

Town of Norfolk
 Zoning Board of Appeals
 One Liberty Lane
 Norfolk, MA 02056

June 6, 2018

Zoning Board Members	Others
Michael Kulesza –Chairman ----- Present	Devin Howe - Associate Member --- Absent
Robert Luciano –Vice Chairman --- Present	Medora Champagne – Assoc. Member --- Present
Christopher Wider – Clerk ----- Present	Amy Brady – Administrative Asst. - Present
Joseph Sebastiano –Full Member --- Present	
Donald Hanssen – Full Member ---- Present	

The duly posted meeting of the Zoning Board of Appeals convened at 7:00 P.M. in the cafeteria of the Freeman Kennedy School. Mr. Kulesza announced that this meeting was being audio and video recorded, and detailed where the video could be watched.

PUBLIC HEARINGS:

17 Lawrence St – The Preserve at Abbyville and Abbyville Commons – (hearings continued from 5/2/18)

Present were Bill McGrath, Engineer, BETA Group; Frank Ricciardi, Weston & Sampson; Dan Hill, Daniel C. Hill Law Offices; Thomas DiPlacido, applicant; John Smolak, Smolak & Vaughan, LLP; Rick Goodreau, United Consultants, Inc. (UCI); Stephen Vetere, Mabbett Associates;

Plans and other documents discussed were “The Preserve at Abbyville & Abbyville Commons, Grading and Bedrock Illustration Plan,” prepared by UCI, dated May 17, 2018 (8 pages); “The Preserve at Abbyville & Abbyville Commons, Site Grading Plan,” prepared by UCI, dated May 17, 2018 (1 page); Presentation entitled “Former Buckley & Mann,” prepared by Mabbett, dated June 6, 2018; Presentation entitled “Buckley and Mann Site Peer Review,” prepared by Weston & Sampson; “Project Status Summary” document prepared by Mabbett & Associates for Tom DiPlacido, Jr., dated April 26, 2018

Mr. Wider reviewed the agenda for the evening. Mr. Wider first recognized Atty. Smolak, who reviewed the status of projects thus far. Next, Mr. Goodreau presented a bedrock plan and said that additional soil testing had been conducted on the site, as requested by Neal Price of Horsley & Witten, to determine if there was soil mottling in the 3 infiltration basin areas; there was. Basins 1 & 2 were not affected due to 4’ of separation; basin 3 was enlarged and raised. Additionally, a bedrock contour plan was provided in collaboration with Steve Smith of GeoHydroCycle, in response to a request from a neighbor to the property. The contour plan was overlaid on the site grading plan, and a summary of groundwater elevations was provided. Mr. Wider said this will be discussed at the next meeting, after there has been a peer review.

Steve Vetere, Mabbett Associates, introduced himself and his company, and proceeded with an overview of his presentation, which would include the historical operations of the site, followed by pre-2001 environmental assessment and remediation that had been completed. 2001 was when the site closure, or Response Action Outcome (RAO), was generated. He explained that pre-2001 work and conditions was what the RAO was based on. Next he would address environmental assessment sitework performed in 2013 – 2018, in the preliminary stages of this project, followed by the 2017 MassDEP 2017 audit findings, the Public Involvement Plan, and next steps.

Mr. Vetere first discussed the Carbonizer Building and the Dyehouse. Buttons and zippers, etc. were separated from the textiles via the carbonizer where acid vapors melted away the fibers from the fasteners, creating 2 waste streams; fasteners (solids) were disposed of in the onsite landfill, known as Area #10, to the north, and liquid wastes were discharged into a carbonizer trench and back to a carbonizer lagoon. The Dyehouse used dyes that included many chemicals and metals that passed through a trench and went to Lagoons #1 & 2 to the north and west of the dyehouse. Area #10 also received materials from the dyehouse, coal ash from heating the buildings on site, as well as other materials, such as when renovations were done to the complex. There is a tailrace that used to run from Bush Pond to the Mill River. It was a hydro-electrical facility where water from

Bush Pond flowed through a water wheel, generating power for the facilities, through the tailrace, and back up to the Mill River. The carbonizer was demolished in 1965, and other buildings were demolished in 2011.

Mr. Vetere first focused on the dyehouse lagoons. The trench that materials were discharged into was excavated in the 1980's with 130 c.y. of materials taken out and replaced with clean sand. The excavated material was staged next to the lagoons before becoming part of the AUL. Mr. Vetere referred to a figure in the presentation with the AUL area outlined; the AUL covers lagoons 1 & 2 and some of the tailrace, but not the carbonizer trench and lagoon. Mr. Vetere also pointed to an area just outside of the AUL, where material that was routinely excavated from the bottom of lagoons 1 & 2 was stockpiled. Between 1986 and 2000, fourteen areas were sampled from lagoons 1 & 2, and three from the carbonizer trench and lagoon. Risk assessment standard S-1/GW-1 was used, which is the most conservative standard established by MassDEP, and some of the results were displayed. Contaminants with an average above the standard in lagoons 1 & 2 include Chromium, 2-Methylnaphthalene, and 1,2,4-Trichlorobenzene. Contaminants with an average above the standard in the carbonizer trench/lagoon include Chromium, lead, and total petro hydrocarbons (TPH). These results were the basis of where remediation was warranted. No action was taken in the area of the carbonizer trench/lagoon; the AUL did not extend around it and no material was removed. The areas where excavated material from the lagoons was stockpiled are referred to as Areas 3, 4, and 5. Area 6 designates material originating from the dyehouse trench and Area 7 covers fourteen 55-gallon drums of material recovered from pit. The most contaminated material was shipped offsite, and less contaminated was consolidated onsite in Area #10. In the landfill area, 315 c.y. of the most contaminated material was shipped offsite, and the less contaminated was consolidated onsite. The contaminated materials were graded to about 3' thick, and were covered with 3' of clean soil to limit the possibility that humans would come into contact with it. An Activity/Use Limitation (AUL) was then placed on property.

Mr. Vetere switched to post-RAO actions. Noting that there were dense testing sites in Lagoons 1 & 2, he said there were fewer testing sites in other parts, such as where the buildings were, the carbonizer trench/ lagoon and the tailrace. In 2013-14 test pits were excavated within and around the building foundation complex. Groundwater sampling was done in 2014-15, and the tail race and carbonizer trench/lagoon were sampled in 2018. Mr. Vetere displayed the chart of contaminants found, noting that although the average for arsenic exceeded the standard, he felt that was a naturally occurring condition. The tailrace was sampled in 2018, and those contaminants were found to be below the standards, although there is visual staining. The staining was sampled and found to be high in iron related floc (bacteria.) Eighteen samples were taken at the carbonizer trench/lagoon in 2018; these samples looked more specifically at the more toxic versions of chromium, which Mr. Vetere said did not appear in significant concentrations. Two areas of concern were high levels of lead, and the persistence of 2-Methylnaphthalene in the area. Regarding groundwater, Mr. Vetere said leaching of chemicals from the AUL or other lagoons would be the most likely path for exposure to humans. In 2014-15, groundwater samples were taken from onsite wells, and he reviewed those results.

Next Mr. Vetere discussed the MassDEP Audit of the RAO. The Notice of Audit Findings (NOAF) letter sent to Buckley & Mann in November, 2017, outlined 4 non-compliance issues, 3 of which were deemed administrative, and one was deemed technical. A 180-day deadline (May 17, 2018) was established by DEP for responding to the NOAF. The technical issue was that the RAO did not provide a screening of potential environmental risks. Mr. Vetere said that studies into that were still ongoing as of May 17, 2018, so the RAO was retracted and the AUL terminated, resulting in the site moving back in the assessment phase and moving forward to site closure again. Mr. Vetere reviewed the final steps to be taken, collecting new data and reviewing the environmental and human risk factors, to develop a new conceptual site model. When the permanent solution is achieved, the AUL will need to be re-recorded, the Permanent Solution Statement will be resubmitted, and a plan for Maintenance and Monitoring of the AUL area will be established.

Mr. Vetere talked about the Public Involvement Plan (PIP) initiated by community members on May 23, 2018. Buckley & Mann has 20 days to respond to petitioners, and 80 days to hold a public meeting.

Mr. Wider opened the hearing to questions from the Board. Atty. Hill asked why not all contaminated soil that was excavated was removed from the site. Mr. Vetere said that the carbonizer activities were stopped in the 1940s and dyehouse operations ceased in the 1980s, and those areas had established as wetland areas by the 1990s. The original Licensed Site Professional (LSP) had noted that the 2-methylnaphthalene petro hydrocarbons are organic, naturally degrading contaminants, and the metals were close to the residential

standards, and less likely to migrate into groundwater; the original LSP weighed the removal of those soils against the loss of a wetland resource, and decided on preservation of the wetland resource.

Atty. Hill asked why different substances were tested for in the carbonizer trench/lagoon area than in lagoons 1 & 2. Mr. Vetere said he suspected it was because substances used in the dyehouse would not be expected in the carbonizer area. Atty. Hill pointed out that the carbonizer statistics were based on only 3 samples, so at least 1 out of 3 was high for total petro hydrocarbons, lead and chromium. Regarding lead and chromium, Mr. Vetere said that standards had changed over time, and when these samples were taken, the lead and chromium standards were higher (300 and 1000 respectively). Regarding the petro hydrocarbons, he said these are very amenable to degradation over time. Atty. Hill noted that on the most recent samples at the carbonizer, lead is still elevated; Mr. Vetere agreed that will need to be addressed. Mr. Vetere confirmed that any contaminants that exceeded standards have been included in this presentation, and the complete list of contaminants detected is in the written report.

Atty. Hill asked if the iron level in the tailrace is a human or environmental concern; Mr. Vetere replied that it is not a human health concern, but it could be an environmental concern, and is in the process of being studied. First it must be determined if it is a result of the Buckley & Mann operations, or if it is naturally occurring.

Mr. Wider next recognized Frank Ricciardi, Weston & Sampson, peer reviewer for the town, who introduced himself and his company, and reviewed the scope of work. Mr. Ricciardi said there are many questions, but he does not see a major concern for human health based on the data collected. His team includes a hydrogeologist and a Human Health Risk Assessor. They reviewed the historical files on the MassDEP website; he notes that there has been no ecological risk conducted to date. They also reviewed the April 26, 2018 project status summary prepared by Mabbett & Associates.

Mr. Ricciardi said that for an RAO (site closure) to be issued, certain criteria must be met according to the Mass Contingency Plan (MCP) standards; some of those items were not met in this case. The conceptual site model was not done; a list of chemicals used at the site, where they were stored, how they were used, and what waste was produced by them should be included, and a sampling plan developed to determine the nature and extent of the contamination. Mr. Ricciardi said a list of exceedances is not sufficient, a holistic definition of where the contaminants are on the site, both vertically and horizontally is required; he did not find the nature and extent to be well-defined. There is a dammed pond at higher elevations, lagoons and rapidly flowing river below, discharge of groundwater is to river, which then goes downstream. Heavy metals, such as lead, tend to remain in soil, whereas iron dissolves in water. PAH's, petroleums, known site-related contaminants that are being assessed, are not soluble in water. Mr. Ricciardi said that he thinks the monitoring well network could be improved. Regarding the apparent iron floc, it could be naturally occurring or could be indicative of a mass in the ground, and needs to be assessed in the Ecological Risk Assessment; he stressed the need to establish Nature and Extent before evaluating the Human Risk Assessment.

Confirmatory sampling after removal of the worst contaminants did not appear to have been done. Reports of annual or semi-annual monitoring of the AUL were not available, if they existed. Additional remediation and monitoring of the AUL and the lagoons and trenches may be required. Trichloroethylene, an industrial solvent, was also found, so a current round of groundwater samples is recommended. A formal human Risk Characterization (RC) was not done; and exposure assessment was not performed and a dose response assessment was not performed; Characterizations of Safety and Public Welfare were not performed. Number of samples was low for site size; tables presenting date/comparing to standards was lacking. Soil from certain areas was placed under cap, but no discussion of contaminants and concentrations, no post remediation samples were collected. Although most analytical data was below Method 1 standards, additional information is needed to fully characterize the site.

Mr. Ricciardi reviewed the PIP process. The community will have 2 weeks' notice for a public meeting, then will have 21 days to comment or ask questions on proposed submittals; the development team will address those comments and questions, and then make the submittal. If a person is not satisfied, they can bring it up again at the next meeting, or speak with the town or DEP.

Although the state did approve a Groundwater Discharge Permit, the hydrogeologist working with Mr. Ricciardi did not feel there was sufficient data to address all of the issues properly. The hydrogeologist found the Numerical Groundwater Flow Model to be not calibrated or verified, and not capable of simulating impacts to

private water supply wells, town test well site, AUL, or other sensitive receptors. Higher quality treatment of effluent, and additional, appropriately located monitoring wells are recommended.

Mr. Ricciardi explained that the overburden soil that is being removed is not saturated and has an insignificant impact on filtering and aquifer storage. Proposed groundwater discharge will affect the hydraulic gradient and flow velocity, but he does not feel it will migrate metals and TPH bound to soils.

Mr. Wider opened the meeting to questions from the Board. Mr. Kulesza asked if the hydrogeologist would give a more complete explanation as to why the removal of overburden does not affect the filtering. Atty. Hill asked what the next steps are. Mr. Ricciardi said he is going to prepare a map that shows all of the sampling, what was found where, where are the data gaps, where high levels of contaminants found at the deepest levels or outermost perimeter, indicating the Nature and Extent may not be clearly delineated. He will look at where concentrations were high and evaluate for risk, review the conceptual test model to ensure samples have been collected in the right spots based on the history of the site. He would expect a draft report in the next 3-4 weeks.

Mr. Wider asked if Mr. Ricciardi would be involved in the PIP process; he responded that he could be if the town wanted, he could prepare a new scope of work. Mr. Kulesza expressed his opinion that that would be a good idea.

Before opening the meeting to public comment, Mr. Wider recognized Atty. Smolak, who stated that he wanted to be sure people understood that the applicant is coming in to this many years after the Buckley & Mann operations, and has been very proactive in trying to locate data gaps, etc. Atty. Smolak said that as the developer of the property, Mr. DiPlacido's goals are in line with those of the community. Atty. Smolak also suggested that Mr. Ricciardi get in touch with Horsely Witten and GeoHydroCycle if he hadn't already.

Mr. Hanssen asked how the time spent on this study would affect the 40B timeline. Atty. Hill said that the Zoning Board (ZBA) responsibility in 40Bs is mainly governed by regulations and bylaws in the town of Norfolk, and if the town doesn't specifically have a bylaw governing environmental waste such as this, the Board is limited in imposing conditions or requiring studies. Atty. Smolak added that the PIP is a state process that will take a good deal of time; he does not feel the project itself impacts the AUL area, and vice versa.

Robert Cantoreggi, Public Works Director in Franklin, stated that he is glad this study is going forward, and the town of Franklin will be paying close attention.

Larry Wilson, 22 Lawrence Street, commented on the long history of the site, and suggested that the buildings may have been in different sites throughout the years, and wondered if there are there other sites that should be sampled.

Dave Dimond, 3 Brett's Farm Road, said that the site has also been a tannery and a paper mill throughout its history; he questioned the use of averages on the findings. Mr. Vetere explained the methodology. Mr. Dimond mentioned materials available on bigdig.com related to the PIP process. Mr. Dimond asked about the samples that give a range, i.e. 0' – 1' and asked what that means, exactly; Mr. Vetere explained that it is a composite sample; 1' if generally the area of concern for environmental exposures; there are samples from 2'-3' and 3'-4'. Mr. Dimond asked how the sample locations were chosen; Mr. Wider said there would be additional testing, so perhaps we should wait for that. Mr. Dimond said that the carbonizer was dredged and created a dyke between the Mill River and the lagoon. Mr. Dimond referred to Table 13 from Mabbett's 4/26/18 document, and asked for more information on Chromium VI. Mr. Wider said that would be part of the PIP process, and not for tonight's discussion.

Chris Wagner, Park Street, referred to the vertical and horizontal extent of contamination that is to be determined, and suggested that whether or not one will impact the other is still undetermined. He asked if the approximately million c.y. of material being removed for the Abbyville projects, down to depths of 60', will be tested. Mr. DiPlacido said that there were no industrial processes in areas that will be excavated, since they are upgradient of the industrial uses; Mr. DiPlacido suggested bringing it up in the PIP process. Mr. Ricciardi said that the development area and the industrial area will be co-located, but from what he has seen, Mr. DiPlacido is correct that the land being excavated is upgradient of the potentially contaminated sites. Mr. Wagner referred to the other side of the Mill River that is proposed to be Open Space, noting that there are additional trenches that

do extend there. Mr. Vetere said that he believes there is adequate historical knowledge available know that there were no mill activities on the other side of the Mill River.

Peg Bedard, Lawrence Street, commented that the soil being removed is between their neighborhood and the contamination.

Sandra Myatt, Eric Road, asked if the ZBA has sufficient evidence at this point to ensure that human health and the environment is protected, even though the extent of the contamination is not delineated. Would it make sense for the ZBA to condition the project to complete all of the assessments prior to allowing the development to go forward. Mr. Wider responded that they will not make that decision before they have received Mr. Ricciardi's report. Ms. Myatt asked if there was precedent for a project like this, and Atty. Hill responded that there is a project in Holliston where the ZBA did attempt to put conditions on a project on a brownfield, and the conditions were stricken by the housing appeals committee, and subsequently by the reviewing court. Ms. Myatt asked, if the disposal site is larger than they think it is, and it goes into the development site, then what happens? Mr. Ricciard said that in general, if it goes into the development area, and if risk is posed, remediation or elimination exposure (e.g. AUL) would be required. Regarding Chromium VI near Mill River, Ms. Myatt asked if anybody had notified Franklin. Mr. Wider said that Franklin is aware of what is going on, and has access to all the same files. Ms. Myatt referred to arsenic at Bush Pond, and asked if the town had tested for that in the town wells. Mr. Wider referred her to Bob McGhee, DPW Director.

Mr. Vetere said, with respect to nature & extent, the potential increases are on a microscale, maybe 20' or 50'. There is no expectation that it will extend up the hill, or past the river to the north. Mr. Vetere said there is no Chromium VI in the groundwater, and no Chromium in above drinking water standards in the groundwater. There is no Chromium VI going into the Mill River.

With no further questions forthcoming, the Board turned to setting a date for the next meeting.

Mr. Kulesza made a motion to continue the public hearings for The Preserve at Abbyville and Abbyville Commons to July 18 2018, at 7:00 P.M. at the Freeman Kennedy School; Mr. Luciano seconded the motion; the vote on the motion was unanimous.

Mr. Kulesza made a motion to adjourn the meeting at 9:00 P.M.; Mr. Luciano seconded the motion; the vote on the motion was unanimous.

The meeting was adjourned at 9:00 P.M


Mr. Joseph Sebastiano, Clerk

In accordance with the requirements of G.L. 30 § 22, approval of these minutes by the Board constitutes its certification of the date, time and place of the meeting, the members present and absent, the matters discussed, and the action taken by the Board with regard to those matters (if any). Any other information contained in these minutes is included for context only. Notes memorializing deliberation or discussion of any matter are in the summary form and may include inaccuracies or omissions. Where proof of the content of a statement is required, a tape recording or transcript should be consulted, if available.



**TOWN OF NORFOLK
ZONING BOARD OF APPEALS**

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CERTIFICATION PURSUANT TO G.L., Ch.39, §.23D
(ACCEPTED UNDER ARTICLE 12
OF THE SPECIAL TOWN MEETING
OF OCTOBER 24, 2006)

2018 SEP 24 PM 1:59
TOWN CLERK
NORFOLK

DATE: 8/15/18
APPLICANT'S NAME: Abbyville Residential, LLC
Abbyville Development, LLC
PROJECT NAME/LOCATION OF PROPERTY: Abbyville Commons
Preserve @ Abbyville

CASE NO: 2017-04
2017-03

ASSESSORS' REFERENCE: Map _____ Block _____ Lot _____

I, Devin Howe hereby certify that I have examined
all evidence received at the one (1) session of the public hearing in the above matter held

6-6-18 including (check all that apply):

- An audio/video recording
- Minutes
- Other supporting plans & documents

D Howe
Signature Board Member