August 22, 1997, September 5, 1997, October 10, 1997
- memoranda from Commission staff to Commission subcommittee members dated February 22, 1995, May 31, 1995, June 16, 1995, March 4, 1996, March 19, 1996, May 9, 1996, June 6, 1996, August 8, 1996
- DRI Referral Notification Form to Ms. Elizabeth Patrick Shankpainter Associates, Inc. dated February 22, 1995
- letter from Katharine Peters, Commission Clerk, to Elizabeth Patrick, Shankpainter Associates, Inc. dated March 23, 1995
- letter from Commission staff to Elizabeth Patrick, Shankpainter Associates, Inc. dated March 24, 1995
- letter from Commission staff to Sheila Silva, Town Clerk dated April 12, 1995
- letters from Commission staff to Christopher J. Snow, Esq. dated April 18, 1995, and May 31, 1995
- letter from Commission staff to Provincetown Town Clerk dated May 31, 1995
- letter from Commission staff to Gordon Gaskill, Provincetown Planning Board Chair, dated May 31, 1995
- letter from Sharon Rooney to Gordon Gaskill, Provincetown Planning Board Chair, dated January 11, 1996
- letters from Sharon Rooney to Ms. Elizabeth Patrick, Shankpainter Associates, Inc. dated February 15, 1996, March 6, 1996
- letter from Armando Carbonell, Executive Director to Christopher Snow, Esq. dated March 14, 1996
- letter from Sharon Rooney to Christopher Snow, Esq. dated March 19, 1996
- Cape Cod Commission Staff Report dated April 24, 1996
- memoranda from Sharon Rooney to Provincetown officials dated March 19, 1996, May 9, 1996
- letter from Sharon Rooney to Christopher Snow, Esq. dated May 9, 1996
- letter from Sharon Rooney to Gordon Gaskill, Provincetown Planning Board dated May 23, 1996
- letter from Patricia Daley, Commission staff counsel, to Lorraine L. Adams, dated May 29, 1996
- letter from Sharon Rooney to Christopher Snow, Esq. dated June 12, 1996
- letter from Sharon Rooney to Rachel Crosby, Provincetown Assessor, dated June 21, 1996
- letter from Sharon Rooney to Christopher J. Snow, Esq. dated July 3, 1996

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- memorandum from Tom Cambareri to Mark Robinson dated July 6, 1996
- letter from Patricia Daley, Commission staff counsel to Christopher Snow, Esq. dated July 16, 1996
- Barnstable County Fact Sheets concerning alternative septic systems, submitted to subcommittee members by Commission staff on July 19, 1996
- letter from Commission staff to Thomas W. Joy, P.E. dated August 1, 1996
- letter from Staff Counsel Patricia Daley to Christopher Snow, Esq. dated October 22, 1996
- memorandum from Commission staff to Cape Cod Commission dated October 25, 1996
- letter from Sharon Rooney to George McLaughlin III, Esq. dated December 17, 1996
- letter from Sharon Rooney to Christopher J. Snow, Esq. dated January 29, 1997
- letter to the Editor, Provincetown Advocate, from Patricia Daley, Staff counsel, dated March 27, 1997
- memoranda from Commission staff to subcommittee members dated May 23, 1997, July 25, 1997, July 29, 1997 and August 13, 1997
- acetate overlays illustrating estimated disturbed area for eight-lot and six-lot plans, submitted June 17, 1997
- excerpt from Conservation Design for Subdivisions, Randall G. Arendt, Island Press, 1996, p. 10-12
- Monograph Series, An Examination of Market Appreciation for Clustered Housing with Permanently-Protected Open Space, Center for Rural Massachusetts, August, 1990
- Staff Memorandum w/attachments on Wetland Buffer Values and Functions, Shankpainter Pond/Bog submitted July 10, 1997

Additional materials:

- memorandum from James Cook, Provincetown Water Superintendent to Provincetown Planning Board dated February 7, 1995
- memorandum from Maurice T. Moore, Jr. Provincetown Conservation Commission Chairman to Department of Inspections, dated February 8, 1995
- memorandum from Kevin Mullaney, Provincetown Health Agent, to Provincetown Planning Board dated February 13, 1995
- DRI Referral Form received from Gordon Gaskill, Provincetown Planning Board chair, received February 15, 1995
- letter from Massachusetts Division of Fisheries and Wildlife to Cape Cod Commission staff dated September 29, 1995
- excerpts from town of Provincetown 1995 Open Space Plan
- memorandum from Hal Hinds to Provincetown Conservation Trust dated August 2, 1995
- letters with attachments from Provincetown Environmental Action Coalition to Cape Cod Commission dated February 1, 1996, April 24, 1996
- letter from Constance Crosby, Massachusetts Historical Commission to Mr. Pat Patrick, Shankpainter Associates, Inc. dated March 11, 1996
- letter from Susan Nickerson, Association for the Preservation of Cape Cod to Sharon Rooney dated April 30, 1996
- letter from Lorraine Adams with attachments to Cape Cod Commission dated May 1, 1996
- memorandum from Robert P. Anthony, Provincetown Chief of Police, to Pat Patrick dated June 18, 1996
- letter from Rachel Crosby, Provincetown Assessor, to Sharon Rooney, dated July 10, 1996
- letter from Joel A. Lerner, Massachusetts Executive Office of Environmental Affairs, Division of Conservation Services, to Robert M. Ruzzo, General Counsel & Secretary of Environmental

Policy, dated August 5, 1996

- letter from Brona Simon, Massachusetts Historical Commission, dated August 13, 1996
- letter from Constance A. Crosby, Massachusetts Historical Commission, dated November 18, 1996
- letters with attachments from Ms. Judith E. Turtz, Esq. Turtz & DePalma, dated February 10, 1997 and February 12, 1997
- U.S. Bankruptcy Court Voluntary Petition #97-12127 filed March 6, 1997
- U.S. Bankruptcy Court Notice of Commencement of Case under Chapter 11, dated March 17, 1997
- 61st Congress, 2nd session House of Representatives Document no. 821 and map titled "The Extremity of Cape Cod, circa 1770"
- letter from Keith Bergman, Provincetown Town Manager, dated July 8, 1997
- letter from Robert B. Anthony, Provincetown Police Chief, dated July 8, 1997
- letter from Michael S. Trovato, Provincetown Fire Chief, dated July 7, 1997
- letter from Mark H. Robinson, Executive Director, Compact of Cape Cod Conservation Trusts, dated July 14, 1997

The application and notices of public hearings relative thereto, the Commission staff notes, exhibits and correspondence, the transcript and minutes of the hearings and all written submissions received in the course of our proceedings on file #TR95007 and file #HDEX95020 (5-lot ANR plan) are incorporated into the record by reference.

#### TESTIMONY

No testimony was received at the April 12, 1995 or June 14, 1995, January 18, 1996, June 13, 1996, September 19, 1996, October 31, 1996, January 23, 1996, March 20, 1997 or August 21, 1997 public hearings on the proposed subdivision.

At the April 30, 1996 public hearing on the eight-lot plan, the Commission received testimony from Christopher Snow, Esq. who made a presentation on the project for the applicant. Mr. Thomas W. Joy from Coastal Engineering Co. described the subdivision proposal for the subcommittee. Commission planner Sharon Rooney provided an overview of the staff report and described the procedural history of the project to date. Natural Resources planner Kathy Sferra described Shankpainter Pond and its surroundings, noting that the pond is a regional resource of unusual significance. She stated that the property is within the Capewide Greenbelt, and is entirely within an estimated habitat for rare and endangered species. Transportation Engineer Paul Tilton stated that he had performed an analysis of the project's trip generation and expressed concern for the location of the site drive on Route 6. He also noted that the town had expressed concern for emergency access to the site from Route 6.

Comments from officials included Commission member Alix Ritchie who discussed Massachusetts Highway Department (MHD) traffic counts at Shank Painter Road and Route 6. Gordon Gaskill, Provincetown Planning Board Chair, stated that based on dialogue with the Fire Department and Police Department his board would prefer to see access to the site from Ship's Way.

Comments from the public included Constance Black, who stated she was very interested in finding funding to help purchase the land for conservation. She felt that access to the site from Route 6 would make the land more valuable. She presented a large illustration of the pond and its

surroundings and noted that the site provides very valuable wildlife habitat which would be disturbed by the development of even large lots. Celine Gandolfo submitted a petition supporting acquisition of the site and aerial photos. Anne Lord believed that the site is important from an ecological standpoint, and once developed it would be impossible to regain its values.

Lorraine Adams, an abutter on Ship's Way Road, expressed concern for filling on part of the property and requested that no further approvals be granted until this issue was resolved. Peter Souza, a member of the Provincetown Environmental Action Committee (PEAC) asked that larger wetland buffers be required for nutrient removal and to protect scenic values. Joe Notaro, president of the Provincetown Conservation Trust, noted that the Trust suggested the Massachusetts Division of Fisheries and Wildlife become involved in the potential acquisition of the property. Barbara Rushmore expressed concerns about the bank foreclosing on the property and requested that if the project meets the Commission's requirements it be approved.

At the June 19, 1996 continued public hearing, the Commission received testimony from Mr. Thomas W. Joy from Coastal Engineering Co. who gave a summary of the project and how it conforms to the Regional Policy Plan (RPP). He also noted that the subdivision roadway was designed in compliance with Massachusetts Highway Department requirements and that a traffic study indicates there is sufficient sight distance at the site drive without the need for a turning lane.

Christopher Snow, Esq. submitted a document in support of the DRI application. He described the findings of the traffic study prepared by HSA Corporation as in support of the applicant's proposal for access from Route 6.

Commission planner Sharon Rooney asked if the applicant had obtained a breakdown of the assessed value of the warehouse as it compared to the rest of the property as previously requested by the subcommittee. Patrick Patrick, representing the applicant, described his discussion with the Provincetown Assessor. Commission staff comments included those from Paul Tilton who noted that if access on Route 6 was allowed a conceptual improvement plan would need to be submitted to the Commission for review. Kathy Sferra stated that the site plan submitted by the applicant does not address many of the staff's natural resource concerns. Ms. Sferra described the soil characteristics of the site and their sensitivity to excavation and other limitations. She questioned whether a 100-foot buffer to Shankpainter pond is sufficient and believed that scientific literature supports a greater buffer. Gabrielle Belfit, hydrologist with the Commission, noted the water quality goals in the RPP and expressed concern for potential impacts to the quaking bog system as a result of development of the site due to the bog's unique hydrological characteristics.

Questions from the subcommittee to staff included clarification on wetland buffers and proposed access to the subdivision. The subcommittee also asked for clarification on open space calculations from the Applicant.

Mark Robinson, Executive Director of the Compact of Cape Cod Conservation Trusts, stated that he has been working since August 1995 to find sources of funds for acquisition of the property. He described a combination of funds that would be used to purchase the property, including the MHD open space program, Mass. Division of Fisheries and Wildlife and Self-Help funds.

At the June 17, 1997 subcommittee hearing on the revised six-lot plan, attorney Christopher Snow, gave a procedural history of the project. He stated that since the last hearing the Applicant



had to file for bankruptcy. He believed the Applicant is entitled to an approval of the six-lot plan with a 100-foot buffer as proposed.

Will Joy described his association with the project and the different portions of the site. He noted previous changes that had been made to the plans during the subcommittee's review and that the seven lot plan left a very small area for development. He noted that the new plan has reduced the intensity of development by 29%, from seven building lots to five, with the lot lines now extending to the edge of the Pond. Mr. Rod Gaskill of SITEC, Inc. explained the site investigation that he performed for the area. He noted that he reviewed prior studies that were performed (three reports from Sabatia) and the requirements of the RPP. He used a larger study area than the previous consultant, including the right-of-way to Route 6. He said that only a small portion of the area that wildlife might use is proposed to be disrupted by development. He stated that studying only the site results in the appearance of greater impact. He believes that the slope facing the pond is an ecotone or barrier to wildlife. He said that there is a topographic break in the vicinity of the 100' buffer and that the slope toward the Pond is the most important in terms of the Pond's protection. He said the dune ridge should be delineated, and that the buffer line should be drawn to at least the top of the ridge or the 100' setback line, whichever was further from Shankpainter Pond. Mr. Gaskill said that the dune pitch pine upland on the site is not unique, but that it clearly has habitat value and importance. He noted some human impacts to this upland area.

Mr. John Jahoda of SITEC, Inc. discussed wildlife observations on the site. He said that he inquired with Natural Heritage about likely species. He said that there are four rare wildlife species documented in this area. Two are confined to the Pond and two would occur within the pond and the 100' buffer. He said that he found limited evidence of box turtle use of the area and described any population on the site as small and unsaturated.

Sharon Rooney presented the staff report, noting that the primary reasons for the subcommittee's previous recommendation to deny the eight-lot plan related to the potential impacts on rare species habitat, concerns about wetland buffers and potential water quality impacts. Ms. Rooney noted that the Applicant had made an effort to reduce the number of building lots from seven to five which was an important step in reducing the impacts from development. However, she noted the six-lot plan had the potential for additional site disturbance than the eight-lot plan which the subcommittee had previously recommended to deny. Ms. Rooney noted the six-lot plan also proposed open space on the lots as opposed to common open space on the eight-lot plan. She recommended the six-lot plan be redesigned to make the lot lines similar to those on the eight-lot plan, but also to maintain five total building lots, thereby reducing the overall disturbance of the site. Staff also recommended that development be limited to a maximum of 21 bedrooms to meet the nitrogen loading standards of the Regional Policy Plan, and that concept plans for the Route 6 site drive and emergency access would need to be submitted as these issues were still unresolved in connection with the eight-lot plan.

Questions from the subcommittee concerned protection of the buffer zone from human disturbance. Comments from local officials included Jane Antonelli, Provincetown Board of Selectmen, who expressed concern that further downsizing of the project would increase the cost of the lots, thereby impacting affordable housing in Provincetown. She also said the Town is unable to control impacts from dirt bikes on the site. Ms. Antonelli suggested development of the lots would be more protective to the important resources there than leaving it in its natural state. Mary Jo Avellar, Provincetown selectman, made comments as a private citizen and not as a Selectman. She

felt the recommendations made by the Commission were unjust and unreasonable. She questioned the need to redesign the project. She said the natural ridge protected the property. Comments from the public included Napi van Derek, who indicated he was intimately familiar with the project site and spoke in favor of the six-lot plan. He said he was dedicated to habitat protection and that he was concerned with how the area was developed. Christopher Landry commented the project area should be left as is and not disturbed and that additional development would be detrimental to the Pond. Gail Cohen agreed with the comments made by Mr. van Derek.

George Bryant, speaking as a private citizen, suggested that an easement be placed over the property to provide access. Joe Notaro, President of the Provincetown Conservation Trust, said the Trust did not have a formal position on the project and was pleased that Lot #1 was to be donated to the Trust. He noted that the public did have access to the Pond via Trust ownership of a parcel of land on the other side of the Pond. He said the Trust felt comfortable with the limited private ownership proposed. Mr. Joseph Patrick believed the site was insignificant in terms of its habitat value. Ms. Barbara Rushmore said she supported the proposed development. Jerry Houk said the Patrick family provides a number of year-round jobs which should be considered by the Commission. Jeff Edwards spoke in favor of the project, noting that the Applicant had agreed to turn over the majority of the site to conservation purposes.

#### JURISDICTION

The original 19-lot preliminary subdivision plan qualifies as a DRI under Section 3(c) of the DRI Enabling Regulations, Barnstable County Ordinance 90-12 as... "any development which proposes to divide, combine or develop any parcel(s) of land totaling 30 acres or more." In addition, one of the conditions attached to the Hardship Exemption decision granted by the Commission on December 14, 1995 was the requirement that any further subdivision of Lot 2 of the five-lot ANR plan be reviewed by the Commission as a Development of Regional Impact (DRI).

#### FINDINGS

The Commission has considered the application of Shankpainter Associates, Inc. for the proposed six-lot subdivision plan of Lot 2 in Provincetown, MA, and based on consideration of such application, the information presented at the public hearings and submitted for the record, the Commission makes the following findings subject to Sections 12 and 13 of the Act:

##### General

1. The 19-lot preliminary plan originally referred to the Cape Cod Commission as a DRI does not comply with the Minimum Performance Standards (MPS) of the Regional Policy Plan. The Applicant withdrew the 19-lot plan from Commission and local review on September 15, 1997.
2. The Commission previously granted a Hardship Exemption with conditions for a five-lot plan approved under Chap. 41, §81P, ("ANR Plan") which allowed the subdivision and construction of two single family homes plus conveyance of a lot to create a third residential lot on a 34.2 acre parcel of land, and which allowed the continued use of an existing 15,000 s.f. warehouse.
3. Lot 1 consists of approximately 22 acres of Shankpainter Pond and associated wetlands.

This lot will be deeded voluntarily to the Provincetown Conservation Trust.

4. The subject of this DRI review consists of the subdivision of Lot 2 of the five-lot ANR plan totaling 7.52 acres into five residential lots (Lots 2A, 2C, 2E, 2F, 2G), and a sixth lot (Lot 2H) totaling approximately 4.84 acres of the 7.52 acre total proposed as an open space lot.

5. The proposed six-lot subdivision of Lot 2 was reviewed for its consistency with the 1991 Regional Policy Plan (RPP).

6. This approval is for six lots as shown on the revised plan titled Subdivision Plan of Land in Provincetown, MA for Shankpainter Associates, Inc. revised September 15, 1997 by Coastal Engineering Co. Inc. These lots have been configured to maximize protection of sensitive resources on the site.

#### Natural Resources/Open Space

7. Shankpainter Pond (and its associated wetland and upland areas) is a resource of unusual global and regional significance. It is the largest known quaking bog on a barrier beach system found anywhere in the world and has a large variety of different habitat types including freshwater sphagnum and quaking bogs, marshes and open water.

8. The site is included in the Barnstable County Capewide Open Space/Greenbelt Network. The site is also the largest undeveloped parcel in the town of Provincetown. According to testimony provided at public hearings, approximately 12.56% of the total land area in Provincetown remains in a wooded state, with this project site accounting for the largest remaining forested area in Provincetown.

9. The entire 34.2 acre site is located within an estimated habitat for rare species. The Natural Heritage and Endangered Species Program has identified the presence of 11 state-listed rare species in the vicinity of the site. These include the Eastern Spadefoot toad, Spotted Turtle, Eastern Box Turtle, Water-willow Stem Borer moth, Chain Fern Borer moth, Broom Crowberry, Golden Club, Few-fruited Sedge, Arethusa, Common's Panic-grass, and Adder's tongue Fern. Additional rare plant species have been documented by researchers in the vicinity of the Pond in the past, but their current existence is unknown. With the exception of the Eastern Box Turtle, field surveys did not identify the presence of any of these species within the area to be developed.

10. The Applicant's Habitat Assessment by Sabatia, Inc. dated 10/31/95 documented the presence of the Eastern Box Turtle (*Terrapene c. carolina*), a state-listed species, within the wetland buffer on Lot 4 of the ANR Plan. A subsequent survey by Sabatia, Inc. dated July 23, 1996 found evidence of the existence of a population of nesting Eastern Box Turtles on Lot 2, within the area to be developed for this project. The Eastern Box Turtle is a terrestrial species that inhabits upland wooded areas. It has a range generally 150 to 750 feet in diameter and nests in sandy soil. The Natural Heritage and Endangered Species Program notes that this species is decreasing in numbers statewide and that the greatest threat to this turtle is the direct loss of habitat from residential and commercial development and the fragmentation of habitat by new roads.

11. In addition to the Shankpainter Bog/Pond the property also contains two other shrub-swamp wetland areas. A survey of these wetlands, prepared by Sabatia, Inc. dated 10/31/95,

indicated that neither of these wetlands functions as a vernal pool. A subsequent report, provided by SITEC, Inc. dated April 24, 1997, asserted that the smaller area does not contain sufficient wetland vegetation to qualify for protection under the RPP. Additional field survey work would be needed to conclusively determine the status of this area.

12. The Applicant's Plant and Wildlife Habitat Assessment by Sabatia, Inc. dated 10/31/95 notes "ample evidence of medium to large mammalian use of the area via game trails, tracks, scat and numerous skeletal remains." Two species of salamander were found in the woodland areas of the site. The Assessment concludes that the habitat value of the site is high for reptiles, amphibians and mammals.

13. The dune areas adjacent to the bogs contain steep slopes (up to 50%) and highly erodible Hooksan soils as noted in the Applicant's Plant and Wildlife Habitat Assessment and the Barnstable County Soil Survey. It is important to maintain the 100-foot buffer and the topographic ridge around Shankpainter Pond/Bog in an undisturbed state in order to prevent erosion and sedimentation as well as changes in surface hydrology which could adversely affect the Pond.

14. Development of the upland areas surrounding Shankpainter Bog/Pond has the potential to adversely impact the pond, bogs, and rare species habitat. Threats to these resources include direct loss of upland habitat, changes in drainage characteristics, nutrient loading and sedimentation and erosion. These threats can be minimized by limitations on clearing and grading on the lots, limitations on cultivated lawns, and the designation of building envelopes on the site.

15. Minimum Performance Standard 6.1.3 of the Regional Policy Plan requires the provision of 60% upland open space. Based on a total upland project area of 6.63 acres on Lot 2, the Applicant is required to provide approximately 3.98 acres of open space. The Applicant has agreed to convey Lot 2H, which includes approximately 4.49 acres of upland, to the Provincetown Conservation Trust or equivalent conservation entity. This upland amounts to 66% of Lot 2 which is in excess of the Regional Policy Plan open space requirement.

16. Open space deeded to the Provincetown Conservation Trust as permanent open space will be kept in a natural state. Public access to this area could result in adverse impacts to the sensitive natural resources of Shankpainter Pond/Bog.

17. With the conditions provided for by this decision, the proposed project is in compliance with Minimum Performance Standard 6.1.5 of the Regional Policy Plan which requires that "In the design of developments, significant natural and fragile areas including critical wildlife and plant habitat, water resources . . . and significant landforms shall be protected."

18. Minimum Performance Standard 2.3.1.2. of the Regional Policy Plan requires a minimum 100-foot natural, undisturbed buffer to wetlands. The RPP also states that the Commission "shall require a larger buffer area where necessary to protect sensitive areas or where site conditions such as slopes or soils suggest that a larger buffer area is necessary to prevent any adverse impact to wetlands and associated wildlife habitat." Based on research conducted by the Cape Cod Commission and current scientific literature, the need for a buffer greater than 100 feet for the protection of water resources and wildlife habitat exists on this site. The Applicant's revised plan dated September 15, 1997 shows an undisturbed buffer of 100 feet to Shankpainter Pond/Bog. This area is proposed to be retained in an undisturbed state in order to protect Shankpainter

Pond/Bog. Except on Lots 2A and 2C, an additional building setback will be provided where no structures can be constructed. On Lots 2A and 2C, a portion of the lot within the 100-foot buffer will be restricted to remain undisturbed as noted in conditions #15 and #16 below.

19. As noted in finding #13 above, it is important to maintain the topographic ridge to Shankpainter Pond. This ridge line is located within the open space lot (Lot 2H) except on Lots 2E and 2F. On these two lots, a portion of the rear of the lots which includes this ridge line will be restricted to remain undisturbed as noted in condition #17 below.

20. The proposed plan is not in compliance with the 100-foot buffer standard in the vicinity of the two shrub swamp wetlands. Specifically, the plan shows: construction of a primary access road as well as filling and construction of a retaining wall as close as 60 feet to the smaller wetland. Given site constraints and the need to provide the maximum possible buffer to Shankpainter Pond/Bog, the proposed development will not be more detrimental to wetland protection on the site than would be permitted if the 100-foot buffer was required to the smaller wetland. This alteration of wetland buffer to the smaller wetland is mitigated by protection of greater than the required percentage of open space on Lot 2.

21. The proposed project includes an access/utility easement within 10 feet of the larger shrub swamp wetland. Such utility construction within the wetland buffer is permissible under Minimum Performance Standard 2.3.1.3. of the Regional Policy Plan provided that the area is restored following construction.

#### Water Resources

22. The proposed project is located in the freshwater recharge area to Shankpainter Pond and associated wetlands. The Massachusetts Natural Heritage and Endangered Species Program noted that this area supports a very unique, globally and regionally significant wetland/pond ecosystem that is dependent on acidic, nutrient poor conditions to maintain the present diversity of rare, endangered and other species. The proposed residential development, which is immediately upgradient from the pond/wetland system will increase the flow of fresh water, nutrients, and household chemicals such as chlorine, detergents, and other products used for home maintenance to the pond. Although it is impossible to predict the exact outcome of these impacts on the system, some loss in species diversity may be expected to occur with the disturbance of the Pond's hydrologic and chemical regimes that would be associated with this project. Through the course of Commission review, the Applicant decreased the number of proposed residential lots from seven to five to reduce potential impacts to this unique ecosystem.

23. The December 14, 1995 Hardship Exemption decision on the five-lot ANR plan required that nitrogen loading for the 34-acre parcel not exceed 5 ppm and that nitrogen loading from the development of lot 4 be included in the total nitrogen loading calculation for the site. Water Resources staff completed a nitrogen loading analysis to include two units on Lot 4 (as permitted by the Hardship Exemption decision) and five units on Lot 2. Using the assumptions of the Commission's Technical Bulletin #91-001 and assuming four bedrooms per unit, nitrogen concentrations of 4.60 ppm are expected, which is in conformance with the Regional Policy Plan MPS 2.1.1.1. In order to maintain nitrogen loading below the 5 ppm nitrate-nitrogen loading standard, it is essential to restrict development to no more than four bedrooms per lot. The Applicant may seek to modify this decision to increase the number of bedrooms to meet the 5 ppm

standard through the use of denitrifying septic systems as an alternative to a traditional Title 5 system.

24. MPS 2.1.1.2.B.1 prohibits subsurface disposal systems within 300 feet of the mean high water of freshwater ponds in order to avoid wastewater contamination of the surface water body that may accelerate eutrophication or otherwise adversely affect an ecosystem. This unique ecosystem would be put at significant risk if septic systems were installed less than 300 feet from Shankpainter pond. The Applicant's proposal located septic systems consistent with this standard.

25. The introduction of fresh water from public water supplies may alter the chemical and hydrologic balance of the Pond and its ecosystem. The use of xeriscape landscaping, retention of native vegetation, and water-saving devices including low flow toilets, showerheads and faucets and water-saving appliances would reduce water use and reduce impacts to the Pond.

#### Transportation

26. Based on a five-lot residential subdivision, the proposed project is expected to generate approximately 48 daily vehicle trips and 5 PM peak hour vehicle trips.

27. Proposed access to the site is from Route 6, which is classified as a Major Regional Roadway under the Regional Policy Plan. Route 6 in Provincetown is a 4-lane highway (2-lanes each way) separated by a wide median. This 4-lane divided highway has few curb cuts. The record indicates that Provincetown officials expressed concern regarding the distance emergency vehicles would have to travel in order to respond to an emergency at the proposed site given the presence of the median.

28. Staff recommended that the applicant consider using local roads (Ship's Way) to access the site due to the highway characteristics of Route 6 that could create safety hazards at new curb cuts.

29. HSA Corporation submitted an Access Review Report on June 10, 1996 to address traffic issues related to access on Route 6. The Applicant's consultant measured the stopping sight distance on Route 6 to be 850 feet. The AASHTO standards for the design speed (60 mph) on Route 6 at this location is 525 to 650 feet. This report demonstrated that the proposed site drive on Route 6 provided adequate stopping sight distance.

30. Level of Service operations at the proposed site drive are LOS A for both the AM and PM peak hour.

31. The Provincetown Fire and Police Chiefs have indicated that current conditions on Route 6 are acceptable for emergency response. The Provincetown Police Chief recommended that signage be installed on Route 6 to limit median access to emergency vehicles only. The Applicant should discuss this matter with the Massachusetts Highway Department when applying for a Highway Access permit.

#### CONCLUSION

Shankpainter Subdivision - Provincetown, MA #TR95007  
September 18, 1997 Decision

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 a revised plan which provides greater than 60% open space, conveys Lots 1 and 2H to Provincetown Conservation Trust to ensure protection of regionally significant resources, and provides deed restrictions for the rear setbacks on Lots 2A, 2C, 2E and 2F to further protect Shankpainter Pond/Bog.

As conditioned, the project is consistent with the Minimum Performance Standards of the 1991 Regional Policy Plan. The project is consistent with local development bylaws.

The 19-lot preliminary plan originally referred to the Commission as a DRI has been withdrawn on September 15, 1997.

The Commission hereby approves with conditions the proposed six-lot subdivision of Lot 2 by Shankpainter Associates, Inc., provided the following conditions are met:

#### GENERAL

1. The Applicant, his successors or assigns shall obtain all necessary State and local permits for the project.
2. The plans as submitted and listed in this decision shall become part of the written decision and any changes shall be approved by the Cape Cod Commission or its designee. The plans of reference for all conditions listed below shall be the plans titled Subdivision Plan of Land in Provincetown, MA for Shankpainter Associates, Inc. revised September 15, 1997 by Coastal Engineering Co. Inc. and Road Plan and Profile for Proposed Subdivision of Lot 2 for Shankpainter Associates, Inc. revised June 16, 1997 by Coastal Engineering Co. Inc.
3. Prior to partial or full release from covenant or conveyance of any of the lots (Lots 2A, 2C, 2E, 2F, or 2G), the Applicant shall submit final plans for approval by Cape Cod Commission staff for their consistency with conditions #9, 13, 14, 15, 17, 18, 21, and 23, as well as comply with conditions #16, 24, and 25 listed in this decision.
4. Prior to any development activity as defined by Section 2(e) of the Cape Cod Commission Act, the Applicant shall receive a partial Certificate of Compliance from the Commission or its designee upon a determination that conditions #17 and 18 have been met.
5. Lot owners of Lots 2A, 2C, 2E, 2F, and 2G shall each receive a final Certificate of Compliance from the Commission or its designee that all other conditions of this decision pertaining to each individual lot have been met prior to the issuance of temporary or final Certificates of Occupancy for each homeowner.
6. This DRI approval is for six lots. These lots have been configured in a manner to protect the sensitive resources of the site. The final plan shall include a notation that no further division of land is permitted. Notwithstanding Chapter 41 of the General Laws, including Section 81P, lot

lines on the property shall not be altered without approval by the Cape Cod Commission or its designee.

7. Development on each residential building lot (Lots 2A, 2C, 2E, 2F, 2G) shall be limited to four-bedrooms per lot.

8. A copy of this decision shall be provided to Shankpainter Associates, Inc. and its successors and assigns.

### WATER RESOURCES

9. The Applicant shall seek to minimize the amount of pavement within the subdivision. The Applicant shall request waivers from the Provincetown Planning Board Subdivision Rules and Regulations for roadway width and cul-de-sac radius to the extent that such waivers are acceptable to the Provincetown Police and Fire Departments. All house driveways shall be constructed of pervious materials where feasible with runoff directed to vegetated swales or to the roadway drainage system. The subdivision road shall also be designed to direct runoff to leaching catchbasins or the center of the cul-de-sac. No stormwater shall be discharged to any wetland or waterbody on the site. Prior to conveyance of any residential building lots (Lots 2A, 2C, 2E, 2F, or 2G), the Applicant shall submit final plans showing the final roadway and drainage design for approval by Commission staff.

10. All houses within the subdivision shall be constructed with drywells to capture roof runoff.

11. Water conservation fixtures including low flow toilets, showerheads, faucets and other appliances shall be incorporated into all houses within the subdivision. Prior to issuance of a final Certificate of Compliance for any dwelling on Lot 2, the Provincetown Building Commissioner shall certify to the Commission that this condition has been met.

12. Lot owners within the subdivision shall incorporate xeriscape landscaping and retain existing vegetation to the maximum extent possible to minimize water usage and impacts to the Pond.

### Natural Resources

13. The final plan shall be revised to show building envelopes on Lots 2A, 2C, 2E, 2F, and 2G. No grading or structures shall be located outside of these building envelopes except within the front and side setbacks. Lot owners shall be encouraged to limit removal of natural vegetation outside of the building envelopes.

14. The final plan shall designate Lot 2H as a restricted area. With the exception of grading for the subdivision road and construction within the utility easement, as shown on the final plan, no disturbance of Lot 2H shall occur. A notation shall be included on the final plan that no development or other disturbance of land or removal of vegetation shall be permitted on Lot 2H.

15. To the extent that the 100-foot buffer to Shankpainter Pond/Bog occurs on the lots within the subdivision (Lots 2A and 2C), the final plan shall designate the 100-foot buffer as a restricted



area. A notation shall be included on the final plan that no development or other disturbance of land or removal of vegetation shall be permitted within the 100-foot buffer area on Lots 2A and 2C.

16. Prior to partial or full release of covenant or conveyance of Lots 2A, 2C, and 2F, the Applicant shall provide the Commission with a deed restriction requiring no disturbance of the 20-foot rear setback area for Lots 2A and 2C and the 300 s.f. easement on Lot 2F in a form and content satisfactory to Commission counsel and consistent with the final plan approved by Commission staff. Said deed restriction shall reference or append this decision. The deed restriction shall state that the Cape Cod Commission shall have the power to unilaterally re-record the deed restriction. The deed restriction shall be recorded at the Registry of Deeds prior to covenant release or conveyance of either of these lots.

17. Prior to partial or full release of covenant or conveyance of Lot 2E, the applicant shall apply to the Provincetown Zoning Board of Appeals for a variance from the front setback requirement for Lot 2E to permit the dwelling to be moved a minimum of 10 feet into the front setback in order to protect the topographic ridge to Shankpainter Pond. In the event such variance is approved, the applicant shall revise the building envelope and rear lot line on the final plan by the same amount granted by the variance. In the event the variance is denied, the applicant shall place a deed restriction requiring no disturbance of a 10-foot wide area across the rear of Lot 2E as illustrated in the revised plan dated September 15, 1997 in a form and content satisfactory to Commission counsel and consistent with the final plan approved by Commission staff. Said deed restriction shall reference or append this decision. The deed restriction shall state that the Cape Cod Commission shall have the power to unilaterally re-record the deed restriction. The deed restriction shall be recorded at the Registry of Deeds prior to covenant release or conveyance of Lot 2E. This condition shall not be interpreted to bind the Provincetown Zoning Board of Appeals to approve any relief for Lot 2E.

18. Prior to any development activity as defined by Section 2(e) of the Cape Cod Commission Act, the Applicant, successors or assigns shall delineate the 100-foot buffer/ridge line in the field for approval by Commission staff. No grading shall be permitted on any of the lots which could result in alteration of or undermining of the existing ridgeline along Shankpainter Pond/Bog. No filling or other development may occur on these lots which could result in increased runoff toward the Bog/Pond.

19. The final plan shall indicate a limit of work for the interior shrub swamp wetlands. Prior to any development activity as defined by Section 2(e) of the Cape Cod Commission Act, the Applicant, successor or assigns shall place erosion controls along this limit of work for approval by Commission staff. Erosion controls shall also be placed where any construction on individual lots could result in adverse impacts to wetlands or designated open space areas.

20. Prior to issuance of a final Certificate of Compliance for any of the lots within the proposed subdivision, areas disturbed for placement of utilities along the utility easement shall be restored to their pre-existing condition or revegetated with native vegetation. This utility easement shall not be paved, but may be gated as needed to prevent unauthorized access.

21. Prior to partial or full release of covenant or conveyance of any building lots within the subdivision, the Applicant shall convey Lot 2H to the Provincetown Conservation Trust or similar

organization to be protected as permanent open space. The boundaries of this open space lot shall be marked in the field with permanent concrete bounds.

22. Other than vista pruning, no development, removal of vegetation, or disturbance of land may occur on Lot 2H. Vista pruning shall be allowed subject to obtaining all applicable local permits and prior approval by Cape Cod Commission staff and the Provincetown Conservation Trust, which approval shall not be unreasonably withheld provided such vista pruning complies with the following standards: selective thinning of framework limbs or specific areas of the crown to allow a specific view of an object from a predetermined point in accordance with the American National Standards Institute (ANSI) A-300 Pruning Standards and completed by or under the direct supervision of a Certified Arborist. Topping or raising shall not be utilized to accomplish vista pruning. Due to the potential for adverse impacts to rare species and other wildlife, no docks, piers, floats, ramps, boardwalks or other structures designed to provide access to Shankpainter Bog/Pond shall be permitted on Lot 2H. The Applicant, successors and assigns shall take affirmative measures including, but not limited to, gating and signage, to prevent unauthorized access to the open space areas on Lot 2H. This condition shall remain in effect after issuance of a final Certificate of Compliance for each lot.

23. The Applicant, successor or assigns shall provide to the purchaser of each lot the attached or similar information regarding the sensitivity of the resources within the Shankpainter Bog/Pond ecosystem. This information shall include the desirability of minimizing removal of natural vegetation and planting of cultivated lawns, recommendations for water conservation and pollution prevention, planting native vegetation, minimizing use of fertilizers, herbicides and pesticides and wetland buffers by humans/pets, and allowing passage of wildlife through any fences constructed on the site.

#### Transportation

24. The applicant shall design the subdivision roadway within the Route 6 layout in accordance with the Massachusetts Highway Department access requirements, standards and policies.

25. When applying for a Highway Access permit from the Massachusetts Highway Department, the Applicant shall discuss the need for signage on Route 6 to prohibit illegal U-turns resulting from project traffic.

The Cape Cod Commission hereby approves with conditions the application of Shankpainter Associates, Inc. as a Development of Regional Impact (DRI) pursuant to Sections 12 and 13 of the Cape Cod Commission Act, c. 716 of the Acts of 1989, as amended for a six-lot subdivision of Lot 2 of a five-lot ANR plan in Provincetown, MA.

Vicky Bebout  
Vicky Bebout, Chair

9-22-97  
Date

Commonwealth of Massachusetts

Barnstable, ss.

Subscribed and sworn to before me this 22<sup>nd</sup> day of September 1997

Katharine X Peters  
Name, Notary Public

My commission expires:

~~My Commission Expires December 5, 1997~~