

5/19/08

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ACTON BOARD OF HEALTH

Douglas Halley
Health Director

472 Main Street
Acton, MA 01720

Telephone 978-264-9634
Fax 978-264-9630

May 9, 2008

TO: Steven Ledoux, Town Manager

FROM: Doug Halley, Health Director

SUBJECT: Sewer Extension Request

Attached is a letter (Attachment A) from William & Debra Alesbury requesting that the Board of Selectmen allow the extension of the public sewers to 22 High Street. Their property abuts 4 High Street (Faulkner Mill) which previously had received approval from the Selectmen to extend the sewer to their property.

As they have written in their letter, and as we have advised them, they are aware that it is their responsibility to pay a betterment fee of \$12,311.52 per unit and to pay for all construction costs associated with the connection. The Board of Selectmen's Privilege Fee Schedule is attached (see attachment B).

They are also aware that the Town currently has a surplus capacity and has allocated that capacity in accordance with the recommendations of the Comprehensive Water Resources Management Plan (CWRMP). 22 High Street was not part of those recommendations and was not identified by the CWRMP as part of a Needs Area (see attachment C).

Their property that would use the sewer extension is located to the east of the Faulkner Mill project on High Street (see attachment D), approximately 500' east of the sewer line on Main Street.

The Alesburys have been in contact with the Faulkner Mill project and have a verbal agreement for the extension to be put in place during the construction of that project. Their sewer extension would be placed under the proposed sidewalk that Faulkner Mill will be building along High Street. Due to the elevation of their house the sewer extension would be a low pressure line with a grinder pump at their house.

During the Site Plan and Special Permit process for the approval of the Faulkner Mill development the Alesburys along with the homes adjacent to their property (18 & 20 High Street) requested that their properties also be connected to the sewer. In their final decision the Board of Selectmen did not require the developer to provide that amenity to the homeowners.

Currently the Middle Fort Pond Brook Wastewater Plant is permitted for 299,000 gallons per day. 250,000 gpd of that capacity was committed to the original service area and the remaining 49,000 gpd of expanded capacity has been committed to Spencer/Tuttle/Flint, the eastern portion of West Acton Center, Powder Mill Plaza/Acton Ford and Faulkner Mill. With only the exception of Faulkner Mill each of these areas were identified as a Needs Areas in the CWRMP.

Last December a memo was written by this department detailing the status of sewer connections (see attachment E). Paragraph 6 of that memo noted that given the current water use it is likely after all of the properties in the original sewer service area are connected that only 84% of the original capacity will be used (210,000 gpd of the original 250,000 gpd). However, this potential excess capacity will only exist if low water usage is maintained and if the original service area does not experience significant infill of projects greater than zoning requirements (40 B's, Special Permits).

The Department understands that the Selectmen's approval of the Faulkner Mill extension was done with the expectation that further growth would only occur within the existing sewer service area. In fact Section 7 of the Agreement between Faulkner Mill and the Town specifies that there shall be no further connection of any other property, any other project, or any other unit(s) directly or indirectly to the Town Sewer. While the Alesbury's do not propose a direct connection through Faulkner Mill it is arguable that a sewer line under a sidewalk constructed by Faulkner Mill constitutes an indirect connection.

On April 28th the Water Resources Advisory Committee met with the residents and property owners of the Spencer/Tuttle/Flint & West Acton Center regarding the proposed sewer expansion to those areas. Based on their input two subcommittees were formed to review the costs associated with sewer construction and to consider alternatives to sewers for these areas. It is expected that these subcommittees will have recommendations on the sewer expansion in the fall. It is determined not to extend sewers to these areas there will be capacity available for requests like these.

Based on this information we would recommend that the applicant be advised of the following:

- **Request the applicant provide written documentation from Faulkner Mill that details the proposed sewer extension, the anticipated wastewater capacity of 22 High Street and the schedule proposed for placing the force main to service that property. The applicant should also be clearly informed that at this point of time there is no available uncommitted capacity within the sewer system.**
- **Note that the Water Resources Advisory Committee (WRAC) has formed subcommittees to determine if there a sewer extension is a viable option for the Spencer/Tuttle/Flint and West Acton Center areas. WRAC will provide a recommendation to the Selectmen on a course of action for proceeding ahead with that sewer extension project or abandoning the project. At that point the available wastewater capacity can be allocated to properties that have made requests.**
- **The Selectmen should charge WRAC with developing and recommending a policy that details a mechanism for prioritizing sewer extension requests.**

A. William & Debra S. Alesbury
22 High Street
Acton, MA 01720
(978) 263-3788

May 4, 2008

Board of Selectmen
Town of Acton
472 Main Street
Acton, MA 01720
bos@acton-ma.gov

Subject: Request for approval to connect to Sewer System

Dear Board of Selectmen,

As abutters to the parcel of land owned by Mr. James Fenton on High Street near Erikson's Grain Mill, we have followed closely and participated in many of the town proceedings which occurred three years ago relating to the Faulkner Mills project proposed at the time. Now that work has started anew we would like to reopen a request we originally made to the Board of Selectmen in early 2005.

As such, the purpose of this letter is to formally request the Board's approval to allow us to connect to the town sewer system through Mr. Fenton's project. We had been in contact with Mr. Fenton three years ago regarding this possibility and again last month on this matter; he continues to be very supportive of working with us. We have also been in contact with the Board of Health and have received some encouragement regarding the feasibility of our proposal.

If the Board grants us this privilege, we would also like to ask the Board's support in allowing us to pay the one time \$12,311 betterment fee over the remaining number of years other Acton residences already connected to the system have been afforded. While we have not yet obtained detailed construction quotes to bring a connecting pipe to our property underneath the sidewalk currently under construction, Mr. Fenton has suggested the cost could be in the range of \$20-25 thousand. It is our understanding that the cost of installing this pipe would be paid by us and potentially two other residences that could be served by this connection, but it would not be paid by the town. Therefore, gaining the Board's support to allow us to pay the betterment fee over time would make a very big difference to us.

As the sidewalk construction phase is expected to resume within the next month, we are ready to respond to any questions and additional information the Board may request to help enable an expeditious decision to this request.

Sincerely,

A. William & Debra S. Alesbury

Attachment B

Town of Acton Sewer Privilege Fee Schedule

Section D.10.5 of the Acton Sewer Assessment Bylaw provides as follows:

The Sewer Commissioners may establish reasonable fees pursuant to G.L. c. 83, § 17¹ to cover costs of construction of common sewers and other facilities required to serve land not previously served by the sewer system and not previously assessed to the owner of such land. Any such fee shall be reduced to the extent the landowner pays such expenses, in accordance with G.L. c. 83, § 22.²

The Board of Selectmen acting as Acton's Sewer Commissioners to establish reasonable sewer privilege fees under this Section of the Bylaw for land not previously served by the sewer system prior to the issuance of final sewer betterments have adopted the following:

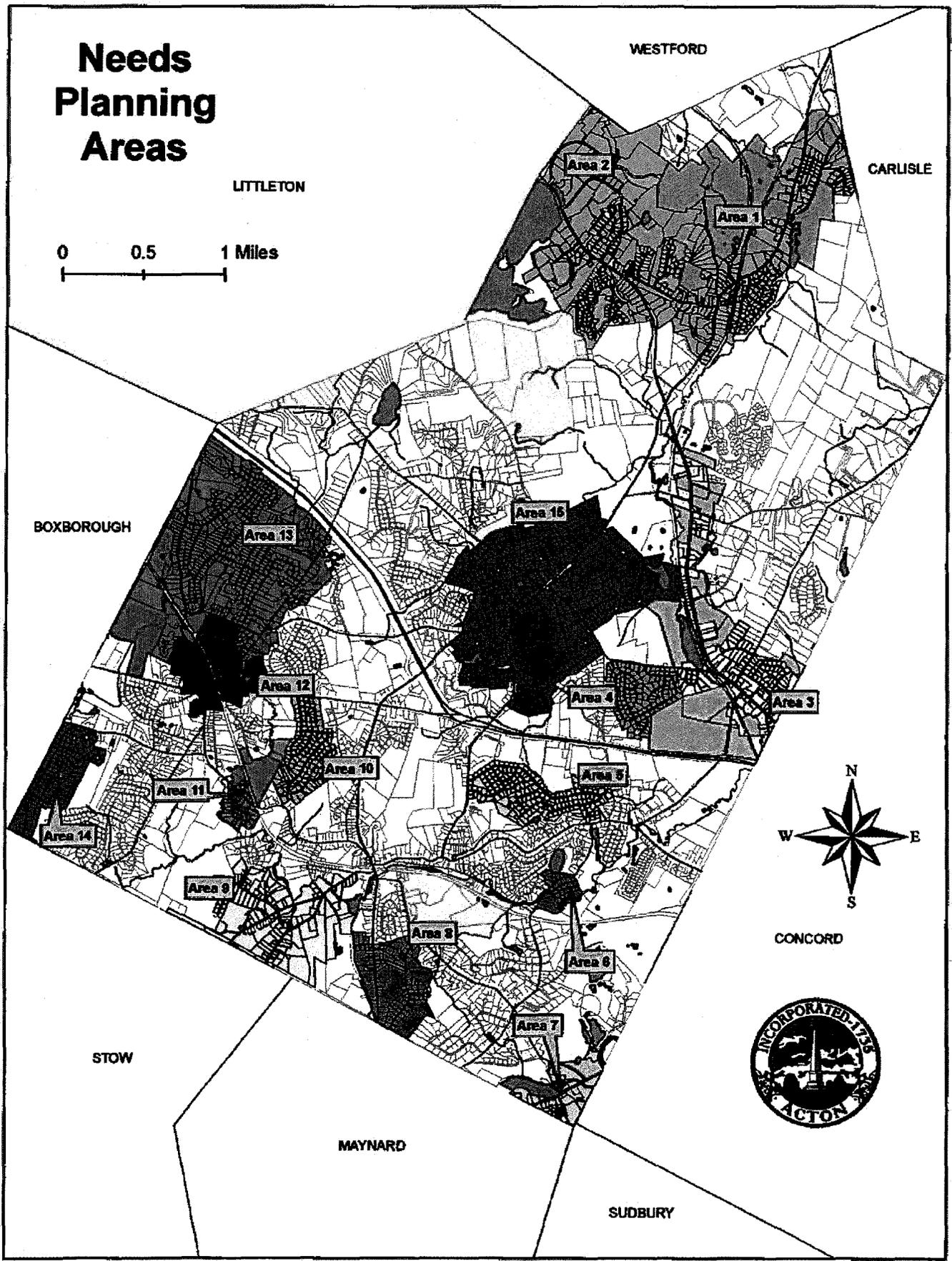
The sewer privilege fee shall consist of the following elements:

1. The Town shall determine the number of sewer betterment units ("SBU") that would otherwise have applied to the land under Section D.10.2.b of the Bylaw. That number shall be multiplied by \$12,311.52, representing the ordinary "per SBU charge" for properties within the district.
2. Added to this number shall be a figure representing the portion of the excess sewer plant capacity consumed by the addition of the new land to the system. Specifically, the excess sewer plant capacity currently existing is 60,000 gallons per day (GPD) as determined by the Woodard & Curran ("W&C") Report. The fraction of excess plant capacity consumed by the added land shall be determined by the fraction "GPD added"/60,000 GPD. This fraction shall be multiplied by 24% of the plant cost (\$8,105,464.00 per RH White payment). The 24% figure represents the excess plant capacity as a percentage of the total plant's capacity per the groundwater discharge permit (60,000 GPD/250,000 GPD * 100).

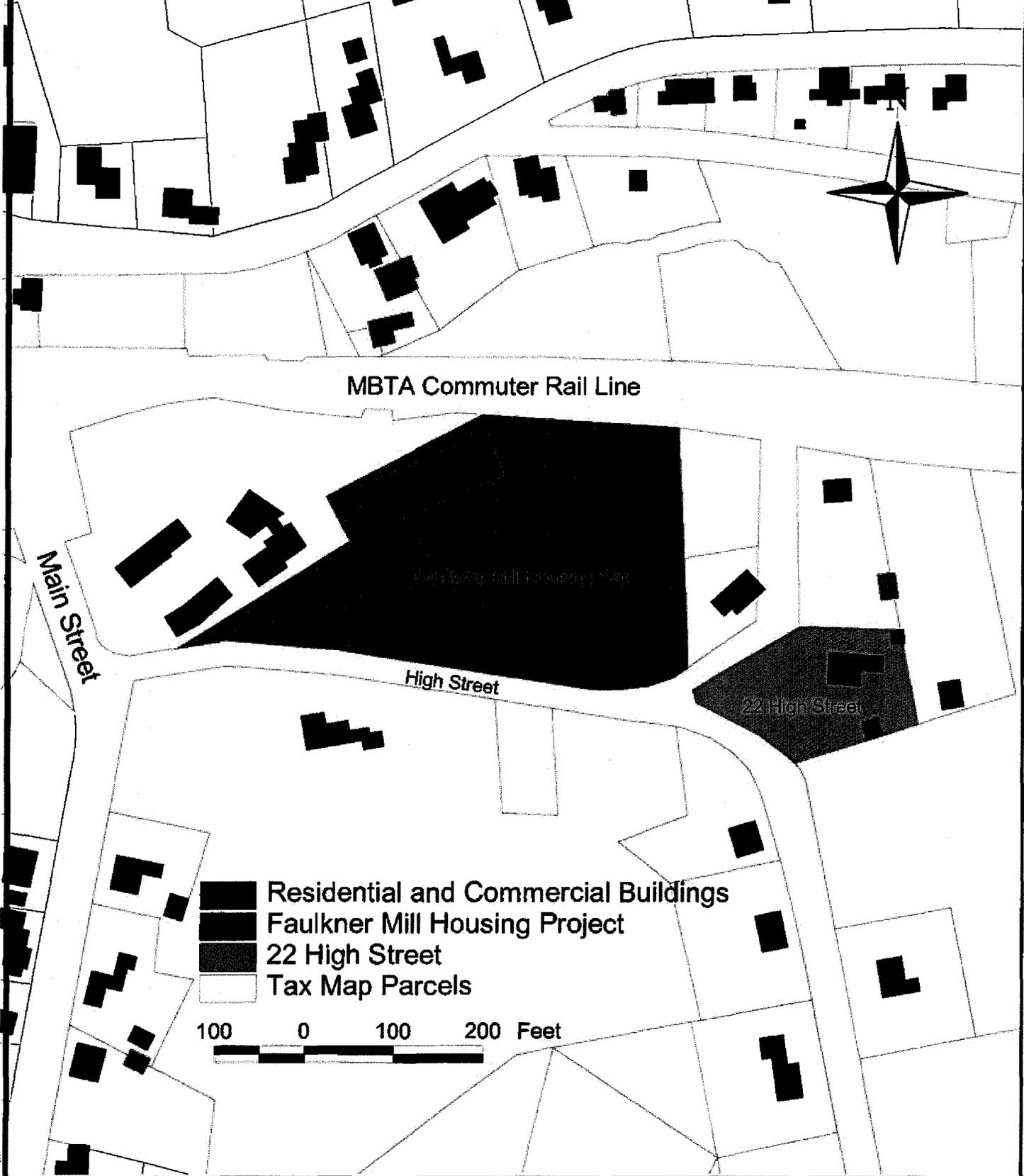
¹ Section 17 provides, "The aldermen of any city except Boston or a town in which main drains or common sewers are laid may determine that a person who uses such main drains or common sewers in any manner, **instead of paying an assessment under section fourteen, shall pay for the permanent privilege of his estate such reasonable amount as the aldermen or the sewer commissioners, selectmen or road commissioners shall determine**" (emphasis added).

² Section 22 provides, "If an ordinance or by-law provides that any drain or sewer laid in any land or way, public or private, which is opened or proposed to be opened for public travel and accommodation shall be a main drain or common sewer, **and such drain or sewer is laid in a private way or land at the expense of the owner thereof, his land shall not be assessed for such drain or sewer, except for the cost of connecting it with common drains or sewers already established**" (emphasis added)

Needs Planning Areas



Request by 22 High Street to connect to the Public Sewer



Attachment E



INTERDEPARTMENTAL COMMUNICATION

Acton Board of Health - Telephone 978-264-9634 - Fax 978-264-9630

December 10, 2007

TO: John Murray, Temporary Town Manager
FROM: Doug Halley, Health Director
SUBJECT: Status of Sewer Connections

This is a report on the current status of sewer connections within the sewer service area. There are 678 parcels within the sewer service area that either has received betterments, privilege fees or avoided cost fees. 380 (56%) of these parcels are now connected while 298 (44%) remain unconnected (see attached database and maps).

The total amount of Sewer Betterment Unit Equivalents (SBUE) for the entire service area is 1881.77, with 1200.58 (64%) SBUE connected and 681.19 (36%) not connected. The SBUE are reflective of the density of development on each parcel. The greater percentage of SBUE connected is an indicator that there is a greater percentage of the more densely developed parcels within the sewer service area connected. This is confirmed by the fact that 18% of the parcels connected have multiple SBUE while only 13% of the parcels that are not connected have multiple SBUE.

Quantifying the value of the potential wastewater flow from unconnected parcels is difficult because the current water use at the property may not be reflective of the water use when the parcel is connected. The parcels that are currently connected are being billed an average of 115,000 gallons per day. Approximately 15,000 gallons per day of that water use is from the school system. Removing the schools from the SBUE total, the remaining parcels represent 754 SBUE with a wastewater flow of 100,000 gallons per day or 135 gallons per day per SBUE.

Of the 681.19 SBUE not connected the W. R. Grace parcels represents 40% (275 SBUE). Given the legal challenge by W. R. Grace and the ongoing negotiations it appears unlikely that a wastewater flow from the W. R. Grace parcels can be anticipated in a reasonable future. Removing W. R. Grace from the SBUE total, the remaining unconnected parcels represent 406 SBUE. Using the same gallons per day per SBUE as the connected parcels the anticipated wastewater flow from the unconnected parcels would be 55,000 gallons per day (Based on their SBUE 45,000 gallons per day is being reserved for W. R. Grace).

Attachment E

It may be noted that the existing water flow from connected parcels (115,000 gpd), the predicted water flow from unconnected parcels (55,000 gpd) and the reserved flow for W. R. Grace (45,000 gpd) is only 86% (215,000) of the permitted wastewater flow (250,000 gpd) to the wastewater treatment plant. This is consistent with an analysis completed by Woodard & Curran in 2005 which shows that water use is much lower than anticipated due to the water conservation measures put in place by the Water District.

The slow down in connections may be in part due to the current housing market. In 2002 when sewer connections were initially started the Health Department processed 238 Title 5 Inspections. Since 2002 the number of Title 5 Inspections has steadily decreased to the point where only 113 have been processed for 2007. Title 5 Inspections are generally indicative of the strength of home sales and the necessity to abandon an existing system and connect to the sewer if available. Generally homeowners are prompted to connect to the sewer system out of necessity in order to transfer their home to a new owner.

A. William & Debra S. Alesbury
22 High Street
Acton, MA 01720
(978) 263-3788

May
6/9/08

May 4, 2008

Board of Selectmen
Town of Acton
472 Main Street
Acton, MA 01720
bos@acton-ma.gov

05-05-08A10:36

Subject: Request for approval to connect to Sewer System

Dear Board of Selectmen,

As abutters to the parcel of land owned by Mr. James Fenton on High Street near Erikson's Grain Mill, we have followed closely and participated in many of the town proceedings which occurred three years ago relating to the Faulkner Mills project proposed at the time. Now that work has started anew we would like to reopen a request we originally made to the Board of Selectmen in early 2005.

As such, the purpose of this letter is to formally request the Board's approval to allow us to connect to the town sewer system through Mr. Fenton's project. We had been in contact with Mr. Fenton three years ago regarding this possibility and again last month on this matter; he continues to be very supportive of working with us. We have also been in contact with the Board of Health and have received some encouragement regarding the feasibility of our proposal.

If the Board grants us this privilege, we would also like to ask the Board's support in allowing us to pay the one time \$12,311 betterment fee over the remaining number of years other Acton residences already connected to the system have been afforded. While we have not yet obtained detailed construction quotes to bring a connecting pipe to our property underneath the sidewalk currently under construction, Mr. Fenton has suggested the cost could be in the range of \$20-25 thousand. It is our understanding that the cost of installing this pipe would be paid by us and potentially two other residences that could be served by this connection, but it would not be paid by the town. Therefore, gaining the Board's support to allow us to pay the betterment fee over time would make a very big difference to us.

As the sidewalk construction phase is expected to resume within the next month, we are ready to respond to any questions and additional information the Board may request to help enable an expeditious decision to this request.

Sincerely,



A. William & Debra S. Alesbury

Maryjane Kenney

From: Alesbury, Bill [bill.alesbury@hp.com]
Sent: Monday, May 12, 2008 5:57 PM
To: Lauren Rosenzweig
Cc: Manager Department
Subject: RE: Request for Approval to connect to Sewer System

Thank you Lauren. To help in assembling some of the history, our house was originally included in the South Acton Sewer district until in the later design stages it was decided not go up High Street. However, we abut the river and have the same hard pan soil conditions as the rest of South Acton. We made our first request to the Board of Selectmen to connect via Mr. Fenton's parcel in January 2005. This is a unique opportunity to gain a relatively affordable connection for no more than 3 residences. Doug Haley indicated to me informally just last week that our proposal would represent, in his opinion, effectively zero impact on the system.

Once again, many thanks for all of your time on this. Please let me know if you need anything more and we will respond quickly.

Bill

From: Lauren Rosenzweig [mailto:lsr57@comcast.net]
Sent: Monday, May 12, 2008 5:39 PM
To: Alesbury, Bill
Cc: 'Manager Department'
Subject: RE: Request for Approval to connect to Sewer System
Importance: High

Hi Bill,

Thank you for the June 12th date. Staff is preparing a report for the new manager Steve Ledoux regarding the history behind your request. There is limited capacity for the treatment plant, and there are areas of town designated high priority that are targeted for that capacity. Studies have just been completed and the costs are higher than anticipated. However, this is still a process that is very much in flux. It will be difficult to give away more capacity, when the capacity is slated to go to the high priority areas. On the other hand, the costs may be so prohibitive that it would not be feasible to extend the sewers in that direction (West Acton). We will not know which areas to serve with the remaining capacity until we get the big picture. This timeline will not be accomplished in time for the upcoming sidewalk construction near your home. However, we do want to find out all the background information, legal information, and environmental information to see if there is anything the Board as Sewer Commissioners can do for you. We are awaiting a report from staff and then we should have you come meet with relevant parties in Town Hall.

Lauren

From: Alesbury, Bill [mailto:bill.alesbury@hp.com]
Sent: Monday, May 12, 2008 10:23 AM
To: Lauren Rosenzweig
Cc: BOS@acton-ma.gov; 'Debbie Alesbury'
Subject: RE: Request for Approval to connect to Sewer System

Hi Lauren,

I just spoke with Mr. Fenton moments ago. He has indicated that since the town is just today commencing the preliminary tree work associated with the culvert across High Street that there is still about one month from today

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before the sidewalk construction gets beyond the point where our sewer connectivity is still viable option. So I would say June 12th is an accurate Go/No Go date.

I am most anxious to assist you and the BOS in whatever issues and questions this proposal may have raised. I also would like to restate that this request is limited to the 3 residences which abut to the east of Mr. Fenton's development and to the immediate south of Fort Pond Brook. The connectivity could be accomplished very economically by running the necessary pipe underneath the new sidewalk.

We are very grateful for you attention to this matter.

Regards,
Bill

From: Lauren Rosenzweig [mailto:lsr57@comcast.net]
Sent: Monday, May 12, 2008 9:55 AM
To: Alesbury, Bill
Cc: BOS@acton-ma.gov; 'Debbie Alesbury'
Subject: RE: Request for Approval to connect to Sewer System

It is not on for tonight. I was waiting to hear back from you on the time line—you indicated you would check back with Mr. Fenton. I will talk to the Manager today and try to get a meeting set up with you in the very near future. As I said in my e-mail this is complicated and we need time to explore all the issues and options to present to the Board to help us make a decision.

Lauren

From: Alesbury, Bill [mailto:bill.alesbury@hp.com]
Sent: Monday, May 12, 2008 9:45 AM
To: Lauren Rosenzweig
Cc: BOS@acton-ma.gov; Debbie Alesbury
Subject: RE: Request for Approval to connect to Sewer System

Hi Lauren,
We understand that there is a BOS meeting tonight and are wondering if our request will be discussed. If so we will make plans to attend.
Many thanks,
Bill & Debbie

From: Lauren Rosenzweig [mailto:lsr57@comcast.net]
Sent: Wednesday, May 07, 2008 9:02 AM
To: Alesbury, Bill
Cc: BOS@acton-ma.gov
Subject: RE: Request for Approval to connect to Sewer System

Hi Bill and Debra,

I wanted to let you know that your e-mail has been received, and as the Chairperson of the Board, I would like to discuss this matter with the Town Manager. From a sewer planning perspective your request is much more complicated than it might seem, and presents us with what would be a very difficult decision on many levels.

It would help if you could let us know the time frame in which you would need a decision, and if there is any flexibility around that time frame. In the meantime I will speak to the Town Manager, and perhaps then schedule a meeting with you to outline the considerations the town would have to make toward such a decision.

Sincerely,

5/13/2008