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THE CAPE COD COMMISSION

CAPE COD PLANNING AND ECONOMIC DEVELOPMENT COMMISSION

1ST DISTRICT COURT HOUSE, BARNSTABLE, MASSACHUSETTS 02630

TELEPHONE: 508-362-2511

CCC # TR90047

DATE: July 16, 1990
TO: Board of Selectmen, Town of Eastham
FROM: Cape Cod Commission
RE: Hardship Exemption Request
Cape Cod Commission Act, Section 23
APPLICANT: Town of Eastham
PROJECT: Eastham Transfer Station
MAP/PARCEL: Assessors Map #8, Lots B23-4B, B23-5, B23-7

DECISION OF THE CAPE COD COMMISSION

SUMMARY

The Cape Cod Commission (Commission) hereby approves the application of the Town of Eastham for a hardship exemption under Section 23 of the Cape Cod Commission Act (Act), c. 716 of the Acts of 1989, as amended, for the proposed Eastham Transfer Station. The decision is rendered pursuant to the vote of the Commission on June 7, 1990.

PROJECT DESCRIPTION

This application is for a proposed municipal solid waste transfer station. The transfer station would be a permanent facility located on the lot serving the Eastham Public Works Garage, north of the existing Sanitary Landfill site on Old Orchard Road. It will serve the municipal and private trash pick ups from the Town of Eastham. The transfer station facility is designed to collect up to 35 tons per day of solid waste on a peak month, and will provide the Town of Eastham with the means to consolidate waste material for transport to the SEMASS Resource Recovery Facility in Rochester, MA. The site will include a permanent recycling drop-off center.

Review of the proposed development by other agencies occurred as follows: (1) No filing was required under the Massachusetts Environmental Policy Act, Chapter 30, Sections 61-62H. (2) Site assignment was granted by the Eastham Board of Health in June of 1988. (3) The Massachusetts Department of Environmental Protection (DEP) granted verbal approval under M.G.L., Chapter 111, Sec. 150A on June 24, 1990.

PROCEDURAL HISTORY

This application for a Hardship Exemption under section 23 of the Act was filed with the Commission on May 16, 1990. A duly noticed public hearing on the application was conducted by the Commission pursuant to Section 5 of the Act on June 7, 1990, at 3:25 p.m. in Rooms 11-12 in the Barnstable County Superior Court House, Route 6A, Barnstable, MA.

Materials submitted for the record include: Plans entitled "Solid Waste Transfer Station in Town of Eastham" by Schofield Brothers, Inc., Route 6A, Orleans, MA., including Traffic Flow and Drainage dated March 30, 1990 and Utilities and Fencing dated November 8, 1989 and plans entitled "Composite Plan of Land in Eastham, Mass., Sanitary Landfill Area", also by Schofield Brothers, Inc. and dated February 18, 1988; a Final Report to the Massachusetts Department of Protection dated November 1989 and revised March, 1990; a letter containing a list of abutters to the proposed development dated May 18, 1990 from the Eastham Inspector of Buildings; a history of the proposed development in the form of a list of pertinent dates, delivered in hand by Dennis Hanson, formerly of Schofield Brothers, Inc. on July 5, 1990.

JURISDICTION

The proposed Eastham Solid Waste Transfer Station qualifies as a Development of Regional Impact under Section 12(c)(8) of the Act. Section 12(c)(8) requires review of "any development the proposed construction or expansion of which will provide facilities for transportation to or from Barnstable County". The application was referred to the Commission by the Eastham Board of Selectmen. The application and notice of public hearing relative thereto, the Commission staff's notes and exhibits and all written submissions received in the course of our proceedings are incorporated into the record by reference.

FINDINGS

The Commission has considered the hardship exemption application of the Town of Eastham for the proposed Eastham Transfer Station, and based on consideration of such application and upon the information presented at the public hearing, makes the following findings pursuant to section 23 of the Act:

1. Eastham is approaching the end of the useful life of its landfill which is in vertical expansion.
2. Any delay in starting operation of the transfer station will result in permanent loss of remaining reserve space in the landfill.
3. Under current and proposed state regulations, it will become increasingly more difficult to expand existing landfills and to site new landfills.
4. The design of the transfer station was initiated before the passage of the Cape Cod Commission Act. The Town of Eastham has applied for or obtained all necessary permits from local, state and federal agencies for completion of the transfer station.
5. Performance by Eastham under a valid contract between SEMASS and the Town of Eastham is pending completion of construction of the facility.
6. The Cape Cod Sole Source Aquifer, because of its hydrogeologic conditions, is particularly sensitive to landfill uses. Because of the Cape's Sole Source Aquifer designation, transfer to an off-cape waste to energy facility is preferable to disposal of solid waste in landfills.
7. The facility will reduce the existing impacts of the Eastham landfill site which is in an area of private wells. The site is undergoing a comprehensive hydrogeologic analysis of landfill impacts and the Commission's Water Resources staff would be willing to assist the town in the completion of the analysis. The Town of Eastham has installed monitoring wells to track potential contamination from the landfill.
8. The facility is sheltered from the elements and surface water run-off will be diverted to existing vegetated low areas.
9. The project as proposed will generate at most two truck trips exiting the site during the peak summer season and will not create any undue traffic impacts.

CONCLUSION

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


1. that a literal enforcement of the terms and provisions of this Act with respect to the Eastham Solid Waste Transfer Station would involve substantial hardship, financial or otherwise, to the Town of Eastham. This hardship is supported by evidence that Eastham is approaching the end of the useful life of its landfill and

delays in starting operation of the transfer station will result in permanent loss of remaining reserve space in the landfill; and Eastham initiated design of the facility prior to enactment of the Cape Cod Commission Act and has obtained or applied for all necessary state and local permits required for completion of the transfer station.

2. that desirable relief may be granted without substantial detriment to the public good. This conclusion is supported by evidence that the Cape Cod Sole Source Aquifer, because of its hydrogeologic conditions, is particularly sensitive to landfill uses in general and the Eastham landfill may be contributing to groundwater pollution. Transfer of solid waste to an off-Cape waste-to-energy facility will promote the public interest by mitigating groundwater contamination from the Eastham landfill.

3. that desirable relief may be granted without nullifying or substantially derogating from the intent or purposes of the Act. This conclusion is supported by evidence that the proposed transfer station facility will provide for adequate capital facilities including solid waste disposal facilities; that the proposed facility will mitigate potential groundwater contamination resulting from landfilling; and that traffic impacts from the proposed facility will be minimal.

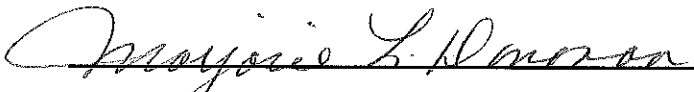
The Commission hereby grants the Eastham Transfer Station a hardship exemption from the terms and provisions of the Act, pursuant to Section 23 of the Act.



Richard S. Armstrong, Chairman

7/20/90

Date



Notary

MY COMMISSION EXPIRES
NOV 5, 1993

7-20-90

Date