

5/24/10  
8



## INTERDEPARTMENTAL COMMUNICATION

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

May 19, 2010

TO: Steve Ledoux, Town Manager

FROM: Doug Halley, Health Director

SUBJECT: 69, 71, 73, 75, 77, 81 River Street, Sewer Assessment Bylaw Privilege Fees

The Health Department has received a request from Lothrop Mill, LLC to include an intensified use, for a property shown as Parcel 84 on Map H3 of the Town's Atlas, within the sewer service area. The property's current assessment of 3.39 Sewer Betterment Units (SBU's) was calculated in accordance with section D10-2.b.iii of the Sewer Betterment Bylaw. The owner of the property has previously chosen to pay these SBU's over time consistent with the Town's payment plan.

The property in question is located on the south side of River Street, opposite from the intersection with Chadwick Street. A commercial building formerly occupied this site but that building has been demolished and the owner has submitted Approval Not Required plans for seven housing lots. In accordance with the Sewer Assessment Bylaw each of the ANR lots would be assessed 1 SBU for a total of 7.

In regards to accounting for intensified use the Sewer Assessment Bylaw reads as follows:

*The Sewer Commissioners may establish reasonable fees pursuant to G.L. c. 83, Section 17, to cover costs of construction of common sewers and other facilities required to serve land previously assessed a sewer betterment based on its existing use and/or its existing zoning potential where such land is later developed and/or subdivided for more intensive use (such as through a comprehensive permit under G.L. c. 40B, a zoning change, a subdivision, **an approval not required plan**, or other means).*

As specified under the bylaw the seven Approval Not Required Lots are subject to the requirements of the Sewer Assessment Bylaw. In regards to what privilege fee should be levied the Bylaw reads as follows:

*This fee shall be calculated based on the number of Sewer Assessment Units attributable to the intensified use of the land minus the number of Sewer Assessment Units originally assessed to the land, and may be adjusted by such factors as the Sewer Commissioners, by regulation promulgated pursuant to this bylaw, determine to be appropriate.*

In accordance with the Bylaw the 7 new SBUs, created by the Approval Not Required Plans, minus the existing 3.39 as stated above would constitute the required privilege fee of 3.61 SBUs. The value of an SBU has previously been established by the Board of Selectmen as \$12,311.52. Therefore the project as proposed has a privilege fee obligation of **\$44,444.59**.

As per the Bylaw the fee shall be paid before any sewer connection permit or building permit is issued for the intensified use, before that use is commenced. The developer understands this requirement and has indicated that it is acceptable. However, the developer has requested that the outstanding 3.39 betterment units be divided equally over the seven approval not required lots.

At this point in time the existing sewer service area is below capacity. In planning the service area excess capacity was set aside for internal intensified use and water conservation efforts by the Water District has also provided additional capacity. The proposed development is well within the available capacity for the Treatment Plant.

The Health Department has reviewed the request by Lothrop Mill and would recommend the approval of 3.61 SBU's to Parcel 84, Map H3, with the condition that the privilege fee be paid before the issuance of any permits and that the existing betterment units be split equally between the seven new lots.

**LOTHROP MILL, LLC**  
**544 Massachusetts Avenue**  
**Acton, Massachusetts 01720**  
**(978) 263-7569**

May 19, 2010

VIA HAND DELIVERY

Acton Board of Selectmen  
Sewer Commissioners  
Town of Acton  
Town Hall  
472 Main Street  
Acton, MA 01720

RE: 69, 71, 73, 75, 77, 81 River Street, Acton Sewerage Privilege Fees  
Map H3, Parcel 84 ("Property")

Dear Board Members and Commissioners:

The above Property currently has 3.39 sewer betterments. Seven (7) single family homes will be developed on the Property requiring an additional 3.61 sewerage privilege fees. We have discussed this matter with Brian McMullen and Doug Haley and they agree that the most reasonable course of action would be for Lothrop Mill, LLC, to purchase the 3.61 sewerage privilege fees and pay for them at the commencement of construction and that the 3.39 betterments would then be divided over the seven (7) lots.

Therefore, it is respectfully requested that you approve the 3.61 sewerage privilege fees totaling \$44,444.59 for the Property.

Thanking you for your anticipated cooperation and courtesies in this matter.

Very truly yours,

LOTHROP MILL, LLC.

By: 

Joseph Levine, Agent

Cc: Doug Haley, Director – Via Hand Delivery  
Brian McMullen, Assistant Assessor – Via Hand Delivery