

**TOWN OF HOLLISTON
PLANNING BOARD**

703 Washington Street
Holliston, MA 01746
(508)429-0635

M E M O R A N D U M

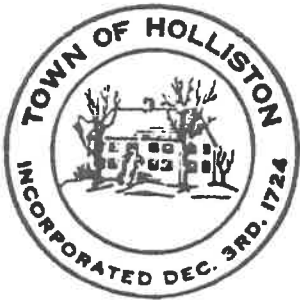
TO: Zoning Board Members
FROM: Karen Sherman, Town Planner
DATE: June 19, 2020
RE: 157 Lowland Street

Attached please find the Planning Board's 2011 Special Permit for use of 157 Lowland Street as a materials recycling facility (asphalt, brick and concrete). The site is also permitted by the MA DEP as BWP SW 47 – Recycling, Composting or Conversion (RCC) Operation for American Recycled Materials, Inc. (X267053) issued June 2018 (replaced a March 2012 Determination of Need Permit because of regulatory changes).

Enforcement of Condition #14 as well as several other conditions of the approval have been ongoing issues with abutters and the owner for many years. During the 2017/18 DEP permit review permit, numerous issues were raised with regard to compliance with local zoning and permitting (see Planning Board memorandum dated April 6, 2018 with exhibits and Board of Selectmen memorandum dated April 9, 2018). As noted in the Selectmen's memo, a stack of complaints about operations at #157 was entered into the record of a public hearing for 194 Lowland Street. The Planning Board denied the request at 194, citing principally adverse traffic and noise impacts of the proposal. Their denial was upheld by the Land Court.

Recently in May 2020, the Board of Selectmen sought the Planning Board's support of a heavy vehicle exclusion through DOT for Woodland Street and the portion of Lowland Street from Jeffrey Avenue to Woodland. The Police Chief has also issued a traffic advisory to local businesses about ceasing use of that portion of Lowland Street and instead, entering and exiting the industrial park via Jeffrey Avenue and Whitney Street or Fiske Street.

At its meeting of June 11th, the Planning Board voted unanimous to express their support for Mr. Canney's enforcement action regarding this site.



TOWN OF HOLLISTON
PLANNING BOARD

TOWN HALL

HOLLISTON, MASSACHUSETTS 01746

CERTIFICATE OF ACTION
SPECIAL PERMIT AND SITE PLAN REVIEW – MICHAEL BRUMBER

Decision Date: August 11, 2011

Applicant: Michael Brumber

Address: 157 Lowland Street, Holliston, MA

Owner: BA Simeone c/o Aggregate Industries, 400 Green Street,
Wrentham, MA 02093

Site Location: 157 Lowland Street

Assessors' Reference: Map 12, Block 4, Lot 34

Zoning District: Industrial (I)

It is hereby certified by the Planning Board of the Town of Holliston, Massachusetts, in accordance with the Rules and Regulations of the Holliston Planning Board, Article VII, Site Plan Review, a duly called and properly posted public hearing of said Planning Board was held on July 28, 2011 and continued to August 11, 2011. At a duly posted meeting on August 11, 2011, it was voted to **approve** a Special Permit and site plan application based on a plan entitled "Site Plan of Land in Holliston, MA" prepared for Michael Brumber of 815 Highland Street, Holliston on a motion made and duly seconded. The plan set was prepared and stamped by Bruce E. Wilson, Jr., PLS of GW Site Solutions Inc. of Franklin, MA. The application was filed with the Planning Board Office on July 7, 2011 and concerns a 7.07-acre property on Lowland Street in the Lowland Industrial Park identified as Map 12, Block 4, Lot 34.

Hearing notice under the requirements of the By-Law and MGL, c. 40A included the following:

1. Publication of a hearing notice in the Metrowest Daily News on July 13 and 20th,
2. Posting of the public hearing notice with the Town Clerk on July 7th, and
3. Abutter notification (including surrounding towns) by mail on July 12th.

The Applicant filed with the Planning Board the following, which are contained in the records at the Planning Board office and are incorporated into this Decision by reference:

1. Application and narrative for Site Plan Review filed with the Planning Board and Town Clerk on July 7, 2011 signed by the Applicant and Owner's Representative.
2. Plans entitled "Site Plan of Land in Holliston, MA", consisting of two sheets, dated July 7, 2011 (revised through August 11, 2011) prepared and stamped by Bruce Wilson, Jr. PLS.

Special Permit and Site Plan Certificate of Action
Michael Brumber, 157 Lowland Street

The Planning Board also received correspondence from the Town of Holliston Fire Chief (dated July 27) and Police Chief (dated August 2) as well as Richard T. Westcott, PE of Westcott Site Services, civil engineering consultant for the Planning Board (dated July 18, 2011). The aforementioned are contained in the Planning Board files and are incorporated into this Decision by reference.

PUBLIC HEARING AND FINDINGS

During the course of the public hearing, the following individuals made appearances on behalf of the Applicant and Owner: Michael Brumber (applicant), Attorney Mark Helwig, Dennis Lydon of Aggregate Industries (owner), Bruce Wilson, PLS of GW Site Solutions, Inc.(surveyor), Russell Waldron of AES Applied Ecological Sciences (wetland ecologist) and J. David Simmons, Esq. of Angle Tree Consulting. No abutter or other party of interest was in attendance.

The Applicant explained that the property, which is the subject matter of several historical Zoning Board of Appeals Special Permits and Variances and this application, is located on Lowland Street within the Lowland Industrial Park. The existing buildings, parking, and outdoor storage areas are all located within the Industrial zoning district. The Applicant will occupy one of the buildings as an office and will store excavating equipment, construction materials and the company's fleet on site.

The Applicant requested a Special Permit under the Holliston Zoning By-Laws, Section III-A Schedule of Use Regulations (#42a "General industrial uses..." and #49 "Outside storage of building or other materials not covered elsewhere in this by-law") for processing and outside storage of building materials and equipment year-round. The exterior material storage areas are not proposed to be individually enclosed but are identified on the site plan with piles labeled as raw and processed materials, and the site perimeter is primarily comprised of concrete barriers and earthen berm. The Applicant is primarily engaged in processing and recycling of asphalt and concrete rubble material to produce "recycled aggregate" materials suitable for construction projects. Such processing requires a Determination of Need (Large Operation) from the Massachusetts Department of Environmental Protection (BWP SW 02). The quantity identified in that permit application totals 125,000 tons per year with a maximum of 1,000 tons received per day (300 tons on average). This aspect of the operation -- receiving unprocessed materials -- is limited to approximately 6 months per year (April -- October). Materials will be acquired from rehabilitation and construction of roadways, parking areas, storage area restoration and construction sites as well as demolition of bridges, buildings and other structures. The Applicant has indicated that a maximum amount of 10,000 tons of materials will be stored while "in process" and 10,000 tons of processed materials will be stored prior to shipment. Approximately 20 tons of non-recyclable residue (primarily rebar and wire mesh) have been identified and will be stored until shipped to another recycler.

Proposed site improvements were described, including truck circulation, screening, parking and security. Manufacturer specifications for a portable track-mounted crusher which will feed a portable screener that will sort and disperse recycled asphalt material into assorted sizes from ¾" to 3" have been provided.

At the public hearing sessions, no abutters offered testimony for or against the proposal. Upon motion made and duly seconded, the public hearing was closed on August 11, 2011.

Special Permit and Site Plan Certificate of Action
Michael Brumber, 157 Lowland Street

Having reviewed all the plans and reports filed by the Applicant and his representatives and the representatives of the Town, considered the testimony at the Public Hearing and having viewed the site, the Planning Board has determined that the Application for Special Permit and Site Plan Review is consistent with the requirements of Sections III-A and VII of the Zoning By-Law. In connection with the application for Special Permit for Use pursuant to Section III-A, the Board makes the finding that the use is in harmony with the general purpose and intent of the By-Law.

The Site, as noted, is presently vacant within a planned industrial park. The proposed use of the site for outside storage of materials (sand & gravel, recycled asphalt and concrete products, and equipment) is consistent with the uses allowed under the zoning by-law within the Industrial district. The Board finds that the aforesaid uses can be made at the Site in a manner that is not detrimental to the surrounding areas provided that the conditions of this decision and that of the Commonwealth are complied with.

The Board finds that the intended use and associated traffic will not have a negative impact upon safety, as Lowland Street is a planned industrial roadway and that the entry provides for appropriate sight distance for vehicles exiting the site. Finally, the Board finds that the completion of the facility will result in improvement of the Site and will promote business development in the community. The Board also finds that the proposal meets the General Conditions for approval specified in Section VII (2)(a-g) of the Holliston Zoning Bylaw.

CONDITIONS OF APPROVAL

The Board's decision to grant the Application for Site Plan Review is subject to the following conditions:

1. This Special Permit is issued solely to the applicant and is not transferable or assignable. The Special Permit is not valid until recorded and indexed at the Registry of Deeds in accordance with the provisions of MGL, c. 40A, s. 11. The copy of the decision to be filed must contain a certification by the Town Clerk that 20 days have elapsed since after the decision was filed and that no appeal has been filed or if such appeal has been filed, that it has been dismissed or denied.
2. **A copy of the recorded decision and revised plan set shall be presented to the Inspector of Buildings.** Unless amended with the approval of the Planning Board, the endorsed plan set shall be the plan of record and operations shall proceed in accordance with the improvements shown on said plan and this Certificate of Action.
3. The Applicant shall not receive or process asphalt and concrete rubble material requiring a Determination of Need (Large Operation) from the Massachusetts Department of Environmental Protection (BWP SW 02) until said "permit" is presented to the Inspector of Buildings.
4. No corrections, additions, substitutions, alterations or any changes shall be made in any plans, proposals, and supporting documents approved and endorsed by the Planning Board without the written approval of the Planning Board. Any requests for modifications shall be made in writing to the Planning Board for review and approval and shall include a description of the proposed modification, reasons the modification is necessary, and any supporting documentation.

Special Permit and Site Plan Certificate of Action
Michael Brumber, 157 Lowland Street

5. A copy of this decision shall be kept on site and shall be made available to all site contractors.
6. Non-security lighting shall be extinguished overnight within 30 minutes after close of operations.
7. Prior to commencement of authorized site activity, the Applicant shall provide to the Planning Board Office the name, address and business phone number of the individual(s) who shall be responsible for all activities on the site. Additionally, the Police and Fire Departments should be provided with an emergency notification sheet.
8. Street numbers (5-6" in height) are to be added to any freestanding sign installed along Lowland Street.
9. Outside storage of materials and equipment not associated with site environmental cleanup is limited to areas designated on the site plan. Pile heights are limited to 25' and safe site circulation must be maintained at all times.
10. The applicant shall install/repair the dust suppression system prior to commencement of processing operations and shall operate that system at all times when the crusher and screener are operating.
11. The applicant shall not cause a nuisance to residents due to dust and/or odors. If, in the opinion of this Board, the above measures do not sufficiently mitigate noise and dust migrating off the property, the Board will notify the Applicant in writing and the Applicant shall supply a corrective action plan within thirty (30) days for the Board's review and approval. The Inspector of Buildings may take additional measures as the Town's Zoning Enforcement Officer.
12. No outside activity, including loading of materials is allowed on-site prior to 7:00 a.m. or after 7:00 p.m. Monday through Saturday with the exception of seasonal snow plowing activity and properly-noticed overnight activity to receive millings. Notification must be given to the Building Department and Police Department a minimum of 24-hours in advance of overnight activities. A maximum of 20 nights for such activities are allowed per calendar year. No processing shall occur after 6 p.m.
13. The Applicant shall take measures to prevent vehicle queuing at the site entrance and along Lowland Street, especially before 7 a.m.
14. The applicant shall also direct his vehicles as well as deliveries to utilize the industrial roads in the area in order to minimize impacts to residential areas. This includes utilization of Jeffrey Avenue and Whitney Street to access Washington Street.
15. The responsibility for the maintenance and operation of the drainage system will be the responsibility of the applicant. The applicant shall maintain the drainage system and shall provide semi-annual inspection of the sedimentation basin to the Planning Board. If necessary, the Applicant shall clean the basin so as to maintain the system in proper working order.
16. The Board reserves the right to impose additional requirements in the event that the drainage system fails and water overflows, creating a safety issue.
17. Prior to the issuance of a Certificate of Occupancy, the Applicant shall submit an as-built plan stamped by a professional engineer certifying that all site improvements are completed in accordance with the approved plan. The Applicant shall submit a statement certifying that all conditions of approval of this decision have been met.
18. Prior to the issuance of a Certificate of Occupancy, the Police and Fire Department shall be provided with keys to any proposed gates and buildings (e.g. Knox box) and an accurate materials list depicting the contents of the storage areas (including MSDS).

Special Permit and Site Plan Certificate of Action
Michael Brumber, 157 Lowland Street

19. The double-walled aboveground fuel storage tank shown on the site plan shall be inspected and approved by the Holliston Fire Chief.

Planning Board Vote

The Board's vote in favor of granting Special Permit and Site Plan approval for Michael Brumber is as follows on a motion made and duly seconded:

John J. Donovan	Yes
Parashar Patel	Yes
Jonathan Loya	Yes
Geoffrey Zeamer	Yes
Warren Chamberlain	Yes

HOLLISTON PLANNING BOARD
BY:

John J. Donovan
Chairman


I hereby certify 20 days have elapsed since after the decision has been filed in my office and that no appeal has been filed or if such appeal has been filed, that it has been dismissed or denied.

_____ Date:

Elizabeth Greendale

Town Clerk

MEMORANDUM

TO: James McQuade, DEP Solid Waste Section Chief
CC: Board of Selectmen
FROM: Holliston Planning Board
Karen Sherman, Town Planner/Economic Development Director 
DATE: April 6, 2018
RE: DEP Recycling, Composting or Conversion Operation (RCC)
Draft Permit – BWP SW47
ABC Rubble Recycling Operation
American Recycled Materials, Inc. – 157 Lowland Street

Based on review of the draft RCC permit (dated February 9, 2018), the permit application and enforcement materials provided to the Board of Health, the prior RCC permit and the approved Special Permit and Site Plan Review Certificate of Action issued by the Planning Board in 2011, we offer the following questions and comments for consideration:

Site Plan Issues: Request for additional information and/or clarification

- The June 21, 2017 DEP Administrative Deficiency Notice in point 5 on page 2 calls for "...a list of equipment (loaders, excavators, crushers, etc) related to facility operations." No such list appears in Atty. Connors' response letter of August 7, 2016.
- Labels on the application's "Plan of Land of 157-165 Lowland Street in Holliston, MA" dated January 15, 2018 prepared by Connorstone Engineering, Inc. are not consistent with either the 2011 plan or the January 2017 "revised schematic". How are the specific areas that fall under the draft RCC permit determined as there are clearly other materials and processes occurring on the site? Basics questions seem unanswered such as: Where is equipment stored, processing equipment positioned, and area(s) designated for waste material and/or dumpster location(s)?
- What is the large rear pile labeled "berm" comprised of and what part of that pile(s) is dynamic? The "revised schematic" by Connorstone submitted to DEP in January 2017 place the berm up against "processed materials".
- There are no elevation labels on the material piles and berm depicted. We are assuming they are 2' contours. Are pile heights determined by use of Network RTK as indicated in the May 2, 2016 correspondence between Connorstone Engineering and Atty. Connors that was submitted to DEP staff?
- There appears to be a growing encroachment onto adjacent property (N/F Ty-Wood Corporation, Century-TyWood Corporation) at 79 Lowland Street that includes a portion of the loaded truck route, retaining wall and portion of rear pile/berm. The Quitclaim Deed of 2/27/15 for the locus does not indicate any easements (Middlesex South Registry Book 64979, Page 86). Is there a written agreement with this property owner? This encroachment seems inconsistent with Draft RCC Permit Section V(H) Operations as "proximate surrounding areas" likely do not include unauthorized sprawl onto an

Holliston Planning Board Comments
Draft RCC Permit – American Recycled Materials ABC Rubble Recycling Operation

adjacent property and if the encroachment is occurring with owner's knowledge, shouldn't they formally be part of the application?

Special Permit Consistency

Since issuance of the Special Permit in 2011 and the site's operation under the prior RCC permit in 2012, the Town of Holliston Building, Board of Health and Planning Departments have received multiple complaints from residents and business owners about various operational aspects at the locus including: excessive noise, hours of operation, vehicle queuing on Lowland Street, clientele usage of Woodland and Fiske Streets, excessive pile heights and management, lack of dust suppression, and lack of stormwater system inspection. These complaints go to both specific operational conditions spelled out in the Special Permit as well as more subjective nuisance issues. The following is a comparison of local Special Permit requirements under local zoning and the draft RCC as well as suggestions for additional RCC permit requirements:

Holliston PB Special Permit	Draft DEP RCC Permit
Hours of operation: 7-7, 6 days/week with no processing after 6 p.m., no "outside activity" prior to 7 a.m.; 20 nights with notice to receive millings; measures to prevent queuing, especially before 7 a.m. (Special Permit Conditions 12 and 13)	Hours of operation: 7 – 7, 6 days/week with trained attendant on duty and visual inspection of loads (Draft RCC Permit Section VI(C) and (D)).
Plan and operational changes: Written Planning Board approval required (Special Permit Conditions 2 and 4).	Plan and operational changes: Notice to DEP and Holliston Board of Health (Draft RCC Permit Section VI(G)).
Nuisance mitigation: Board notice to applicant with corrective action plan in 30 days and Building Inspector enforcement action per Section VI-G penalty of the Zoning By-Law and MGL c. 40, s. 21D (Special Permit Condition 11).	Nuisance mitigation: Section V(B) Compliance provides for overall operational conduct. DEP may modify the permit per Section VI(H). Section VI(K) specifically addresses Air Quality/Noise Control.
Site access and management: Employment of operational measures to prevent vehicle queuing on Lowland Street and utilizing and directing use of industrial roads to access Washington Street (Conditions 13 and 14).	Site access and management: All vehicles entering, waiting and leaving the site shall comply with the requirements of 310 CMR 7.11 for exhaust and sound emissions, including unnecessary idling.

- Hours of operation.
 - The draft RCC permit at Section VI Specific Conditions(C) Hours of Operations (page 9) indicates hours of operations for receipt and handling of ABC rubble material. We would like to suggest the following more restrictive additions to the Draft RCC: Special Permit condition #12 states "No outside activity....is allowed on-site prior to 7:00 a.m." We have received numerous complaints of systematic violation of the hours of operations (especially in the mornings) and suggest that the RCC include language that includes and defines "start-up" in addition to

Holliston Planning Board Comments
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receiving and processing materials. The Special Permit also restricts “processing” after 6:00 p.m. in condition #12. Limiting twilight hours is especially important after the end of daylight savings time when any aspect of operation with lights and headlights is particularly impactful on residents.

- The draft RCC permit does not make allowance for “other” hours for asphalt millings. The overnight operations allowed in the Special Permit, however limited, have been very disruptive to residents and businesses as have unauthorized snow storage operations (see Exhibit A - Inspector of Buildings February 12, 2018 Cease and Desist Order). Condition #12 of the Special Permit allows for a maximum of 20 nights per calendar year to accept millings. We strongly support this limitation/exclusion in the draft RCC permit and suggest the following language change to RCC Draft permit at Section V(C) Compliance with Other Regulations: In the event that a conflict exists between the state and local permits governing the operation, the more restrictive requirements shall prevail.
- Is there a stated definition/qualification for “trained attendant” as identified in Section VI(D) and (E)?
- Plan and operational changes.
 - Atty. Connors states in his May 4, 2016 correspondence to DEP staff that “Brumber is in the process of preparing a filing for an amendment to his town and state permits.” To date, no amendment has been filed with the Planning Board and there is as-built plan on file per Condition #17 of the Special Permit. Special Permit condition #4 states the “No corrections, additions, substitutions, alterations or any changes shall be made in any plans, proposals, and supporting documents approved and endorsed by the Planning Board without the written approval of the Planning Board.” As noted in the June 21st Administrative Deficiency Notice on page 1, #1 “Application form page 1 of 5, section III.A.1, requires the Applicant to identify all other applicable local, state, federal permits required.” Atty. Connors’ response letter of August 7, 2016 makes no mention of any local permits or permit revisions.
 - Special Permit Condition #9 that states “Outside storage of materials and equipment...is limited to areas designated on the site plan...” On the approved site plan, there are no piles shown in the location of the current “Wood Chips” pile or “Processed Materials Temporary Storage”. The internal bituminous access roadway has been modified to gravel and a retaining wall has been added to accommodate the wood chip pile access. A retaining wall of unknown construction and height has been constructed to accommodate the processed material storage.
- Nuisance mitigation.
 - The draft RCC permit at Section VI(K) on page 11 addresses Air quality /Noise control and the Special Permit addresses the issues in condition #11 which states that “The applicant shall not cause a nuisance to residents due to dust or odors.” The draft RCC Permit states on Page 3 that “The Applicant has implemented several measures to prevent potential noise nuisances associated within the

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processing and recycling operation, including: the installation of a twenty-seven (27) foot earthen berm at the rear of the property; re-routing the customer trucking driveway to avoid trucks from ascending a hill near the rear of the Site;and keeping the processing and screening equipment surrounded by the unprocessed and processed ABC material, which are approximately twenty-five feet high, for the attenuation of noise.” As noted by the Conservation Commission in their comments to the Board of Selectmen dated March 7, 2018 (Exhibit B), the earthen berm at the rear of the property was installed without their approval, nor was it reviewed and approved by the Planning Board.

- The draft RCC permit Section V(C) Compliance with Other Regulations states “This permit does not relieve the Owner and/or Operator from the obligation or requirement to comply with all applicable laws and regulations (whether local, state or federal). This permit shall not supersede, nor otherwise diminish, the Owner and/or Operator’s requirement to comply with other permit(s) issued by the Town of Holliston.” Additionally, Special Permit Condition #9 states “Pile heights are limited to 25’...” The “berm” depicted on the January 2018 Connorstone plan appears to have merged with one or more working piles, the height of which appears to be 32’. This alteration may well have occurred after Cavanaugh Tocci’s May 2017 measurements and issuance of their June 5th supplemental report as the Connorstone Plan is dated January 15, 2018.
- It would appear that whatever noise mitigation has been put in place could use monitoring and/or revisiting. As noted by Michael and Audrea Szabatura of 31 Noel Drive in their March 19, 2018 correspondence to the Board of Selectmen (Exhibit C) “...the berm in place does not cover the entire rear of the property. The back-left corner of the property has no coverage and most of the noise funnels out of that area directly to the back of our yard. We are consistently woken by diesel engines idling in the mornings and even during the evenings...” and by Patrick and Cherie Hafford of 242 Lowland Street in their correspondence to the Board of Selectmen of March 17, 2018 (Exhibit D) “The truth is the noise nuisance has not been abated or mitigated. The crusher and the screener are visible from the road, which means the sound is not being blocked by any berms...A rock crusher operating anytime on the weekend and holidays...is a nuisance. At 7:00 AM on Saturdays, the sound is oppressive for neighbors in the surrounding areas.”
- Attached please find the Disclosure of Christopher Menge, Senior Vice President with Harris Miller Miller & Hanson, Inc. in Burlington, MA (Exhibit E) who was retained to assess potential impacts from Mr. Brumber’s proposed operation at 194 Lowland Street, across the street from the locus under consideration in the draft RCC. His findings seem to be consistent with complaints that have received.
- Site Access and Management.
 - Special Permit conditions #13 and #14 are meant control site management and traffic impacts on abutters and surrounding neighbors. Use of Lowland Street to Woodland Street by the Applicant and his clients has consistently been a source

Holliston Planning Board Comments

Draft RCC Permit – American Recycled Materials ABC Rubble Recycling Operation

of complaints for the Town. Residents of Lowland, Regal and Norland Streets continue to express frustration about systematic miss-use of this route, use of air brakes, noise, and dust as well as fear for safety of Upper Charles Trail users and children walking to and from nearby schools on Woodland Street.

- Attached please find the Disclosure of Robert Michaud, Managing Principal and President of MDM Transportation Consultants, Inc. of Marlborough, MA (Exhibit F) who was retained to assess potential traffic impacts from Mr. Brumber's proposed operation at 194 Lowland Street. Mr. Michaud's findings seem to be consistent with complaints we have received.

Record Keeping and Reporting

What action, if any has been taken by DEP on the Notice of Enforcement issued to the Applicant dated January 2018 regarding overages in the 500-ton per day limit?

Why is there no requirement for an operational scale and realistically, what is the accuracy of estimation of materials by volume per draft RCC permit Section VI(A) given that the materials themselves are not uniform? It would appear that estimation of quantities stored on the site as both "in process" and "processed" is quite an involved task as shown in the May 2, 2016 exercise completed by Connorstone Engineering using digital models of various piles. A scale location has been documented on all vintage of plans.

Also, the Draft RCC permit Section IV(G) Record Keeping and Reporting states that "The Operator shall, upon request, make all such records and information available to authorized representatives of MassDEP and all appropriate municipal authorities" On several occasions since 2012, the Building Inspector has requested records and has been either directed to DEP or has received no response.

In that same section of the draft RCC under 2(e) Operational Records & Daily Log "A log of any complaints received regarding the Operation, including but not limited to a description of the complaint, a description(s) of the findings of the complaint investigation, and a description of the actions taken and/or intended to be taken to address the complaint" is required. Our experience with the Applicant is that any complainant would be reluctant to call the facility directly, let alone discuss any complaint rationally. Is there an official clearinghouse or single point of contact for complaints?

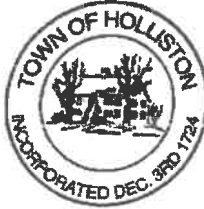
Third Party Inspections

The draft RCC permit at Section VI(J) states that "DEP is not requiring third party inspections of the operations at this time." We believe strongly that such a requirement is warranted because of the litany of complaints received by the Town of Holliston as well as yourselves and the caustic relationship between the Applicant and town officials. This approach has proven to be highly effective at the nearby Covanta transfer station (BWP SW 07 Large Handling Facility) located at 115 Washington Street. In that case, the third-party contractor is managed by the Board of Health and the review/inspection scope is agreed upon and funded by the Applicant.

Holliston Planning Board Comments
Draft RCC Permit – American Recycled Materials ABC Rubble Recycling Operation

In conclusion, it would appear that there is a direct relationship between some of the operational aspects of the permitted site and its documented nuisance impacts. We would appreciate clarification of the identified site plan deficiencies. We would also respectfully request that you consider some of the outstanding local issues as being impediments to permitting the operation without additional controls and honor any additional or amended decisions issued by Town regulatory boards as a result of this review.

EXHIBIT A



February 12, 2018

Michael Brumber
157 / 165 Lowland Street
c/o 34 Prospect Street
Holliston, MA 01746

CEASE AND DESIST ORDER

Dear Mr. Brumber:

As the Town's Zoning Enforcement Officer and on behalf of the Planning, please be advised that this letter constitutes a formal order under the Massachusetts Zoning Act (G.L. c. 40A) and the Holliston Zoning Bylaws. Specifically, you are hereby directed to cease and desist from any storage of snow on the property located at 157 / 165 Lowland Street (the "Property").

As you are aware, the allowed business on the Property are described in Special Permit issued to you on August 11, 2011. Snow storage is not described in such Permit.

Similarly, such permit: (1) states that all changes to the allowed activities requires the approval of the Planning Board (condition 4); (2) prohibits excessive noise (condition 11); (3) limits the hours of activity on the Property (condition 12). Your snow storage activities are in violation of all of these requirements. Furthermore, the Zoning Bylaws prohibit snow storage in the Ground Water Protection District in which your Property lies.

Based upon the foregoing, you are hereby ordered to immediately cease and desist all snow storage activities on the Property. Should you fail to do so, the Town will be compelled to take any and all available remedial remedies, including, but not limited to, fines, injunctive relief and the institution of criminal proceedings.

You may appeal this Order to the Holliston Zoning Board of Appeals in accordance with G.L. c. 40A.

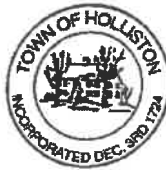
Sincerely,

Peter N. Tartakoff
Inspector of Buildings / Zoning Enforcement Officer

EXHIBIT B

TOWN OF HOLLISTON
Commonwealth of Massachusetts

Christopher Bajdek, Chair
Rebecca Weissman, Vice Chair
Jennifer Buttaro
Shaw Lively



Blake M. Mensing
Ann Marie Pilch
Allen Rutberg

Ryan Clapp, Conservation Agent

Conservation Commission

MEMORANDUM

Date: March 7, 2018

To: Town of Holliston Board of Selectmen

From: Ryan Clapp, Conservation Agent

Re: **Request for a public hearing - Draft Permit Approval RCC Operation - 157-165 Lowland Street**

A draft of an approved permit for a Recycling, Composting or Conversion Operation at 157-165 Lowland Street has been submitted to the Conservation Commission for review. The Massachusetts Department of Environmental Protection has reviewed and determined that the information supplied the Application is in compliance with their requirements, and has issued a draft permit approval for the Operation. However, the Commission has taken issue with several points within the Application.

The Order of Conditions issues by the Conservation Commission under DEP #185-720 has expired without a Certification of Compliance issued. As part of the Order, a critical stormwater management structure was required to be reconstructed (originally constructed under DEP #185-50). The Applicant agreed to reconstruct said structure, but there is a lack of evidence that he has done so. Additionally, as per the Order of Conditions, an As-Built Plan was required to be submitted to the Conservation Commission for review and approval. No such plan has been submitted.

To prevent potential noise nuisances, a "Noise Mitigation Berm" has been constructed on the site. Said berm has, according to the Application, a height of 27 feet and was installed with the oversight of the DEP. There was no notification to the Conservation Commission, and therefore no review or permitting despite being located in areas subject to the Massachusetts Wetland Protection Act and the Town of Holliston Wetland Protection Bylaw.

The original application submitted to the DEP for the site's BWP SW 47 contained a report from GW Site Solutions that significantly misrepresented the onsite soil conditions. While the report

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WEBSITE: www.townofholliston.us/conservation-commission • E-MAIL: conservation@holliston.k12.ma.us

accurately notes USDA-SCS soil mapping as "Udorthents," in actuality, the site soils are not the as-described "deep, excessively drained soils on an outwash plain." Rather, portions of the site are formed wetlands (permitted to be filed under DEP #185-50) and the existing "sedimentation pond" on the site is a shallow excavation site which intercepts the groundwater surface.

The draft RCC permit may be subject to a public hearing if one or more criteria of 310 CMR 16.05(5)(d) is met. One such criterion is a request from the Town. With these concerns in mind, the Conservation Commission requests that the Board of Selectmen request the DEP to hold a local public hearing on the license application for 157-165 Lowland Street.

EXHIBIT C

March 19, 2018

Board of Selectmen:
Kevin Conley
Jay Marsden
Mark Ahronian
703 Washington Street
Holliston MA 01746

Dear Selectman,

We are writing to ask that the Town of Holliston request an open hearing regarding the permit for Recycling, Composting, or Conversion (RCC) Operations by American Recycled Materials, Inc. at 157-165 Lowland Street.

We continue to have concerns about following: inadequate noise abatement, the storm water management system and lack of a storm water drainage permit, composting, vehicle storage and cleansing at the edge of the property, odors and discharges to the air and ground.

Although, changes to the site plan have made slight changes to the noise patterns, there is still a significant amount that impacts our neighborhood, as the berm in place does not cover the entire rear of the property. The back-left corner of the property has no coverage and most of the noise funnels out of that area directly to the back of our yard. We are consistently woken by diesel engines idling in the mornings and even during the evenings for the "snow activities". This is in addition to the overall noise that is generated from this site all day.

As residents of this town and neighbors to this company, we would like to raise our questions and concerns and to have these addressed. Almost 7 years ago the town did not fulfill its legal obligation to inform the neighbors of this company's proposed operations and we've suffered from these actions ever since. We ask that you request an open hearing to give neighbors an opportunity to provide insights into what is working and not working with the site as it currently stands. Please request that the DEP holds a public hearing on this permit.

Sincerely,

Michael & Audrea Szabatura

EXHIBIT D

DEP Public Hearing Request re:
RCC Permit application FMF #526217; Transmittal #X267053

Cherie and Patrick Hafford
242 Lowland Street
Holliston MA 01746

March 17, 2018

Board of Selectmen
Kevin Conley
Jay Marsden
Mark Ahronian
703 Washington Street
Holliston MA 01746

Dear Selectmen:

We are writing to ask that the Town of Holliston request the DEP hold an open hearing regarding the permit for Recycling, Composting or Conversion (RCC) Operation by American Recycled Materials, Inc. (ARM) at 157-165 Lowland Street, Holliston. We understand that the DEP is not involved in special permits, but issues permits to as part of their responsibility to proactively protect "clean air and water, safe management and recycling of solid and solid and hazardous waste, and [for the] protection and preservation of wetlands and coastal resources."

In conversations and meetings with representatives from the DEP, we have been told that these permits are based only on the information supplied to them by the person/organization applying for the permit, and that the DEP does no investigation or verification. We believe some of the information provided for this permit may be missing or misleading regarding the site and its operation, because:

- There is no adequate noise abatement in place.
- There is no evidence of a reliable stormwater management system.
- Materials are stored at the very edge of the brook and within the wetlands zone.
- The operation is not limited to ABC recycling but includes composting.

In the permit application, under Section II DESCRIPTION OF PERMIT APPLICATION AND OPERATION, it states:

Facility Operation

The Applicant has implemented several measures to prevent potential noise nuisances associated with the processing and recycling operation, including: the installation of a twenty-seven (27) foot earthen berm at the rear of the property; re-routing the customer trucking driveway to avoid trucks from ascending a hill near the rear of the Site; installation of new mufflers on heavy equipment; installation of new self-adjusting back-up alarms on all American Recycled Materials, Inc. mobile equipment; and keeping the processing and screening equipment surrounded by the unprocessed and processed ABC material, which are approximately twenty-five feet high, for the attenuation of noise.

DEP Public Hearing Request re:
RCC Permit application FMF #526217; Transmittal #X267053

The DON permit restricts the amount of material accepted at the Site and the amount of material allowed to be stored on Site and limits the operating hours to Monday through Saturday 7:00 AM to 7:00 PM. This draft RCC Permit contains the same restrictions.

The truth is that the noise nuisance has not been abated or mitigated. The crusher and screener are visible from the road, which means the sound is not being blocked by any berms. Front loaders regularly ascend all of the mounds of material.

A rock crusher operating anytime on the weekend and holidays (and they do operate on most holidays) is a nuisance. At 7:00AM on Saturdays, the sound is oppressive for neighbors in the surrounding areas.

The berm at the back of the operation is against the brook and in well within wetlands.

The operation opens most often before 7:00AM.

According to the Wetlands Manual provided on the DEP website, there must be a stormwater management system in place. How can the stormwater runoff be managed if there is a 27 foot berm positioned directly at the edge of the brook? When the operation accepts truckloads of snow (all night long) during a storm, how is the stormwater being managed? The facility hasn't even obtained any permitting for snow disposal.

<http://www.mass.gov/eea/docs/dep/water/laws/i-thru-z/wetfman.pdf>

The application claims to be exempt from solid waste requirements, but according to Energy and Environmental Affairs there are regulations about Using or Processing Asphalt Pavements, Brick & Concrete Rubble (ABC Rubble), detailed in Section B:

BWP SW 46: Permit for Recycling, Composting or Conversion (RCC) Operations
BWP SW 47: Modification or Renewal

B. Design and Operation is Feasible (16.05(3)(b))

1. Materials can and will be recycled, composted or converted
2. Incoming material and product specifications will be met
3. Product markets are viable
4. Storage of materials and their products will not exceed one year.
5. Residuals generated by the RCC operation will not average more than:
 - a. 5% for organic materials;
 - b. 5% for recycling of construction and demolition waste;
 - c. 10% for recycling of recyclable material except at a single-stream operation;
 - d. 15% for recycling of recyclable material at a single-stream operation; or
 - e. Other percentage to be established by the Department

C. The Operation will not create a significant threat to public health, safety or environment or create a public nuisance.

DEP Public Hearing Request re:
RCC Permit application FMF #526217; Transmittal #X267053

D. The operation will not result in unpermitted discharges to the air, water, or natural resources of the Commonwealth.

E. The operation is appropriately sited.

We have several issues with this operation. First is the nuisance issue. The operation is incredibly noisy and the noise nuisance is exacerbated by early morning starts (prior to 7:00AM) and work on weekends and holidays. The ABC permit does not permit organics and yet trucks have been seen entering 157 Lowland with brush and other organic material, and there has been a mountain of composting material (at times up to approximately 30 feet high) immediately adjacent to the road. This has created an odor nuisance, especially in the warmer months.

Second is the harm to Holliston wetlands, something that according to the DEP, the Conservation Commission has the right to regulate and even set—and enforce—more stringent regulations and policies than the DEP. Asphalt and other materials are encroaching on the wetlands area shown on map of Zone II and III Delineation, Holliston MA, Figure 6.2. In addition, there has been snow collection and melting on the premises.

Third is the traffic safety hazard as trucks queue up before dawn during certain times of the year. We have safety hazards, environmental issues and a public nuisance.

We also have other questions:

We realize that the local Board of Health has a copy of the application to the DEP. Does the Board of Health have all the various plans that are required for the Board of Health to review and approve, particularly the compliance inspection plan? Has anyone from the Holliston Board of Health investigated the claims made in the permit application?

The Holliston Highway Department was told ARM was going to create a new driveway directly across the street from the 157 Lowland Street operation, but it is not now and never was a driveway: it is a parking lot for this growing problem. There was quite a bit of trees, brush, and other organic material removed and a paved apron added. As all this activity falls within the areas supposedly to remain undisturbed (wetlands, riparian zone, flood zone, etc.) why did this not require a permit?

The town did noise testing. How can we find out about the results of that test? We wish someone had been testing Saturday, March 17 when at 7am we were awakened by the sound of heavy equipment pounding on rock.

We have lived in our home for 30 years. We have never before found it necessary to file a complaint. We recognize that we share our area of Holliston with businesses such as an auto body and repair shop, landscaping companies, an asphalt plant, contractors and tradespeople, and a variety of manufacturing and service businesses. In those 30 years, *none* created the trouble or negative impact that this business has in the short time it's been in operation here. We had taken some solace in the special permit's specific restriction of activity (nothing in the winter months).

EXHIBIT D
P.4

DEP Public Hearing Request re:
RCC Permit application FMF #526217; Transmittal #X267053

However, the permit does not appear to be enforceable and the company seems to be above the rules, able to operate when and as they wish.

After years of an ongoing struggle that has taken up time and money—the town's and the residents' on several surrounding streets, it's beginning to look as if this is the wrong type of business for a mixed residential/industrial location. When you add to this that many of these residents are threatened when they speak up and others are being harassed, we are depending heavily on our town representatives to do everything they can to restore this area to a law-abiding place to live, if not a harmonious one.

Please request the DEP hold a public hearing on this permit.

Sincerely,

Patrick F. and Cherie M. Hafford

508.429.8194

cherie@silverleafdesign.com

EXHIBIT 5
(no resume
included)

COMMONWEALTH OF MASSACHUSETTS
LAND COURT DEPARTMENT

MIDDLESEX, SS.

17 MISC 000088 (KCL)

MICHAEL BRUMBER, BARBARA DICARLO)
AND JUDY DICARLO)
)
Plaintiffs,)
)
v.)
)
DAVID THORN, WARREN CHAMBERLAIN)
GEOFFREY ZEAMER, NIKKI BORMAN AND)
JOSH SANTORO, AS THEY ARE MEMBERS)
OF THE HOLLISTON PLANNING BOARD)
)
Defendants.)

DISCLOSURE OF
CHRISTOPHER MENGE

I, Christopher Menge, hereby depose and state on personal knowledge, the following:

1. I am employed as Senior Vice President with Harris Miller Miller & Hanson Inc. (HMMH), of 77 South Bedford Street, Burlington, MA 01803. HMMH is an international leader in environmental planning and analysis including noise and vibration control, air quality analysis, airport and airspace planning, and climate and energy solutions.
2. I have over forty years of experience working as an acoustical engineer, principally in the areas of highway noise prediction and barrier design, ground-based noise sources at industrial sites, and noise from outdoor entertainment venues. A true and accurate copy of my resume is attached to this Affidavit as Exhibit 1.
3. I have served as an expert witness in the field of acoustical engineering before courts in Massachusetts, New York, Pennsylvania, Virginia and Nevada on at least eight occasions. My testimony has always been accepted by the courts.
4. HMMH was retained by Attorney Mark Bobrowski and the Town of Holliston to assess potential noise impacts from the operation of a facility to mix, recycle, remove and compost soil materials (the "Project") proposed by American Recycled Materials (ARM) at 194 Lowland Street, Holliston, MA. ARM currently conducts soil materials recycling operations nearby at 157-165 Lowland Street. Throughout the course of this assignment, I personally prepared all work undertaken by HMMH. Our work included an aerial photograph graphic showing the locations of noise measurement sites, existing recycling

activities and proposed earth moving/recycling activities. A copy of the graphic is attached to my Affidavit as Exhibit 2.

5. As part of conducting my analysis and preparing my opinion, I reviewed documents provided to me by Mr. Bobrowski and the Town of Holliston, including permit applications, proposed site plans, planning board records and decisions, a legal complaint filing, noise study reports prepared for ARM by Cavanaugh Tocci consultants, and other related documents and correspondence.
6. I am aware that the Town of Holliston Zoning By-Laws contain limits on "Sounds generated continuously from any source not otherwise exempted above, and measured at or beyond the lot line of an adjacent or nearby residence or institutional use, weekdays during the hours of 7 a.m. to 6 p.m." The "Maximum Permitted Sound Level (in dBA)" is 60. The limit is 50 dBA during the other hours of the day and on Sundays. Loaders and similar machinery as well as any vehicles controlled by an owner are not exempted.
7. I am aware that the Holliston Zoning By-Laws also contain "Exceptions for Intermittent Noise. The levels (dBA) specified [in the paragraph above] may be exceeded by ten (10) dBA, weekdays during the hours of 7 a.m. to 6 p.m., but not at any other time, for a period not to exceed twenty (20) minutes during any one (1) day.
8. I am aware that the Massachusetts Department of Environmental Protection (MassDEP) has promulgated regulations (310 CMR 7.10) to control noise levels from operations at industrial and commercial property. The regulations reference policy that was adopted in the early 1970s and reaffirmed in 1990 and has remained in effect.¹ The policy states "A noise source will be considered to be violating the Department's noise regulation (310 CMR 7.10) if the source:
 1. Increases the broadband sound level by more than 10 dB(A) above ambient, or
 2. Produces a "pure tone" condition -- when any octave band center frequency sound pressure level exceeds the two adjacent center frequency sound pressure levels by 3 decibels or more.

These criteria are measured both at the property line and at the nearest inhabited residence. 'Ambient' is defined as the background A-weighted sound level that is exceeded 90% of the time, measured during the equipment operating hours. 'Ambient' may also be established by other means with consent of the Department."

9. I conducted a noise measurement program at two locations on the residential property at 242 Lowland Street, which shares a property boundary with the industrial property at 194 Lowland Street along the Bogastow Brook. Site 1 was close to the property line, at the edge of the brook and front yard area of the home, and Site 2 was on the patio of the home, at the same distance from the 194 Lowland Street property as the house. The noise measurements were conducted on October 17, 2017 between 11:33 AM and 12:39 PM,

¹ The MassDEP noise policy is provided at this link, and an interpretation of the policy at the link following that:
<http://www.mass.gov/eea/docs/dep/air/community/noise-policy.pdf>
<http://www.mass.gov/eea/agencies/massdep/air/programs/noise-pollution-policy-interpretation.html>

and again between 2:20 and 2:35 PM. The instrument I used is a Larson-Davis Model 824 Type I precision integrating noise analyzer with calibration traceable to the National Institute of Standards and Technology. The measurements were conducted with standard professional practice and procedures for outdoor sound measurements. I set the instrument to collect A-weighted sound levels as well as 1/3 octave and octave frequency bands (with "slow" response) continuously every second during each measurement period. The instrument also collected statistical metrics for every 5-minute interval. These metrics included the maximum sound level (Lmax), the Leq² sound level, which represents an energy-average level, and the L90 sound level, which is the level exceeded 90% of the measurement time, and represents "ambient" per the DEP policy.

10. I conducted a 30-minute measurement at the property line (Site 1) from 11:33 AM to 12:30 PM. During that time I made notes of the audible and dominant noise sources that contributed to the measured A-weighted sound level, which displays on the meter. Continuous engine noise from machines operating at the ARM facility at 157-165 Lowland Street was audible during the entire period, and it dominated (controlled) the sound level most of the time. Occasional trucks on Lowland Street and aircraft flyovers also contributed to the overall noise environment and measured sound level. The 5-minute period Leq values ranged from 45 dBA to 51 dBA, and the L90 values ranged from 42 dBA to 46 dBA. An L90 of 42 dBA may be close to being a representative ambient background level in the area without continuous activity at the ARM facility, but it is likely somewhat higher than it would be otherwise. During an approximately 5-minute period that I selected when the ARM facility noise dominated the sound level exclusively, and no other significant audible events occurred, I measured an Leq of 47 dBA and an Lmax of 53 dBA. The maximum sound level from a truck tailgate bang at the ARM facility at another time during the 30 minutes was 61 dBA.
11. I conducted a 30-minute measurement at the house patio (Site 2) from 12:09 PM to 12:39 PM. During that time I made notes of the audible and dominant noise sources that contributed to the measured A-weighted sound level. As at Site 1, continuous engine noise from machines operating at the ARM facility was audible during the entire period, and it dominated (controlled) the sound level most of the time. Occasional trucks on Lowland Street and aircraft flyovers also contributed to the overall noise environment and measured sound level. The 5-minute period Leq values ranged from 47 dBA to 50 dBA, and the L90 values ranged from 43 dBA to 47 dBA. During an approximately 5-minute period that I selected when the ARM facility noise controlled the sound level exclusively, and no other significant audible events occurred, I measured an Leq of 48 dBA and an Lmax of 53 dBA. The maximum sound level from a truck tailgate bang at the ARM facility at another time during the 30 minutes was 56 dBA.
12. I returned to Site 2 later in the day, and noted that the audibility of machinery noise from the ARM facility was notably less, although not inaudible. I conducted a 15-minute measurement at the house patio from 2:20 PM to 2:35 PM, and made notes of the audible

² Leq represents the time-averaged varying sound level that has the equivalent amount of sound energy as a steady sound at the same level.

and dominant noise sources, as before. During this period, the L90 values ranged from 42 dBA to 44 dBA.

13. As a result of the measurement at Site 2 later in the day, I conclude that L90 of 42 dBA is a reasonable representation of the daytime ambient background sound level at the house patio (Site 2) of 242 Lowland Street. Such a sound level is likely also representative of many of the homes in the Marilyn Street neighborhood. An appropriate L90 value for the Site 1 property line location, which is lower in elevation than Site 2, is likely somewhat lower than 42 dBA.
14. I compared the measured average Leq (48 dBA) and maximum (53 to 56 dBA) sound levels at Site 2 from operations at the existing ARM facility at 157-165 Lowland Street to the measured L90 background of 42 dBA. I conclude that the MassDEP noise policy limit of an increase in ambient of 10 dBA is being exceeded by the activities at the existing ARM facility at 157-165 Lowland Street by a minimum of 1 to 4 dBA from time to time.
15. Using Google Earth Pro, I measured the distances between the machinery noise source locations at the existing ARM facility to Sites 1 and 2, which are 1302 feet and 1457 feet, respectively. I also measured the distances between a point on the proposed earth removal site at 194 Lowland Street near the property line to Sites 1 and 2, which are 426 feet and 653 feet, respectively. The locations I assumed for the noise sources at the two locations are based on what I observed at 157-165 Lowland Street on October 17th, and on the ARM site plan for earth removal at 194 Lowland Street prepared by SCS Engineers in 2015 and revised 1/17/2017 by Connorstone Engineering. The source locations I used are shown on the graphic in Exhibit 2.
16. I conducted an evaluation of the potential noise levels at 242 Lowland Street from recycling and earth removal activities at 194 Lowland Street. I based this evaluation on the ARM-produced noise levels from their existing facility measured at Sites 1 and 2. For this evaluation, I assumed that there was no noise shielding by earth mounds or walls between the noise sources operating at ARM's existing facility at 157-165 Lowland Street and Sites 1 and 2. I believe there is some shielding, but I assumed none for purposes of this evaluation.
17. I used the measured sound levels from ARM recycling activity that I reported in paragraphs 10 and 11 above, and the distances measured from the existing and proposed source locations to compute expected sound levels from activities at the proposed location. I used the simple worst-case sound propagation equations referred to as the "inverse square law" to adjust the measured sound levels for the closer distances. The results are predictions at the Site 1 property line of 59 dBA Leq and 64 dBA Lmax from machinery, and 71 dBA Lmax from truck tailgate bangs. These are higher by 7 dBA to 19 dBA than the MassDEP noise limit, which is 52 dBA, assuming the ambient L90 at Site 1 is 42 dBA. The average sound levels are also very close to the Holliston By-Laws limits of 60 dBA for continuous noise, and the truck tailgate bangs exceed the maximum limit of 60+10=70 dBA. These predicted noise levels would be higher by several dBA if I

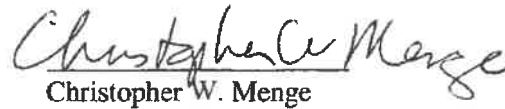
had assumed some noise shielding exists currently between the existing operations and Sites 1 and 2.

18. Using the same approach for the house patio at Site 2, I predicted sound levels from recycling machinery to be 55 dBA Leq and 60 dBA Lmax from machinery, and 67 dBA Lmax from truck tailgate bangs. These are higher than the MassDEP noise limit by 3 dBA to 15 dBA, and approach the Holliston By-Laws limits. These predicted noise levels would be higher if I had assumed some noise shielding currently exists.
19. I conducted an independent noise prediction analysis for activity at 194 Lowland Street based on published noise emissions for a front-end loader in the Federal Highway Administration's Roadway Construction Noise Model. The published noise emission level for a loader is 80 dBA at a distance of 50 feet. Since the machinery noise at the existing ARM facility is continuous, we assumed that the noise from a loader to be used at the proposed facility would also be continuous. Also, we assumed no noise shielding from walls or berms between activity at 194 Lowland Street and Sites 1 and 2. For one loader operating at the proposed facility, the predicted noise level at the property line (Site 1) is 61 dBA, and at the house patio (Site 2) it is 58 dBA. With two loaders operating, sound levels are 3 dBA higher, and would be 64 dBA at Site 1 and 61 dBA at Site 2. One loader plus one truck revving nearby would have similar or slightly higher noise levels as two loaders. Clearly, these continuous noise levels, whether at the property line or at the residence, are well above the MassDEP noise limit of 52 dBA. Operations at the proposed site are also predicted to exceed the Town of Holliston By-Laws' continuous daytime noise limit of 60 dBA at the nearest residential lot line.
20. Therefore, based on two independent noise prediction approaches, I conclude that earth removal, recycling and/or composting operations at the proposed facility at 194 Lowland Street will exceed the MassDEP noise policy limits and also the Town of Holliston Zoning By-Law daytime continuous noise limits at the nearest residential property line. Further, the MassDEP noise limits are predicted to be exceeded on a continuous basis at not only the home at 242 Lowland Street, but also at many homes along Marilyn Street as well. Several Marilyn Street homes are at similar distances from the proposed site as Site 2, and many others are only slightly farther away.
21. The home at 242 Lowland Street and many of the homes along the west side of Marilyn Street nearer the proposed earth removal/recycling site are elevated approximately 20 feet above the grade of the 194 Lowland Street property. As a result of this geometry, any shielding elements that may be proposed for noise abatement, such as earth berms or walls at the edge of the proposed site would have to be higher and more costly to be effective than if the affected properties were at the same grade or lower.
22. I have conducted dozens of noise studies in Massachusetts throughout my career that have addressed the MassDEP noise policy. In my experience, the noise policy limits have been shown to correlate well with community response to intruding noise. Where sound levels from an intruding source exceed the background L90 by about 5 dBA or less, then community reaction is usually minimal, if any. However as sound levels approach and then exceed an increase of 10 dBA or more, community reaction to the noise is generally

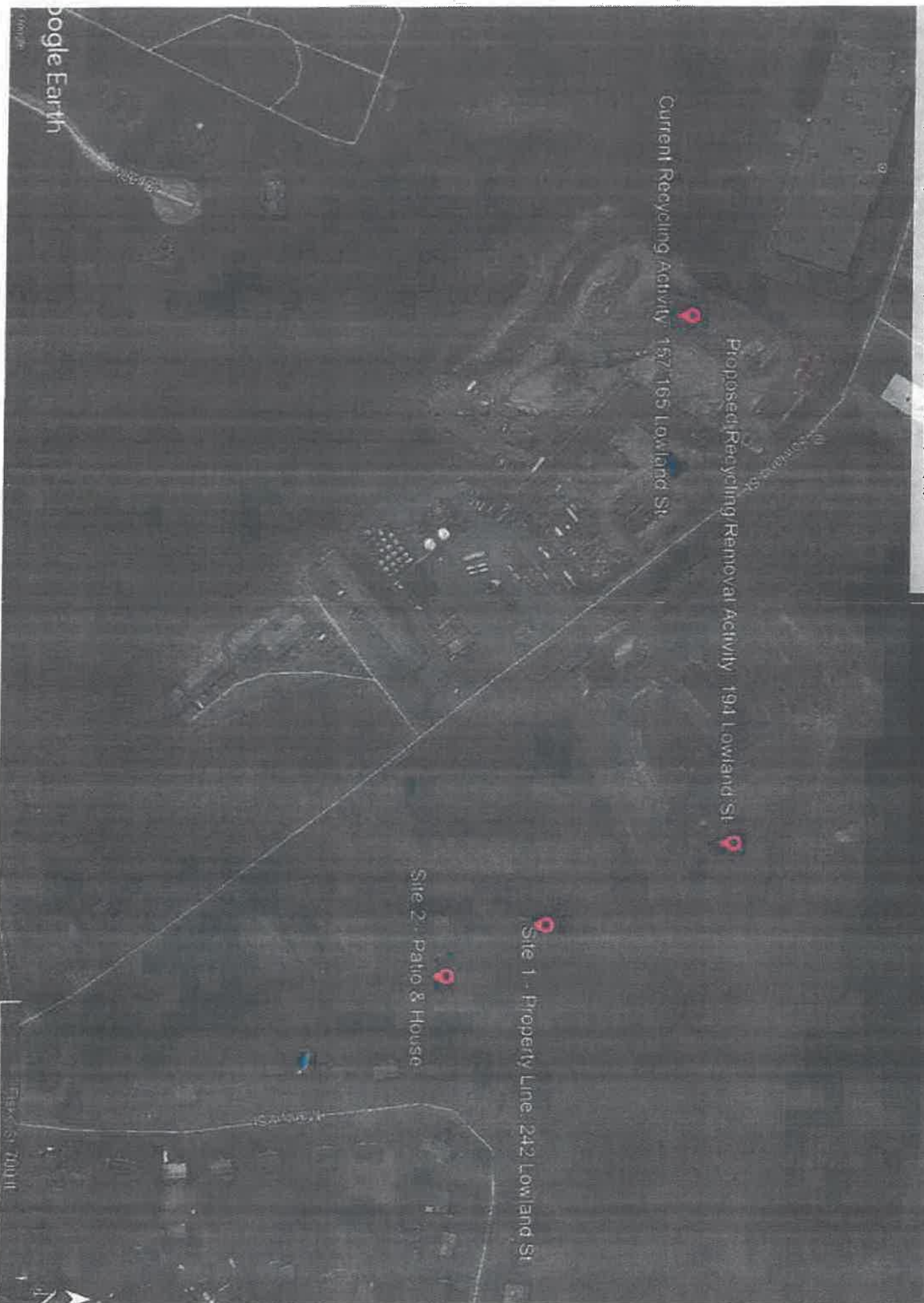
EXHIBIT F
p. 6

strong and frequently develops into legal challenges. The reaction is particularly strong where sound levels are higher than a 10 dBA increase on a continuous or frequent basis.

Signed under the pains and penalties of perjury, this 6th day of November 2017.


Christopher W. Menge

Oilston Recycling, Earth Removal, Composting Locations of Existing and Proposed Activities, and Noise Measurement Sites



COMMONWEALTH OF MASSACHUSETTS
LAND COURT DEPARTMENT

MIDDLESEX, SS.

17 MISC 000088 (KCL)

MICHAEL BRUMBER, BARBARA DICARLO)
AND JUDY DICARLO)

Plaintiffs,)

v.)

DAVID THORN, WARREN CHAMBERLAIN)
GEOFFREY ZEAMER, NIKKI BORMAN AND)
JOSH SANTORO, AS THEY ARE MEMBERS)
OF THE HOLLISTON PLANNING BOARD)

Defendants.)

DISCLOSURE OF
CHRISTOPHER MENGE

I, Christopher Menge, hereby amend my prior disclosure dated November 6, 2017 with the following:

1. Since my prior disclosure, I have reviewed the letter from Cavanaugh Tocci consultants dated October 19, 2017. The subject of the letter is projections and evaluations of environmental sound levels connected with the proposed earth removal and site preparation operation of DCAB, LLC at 194 Lowland Street, Holliston, MA.
2. The report concludes from noise measurements of the machinery at the existing facility and computer projections from the new site that activity on the new site will not exceed the Holliston By-Law noise limits. However, the predicted sound levels reach 60 dBA, the Holliston daytime noise limit, at the lot line location during two of the six operational scenarios that were modeled (shown in Figures B-3 and B-6). Further, the predicted sound levels are averages, based on average noise emissions produced by the equipment, and the Holliston noise limits are maximum permissible sound levels. During HMMH's noise measurements of the earth moving equipment operations at the nearby existing 157-165 Lowland Street facility, the repeated maximum continuous machinery noise levels (Lmax) observed were 5 decibels higher than the average sound levels (Leq) at the nearest lot line and the nearest home, as indicated in items 17 and 18 in my prior disclosure statement. Therefore, I conclude that the sound levels predicted in the Cavanaugh Tocci report would exceed the Holliston By-Law limits by up to 5 decibels at the lot line, and that would occur regularly throughout the operations indicated as "South Stock Pile Work" and depicted in Figures B-3 and B-6 in the Cavanaugh Tocci report.

3. The Cavanaugh Tocci report makes no mention of the Massachusetts Department of Environmental Protection's (MassDEP's) noise regulations and policy, even though that noise policy would apply to the earth removal and site preparation operations being proposed at 194 Lowland Street. HMMH measured the existing background ambient L90 sound level of 42 dBA at the residence nearest 194 Lowland Street. MassDEP noise policy would not allow an increase in the existing L90 sound level greater than 10 dBA. Therefore, even momentary earth moving operational sound levels greater than 52 dBA at nearby residential lot lines or buildings would constitute a violation of the DEP policy, which would permit the Holliston Board of Health to issue an order to stop the operation or provide sufficient noise abatement. Clearly, the predicted continuous operational earth moving sound levels at the nearest property line locations and homes exceed 52 dBA in both HMMH's and Cavanaugh Tocci's evaluations. Therefore, regular violations of the MassDEP noise policy limits are expected with the proposed operational scenarios.

Signed under the pains and penalties of perjury, this 9th day of April 2018.

Christopher W. Menge

EXHIBIT F
(no resume
included)
no traffic counts
included

COMMONWEALTH OF MASSACHUSETTS
LAND COURT DEPARTMENT

MIDDLESEX, SS.

17 MISC 000088 (KCL)

MICHAEL BRUMBER, BARBARA DICARLO
AND JUDY DICARLO

Plaintiffs,

v.

DAVID THORN, WARREN CHAMBERLAIN
GEOFFREY ZEAMER, NIKKI BORMAN AND
JOSH SANTORO, AS THEY ARE MEMBERS
OF THE HOLLISTON PLANNING BOARD

Defendants.

DISCLOSURE OF
ROBERT J. MICHAUD

I, Christopher Menge, hereby depose and state on personal knowledge, the following:

1. I serve as Managing Principal and President of MDM Transportation Consultants, Inc. (MDM), 28 Lord Road, Suite 280, Marlborough, MA 01752. MDM is a full-service transportation consulting firm that provides integrated planning, permitting, design and construction administration services to public and private sector clientele.
2. I have over twenty-nine years of experience working as a transportation engineer, including studies and design efforts encompassing traffic operations and analysis, highway engineering and design, signal system planning, parking studies, traffic impact studies, transportation planning, transportation air quality analysis. I am a Registered Professional Engineer in Massachusetts in the discipline of Civil Engineering, specializing in Transportation. I am a member of the Institute of Transportation Engineers and the American Society of Civil Engineers. A true and accurate copy of my resume is attached to this Affidavit as **Exhibit 1**.
3. I have served as an expert witness in the field of transportation engineering before courts in Massachusetts on at least seven occasions. My testimony has always been accepted by the courts.
4. MDM was retained by Attorney Mark Bobrowski and the Town of Holliston to assess potential traffic impacts from the operation of a facility to mix, recycle, remove and compost soil materials (the "Project") proposed by American Recycled Materials (ARM) at 194 Lowland Street, Holliston, MA. ARM currently conducts soil materials recycling

operations nearby at 157-165 Lowland Street. Throughout the course of this assignment, I was the Principal-in-Charge for all work undertaken by MDM. Our work included traffic counts of Lowland Street at primary locations including at the intersections of American Recycled Materials driveways, Jeffrey Avenue and Woodland Street.

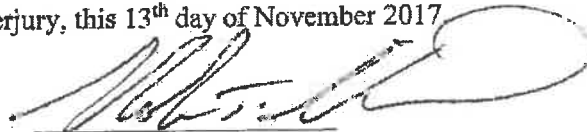
5. As part of conducting my analysis and preparing my opinion, I reviewed documents provided to me by Mr. Bobrowski and the Town of Holliston, including permit applications, proposed site plans, planning board records and decisions, a legal complaint filing, and other related documents and correspondence.
6. MDM has conducted daily traffic counts to include vehicle classification along at the previously referenced locations along Lowland Street for a 24-hour weekday period to include September 26-27, 2017. These counts included video files that provide a basis for validating hourly and daily volumes (trucks and autos) at each of the count locations. The month of September is representative of average or above-average volume conditions based on MDM review of area permanent count station data maintained by MassDOT for area roadways; accordingly, the resulting count information is expected to be reasonably representative of typical traffic conditions along Lowland Street and primary count locations. A compendium of count data is provided in **Exhibit 2**.
7. The ARM facility at 157-165 Lowland Street is located opposite the subject property and is among several industrial properties in the area that generate heavy commercial vehicle trip activity along Lowland Street and area roadways. All of these commercial properties are located east of the Upper Charles Rail Trail which crosses Lowland Street approximately 1,080 feet west of Jeffrey Avenue.
8. A summary of daily truck trip activity on Lowland Street and primary connecting roadways that include Jeffrey Avenue and Woodland Street is presented in **Exhibit 3**. These data indicate daily truck activity on Lowland Street that ranges from 270 trips in the vicinity of the proposed ARM facility and 146 trips west of the Upper Charles Rail Trail. Daily truck trips on adjoining roadways include 245 trips on Jeffrey Avenue and between 212 and 198 trips on Woodland Street north and south of Lowland Street.
9. A summary of peak hour truck trip activity on Lowland Street and primary connecting roadways that include Jeffrey Avenue and Woodland Street is presented in **Exhibit 4**. These data indicate peak hourly truck activity ranging from 17 to 18 trips on Lowland Street in the vicinity of the Upper Charles Rail Trail crossing, 15 to 26 trips on Jeffrey Avenue, 17 to 24 trips on Woodland Street and 16 to 30 trips on Lowland Street in the vicinity of the proposed AMR facility.
10. Existing truck trip patterns documented in **Exhibit 3** and **Exhibit 4** indicate that Lowland Street between Jeffrey Avenue and Woodland Street carries approximately 33 percent of all truck trips generated through the intersection at Jeffrey Street.
11. The September 27, 2017 count data for the ARM facility indicate that it is a major truck generator along Lowland Street with a total daily truck generation of 245 truck-trips between the hours of 6 AM and 6 PM. The AMR facility generates an average of 20

truck-trips per hour between the hours of 6 AM and 6 PM with peak hourly truck activity of up to 34 vehicle-trips. Peak hourly trip activity varies widely from the 20-vehicle trip average by as much as 70 percent. Hourly truck trip generation for the AMR facility is presented in **Exhibit 5**.

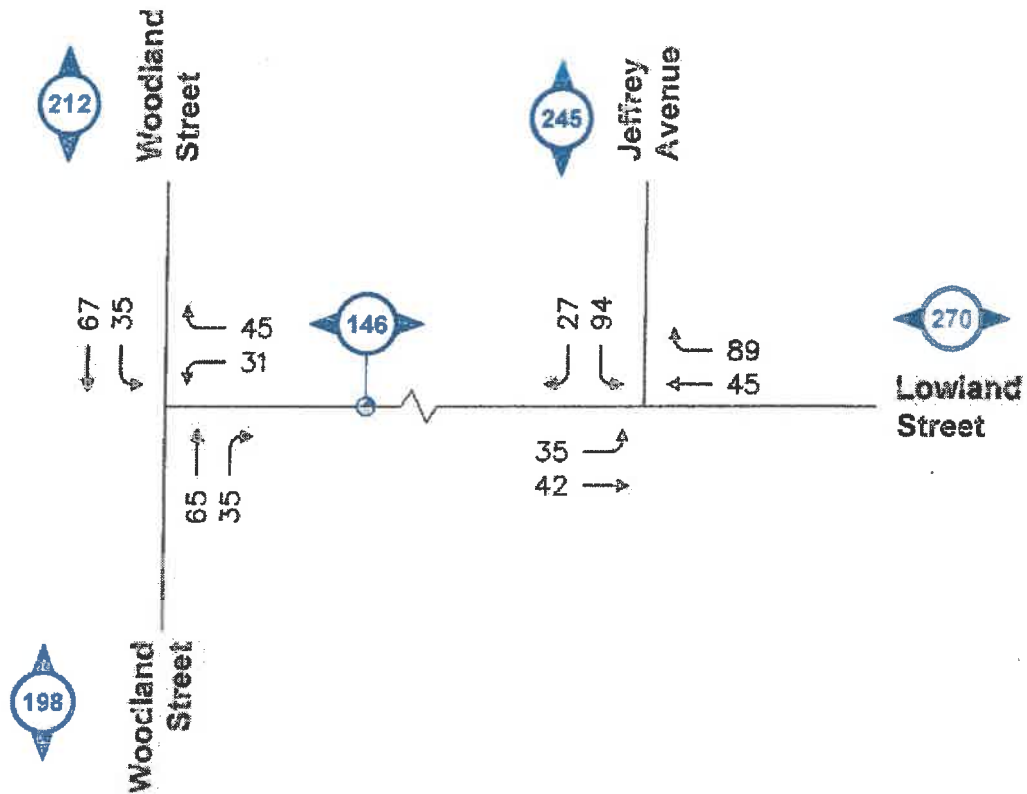
12. Existing trip patterns for the AMR facility indicate a predominant distribution to/from the west of 68 percent (168 daily trips to/from the west versus 75 daily trips to/from the east). Specific distribution patterns by hour of day for the AMR facility are shown in **Exhibit 6**.
13. Based on count data for the existing AMR facility operations conducted in September 2017 and associated truck trip patterns presented in **Exhibit 3** and **Exhibit 4**, the AMR facility is a major contributor to truck trip activity along Lowland Street west of Jeffrey Avenue, estimated to account for over 50 vehicle-trips daily and up to 8 vehicle-trips hourly to/from Woodland Street.
14. The proposed operations at the AMR 194 Lowland Street facility are described in the Site Plan and Special Permit Application as generating approximately 50 daily trucks on weekdays between the hours of 7 AM and 4 PM. Subsequently, the Applicant's Counsel in correspondence of July 30, 2015 corrects the operating parameters to assume up to 20 trucks per day with operating hours 7 AM to 7 PM Monday through Saturday, as well as a commitment that "...The trucks will use and abide by the proper truck routes by way of Jeffrey Ave...". The February 2017 Certificate of Action reflects an estimated 150-day (5-month) period of operation to remove all earth materials from the property. Vehicle types are assumed to include private contract haulers including 10-wheel trucks, 18-wheel trucks and trailer dump trucks. The record also reflects an estimated hourly truck activity of approximately 6 truck trips. No traffic impact report has been submitted by the Applicant that would substantiate the estimated daily and hourly trip activity for the proposed AMR operations at 194 Lowland Street.
15. Notwithstanding the unsubstantiated estimates of daily and peak hour truck activity for the proposed AMR facility, it is the opinion of MDM that the proposed facility will generate a material increase in truck traffic along Lowland Street and has the potential to generate substantial hourly fluctuation in truck trip activity as evidenced by operations at the 157-165 Lowland Street facility. For example, assuming a generation rate of 6 truck-trips per hour as cited in the record materials and applying observed hourly patterns at the 157-165 Lowland Street facility (up to a 70 percent hourly fluctuation relative to average) this would equate to a peak truck activity level of up to 10 truck trips per hour.
16. MDM further opines that in the absence of an effective enforcement protocol to restrict trucks to "proper truck routes via Jeffrey Avenue" as cited by Applicant, trip patterns for the facility (i.e., the distribution of trips on area roadways) are likely to be consistent with existing area truck trip patterns under which up to one-third of truck trips are oriented to/from the Woodland Street and Lowland Street routes. Assuming the facility generates 70 daily truck trips as cited in the Certificate of Action, application of existing area truck patterns would result in a daily trip increase of approximately 14 truck trips or more along Woodland Street and/or Lowland Street in the vicinity of the Upper Charles Rail Trail.

17. The Woodland Street and Lowland Street routes west of and including the Upper Charles Rail Trail represent land uses where heavy commercial vehicle trip activity raises heightened concern with regard to pedestrian and bicycle safety and that are particularly sensitive to increases in commercial vehicle trip activity. The proposed AMR facility at 194 Lowland Street stands to generate a material increase in heavy commercial vehicle trip activity that based on existing area patterns would result in a net truck increase of 10 percent or more at these sensitive residential and recreational areas.

Signed under the pains and penalties of perjury, this 13th day of November 2017

A handwritten signature in black ink, appearing to read 'Robert J. Michaud', written over a horizontal line.

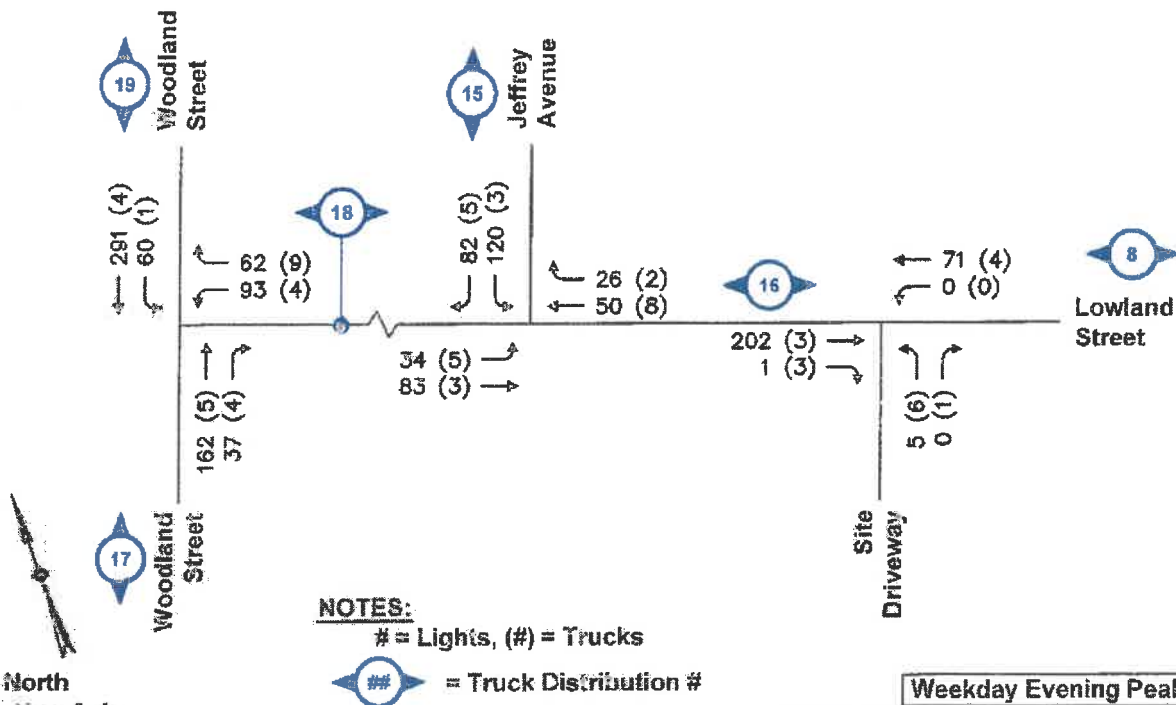
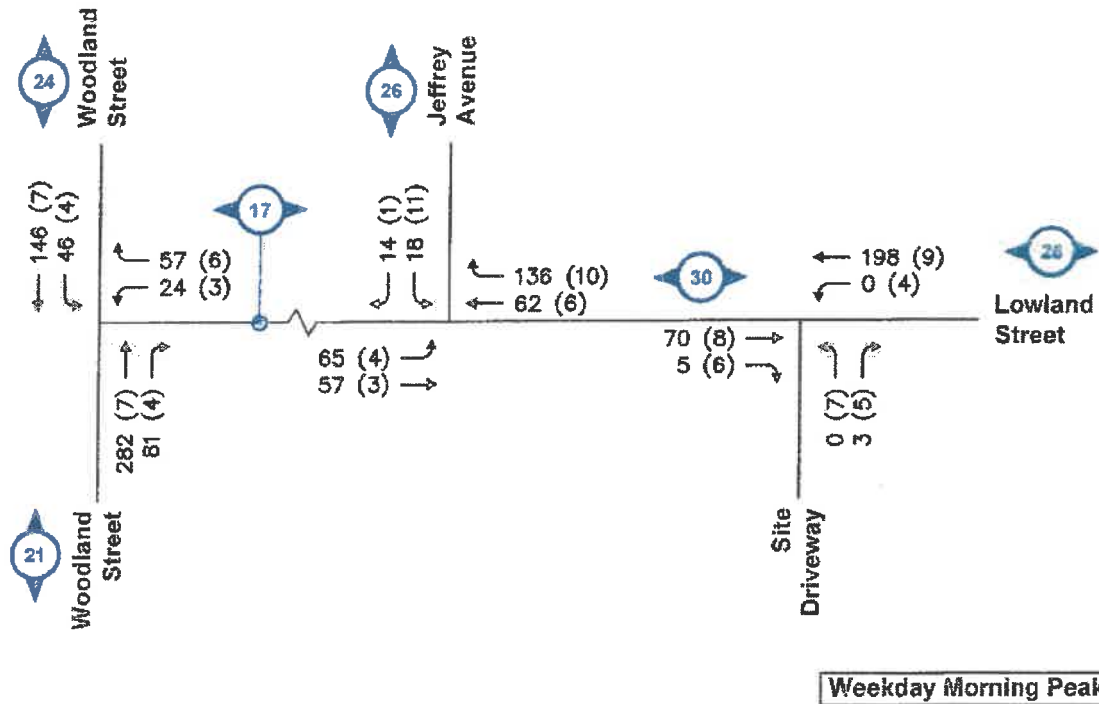
Robert J. Michaud



NOTES:

= Trucks

 = Truck Distribution #

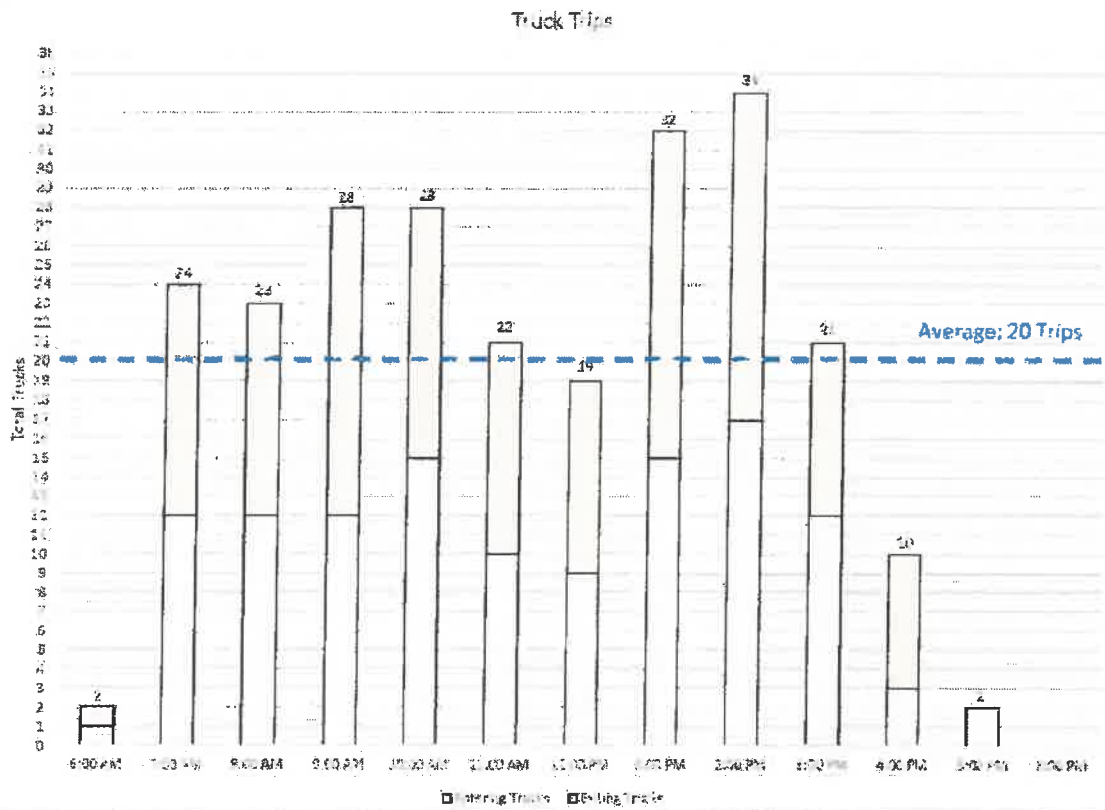


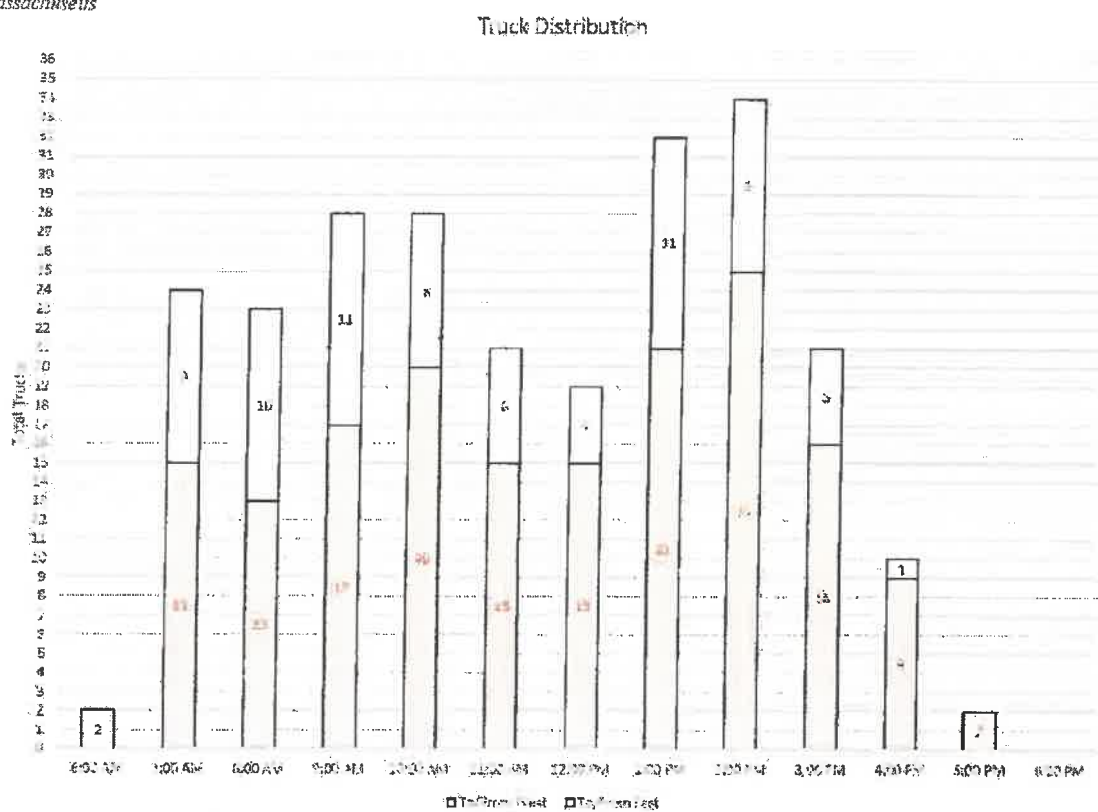
North
Scale: Not to Scale

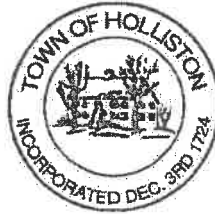
MDM TRANSPORTATION CONSULTANTS, INC.
Planners & Engineers

Exhibit 4

2017 Baseline Condition Weekday Peak Hour Traffic Volumes







**TOWN OF HOLLISTON
BOARD OF SELECTMEN**

**703 Washington Street
Holliston, MA 01746**

508-429-0608

M E M O R A N D U M

TO: James McQuade, DEP Solid Waste Section Chief
FROM: Board of Selectmen
DATE: April 9, 2018
RE: DEP Recycling, Composting or Conversion Operation (RCC)
Draft Permit – BWP SW47
ABC Rubble Recycling Operation
American Recycled Materials, Inc. – 157 Lowland Street

We are especially concerned that this applicant has systematically ignored the hours of operations for the facility defined by both the Planning Board's Special Permit and the DEP RCC permit. These complaints have resulted in an extraordinary amount of staff time to respond with few results as the applicant willfully continues these practices.

Additionally, noise and dust complaints continue. These nuisance issues are particularly onerous because we simply do not have the enforcement capacity at our disposal without extraordinary efforts and expenses. During the 2017 Planning Board's public hearing on the applicant's proposed operations at 194 Lowland Street (across from this locus), our liaison Mr. Marsden submitted a substantial stack of complaints about the facility at 157 Lowland Street from both abutters and residents of surrounding neighborhoods. To clarify, the 194 Lowland Street site was the subject of a June 2015 Superior Court Preliminary Injunction and it remains ordered closed to date.

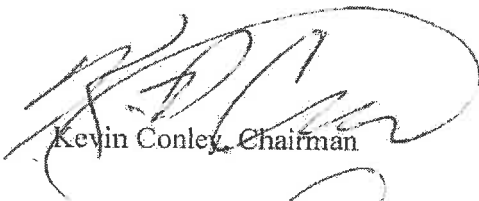
The Selectmen have a keen interest in protecting the public water supply and the Zone II groundwater protection zone in which this site is firmly located. Recent action by the Inspector of Buildings included issuance of a Cease and Desist order for stockpiling and disposal of snow and ice on the site. We are also concerned to learn in the Conservation Commission comments we received that the applicant installed a noise mitigation berm in 2017 in or near the wetlands at the rear of the site without any local permitting and has not provided documentation of installation or maintenance of required stormwater management measures. As the applicant is

Holliston Planning Board Comments

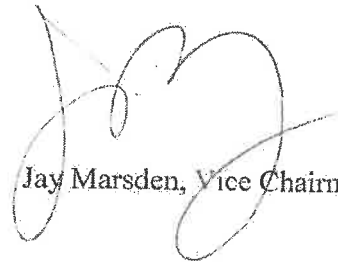
Draft RCC Permit – American Recycled Materials ABC Rubble Recycling Operation

currently in property tax arrears and by local by-law provisions, no local regulatory board is in a position to issue any local permits to the applicant as a result of this delinquency.

We would encourage you to make provisions in the RCC permit for the necessary local permitting identified by both the Conservation Commission and Planning Board and require stricter compliance with record keeping requirements. As noted by the Planning Board and utilized by the Board of Health at our nearby transfer station, third-party monitoring of all operational aspects of the operation is more than warranted given the applicant's habitual disregard of local authority.



Kevin Conley, Chairman



Jay Marsden, Vice Chairman



Mark Ahronian, Clerk



April 11, 2018

James McQuade DEP Solid Waste Section Chief
RE: DEP Recycling, Composting or Conversion Operation
Draft Permit – BWP SW47
ABC Rubble Recycling Operation
American Recycled Materials, Inc. – 157 Lowland Street

Dear Mr. McQuade,

Due to a conflicting professional commitment, please accept my apology for not being able to deliver these comments in person. I write to you today as the Vice-Chairman of the Board of Selectman of the Town Holliston. In addition to the comments submitted to you as a member of the Board, I also feel compelled to write to you individually and to provide some additional background as to my reservations regarding the applicant's suitability for the above referenced permit.

As a local elected official, I have had the opportunity to spend a substantial amount of time with the abutters of the applicant's property as it relates to his activities at 157 Lowland Street.

Going back as far as 2011, the neighbors have had to contend with noise, traffic, vibrations, dust, and debris, while the applicant has continued to play fast and loose with the conditions of their permit. In addition the nuisances I just referenced, the applicant has brought materials on site without the appropriate authorization and permits, and with the expectation that the Town would then approve his non-permitted activities in an attempt to clean up the site.

Appeals, in person meetings, and phone calls to various boards and committees such as: the Board of Health, Planning Departments, Conservation Commission, and the Board of Selectmen have in a few isolated cases, resulted in what can only be described as very minor and very short term relief, before it was back to business as usual, and the issues outlined above start anew.

SELECTMEN'S OFFICE
TOWN HALL, 703 WASHINGTON STREET, HOLLISTON, MASSACHUSETTS 01746-2168
TEL: 508-429-0608 FAX: 508-429-0684
Website: www.townofholliston.us



At our last meeting with the Planning Board regarding a previous permit application, I presented the Board with a 78 page list of recorded complaints and violations as reported by the abutters. I have no reason to believe that the situation will in any way change with this current request. The applicant has shown no willingness to work with the Town or the abutters to address any of the issues that have been raised here, or at any time in the past.

In the event that you are inclined to approve the permit, given that in the past honoring any of the conditions of any permit issued has proven to be somewhat challenging, I would ask that you require a substantial bond and third party oversight of the operation so that the neighbor's concerns can be adequately and objectively addressed and monitored. In the past when we have raised issues of violation to both state and local officials, the monitoring and enforcement of any conditions has proven to be a challenge.

Below are just a few examples of the ongoing issues facing the Town with respect to the current operation. Please do not reward the applicant for the following activities:

Conservation Commission meeting minutes March 6, 2018

"Mr. Clapp mentioned that there has been a long history of non-compliance on the site and Mr. Brumber has failed to comply with the Order of Conditions he received. A 35 tall berm, constructed as a noise barrier, was built in the flood plain and riverfront area without notifying the Conservation Commission. The 35 berm is described as only 27 on his DEP application which is incorrect. He has mischaracterized the soil which is filled wetlands and he agreed to reconstruct a storm water control gate which has not been completed. There are other violations with other departments such as processing more tonnage than allowed and storing"

Board of Health meeting minutes February 1, 2018

"157 Lowland: Scott updated the Board on the activity at 157 Lowland Street. Mike Brumber had exceeded the tonnage of recycled asphalt grindings. The State sent Mike a letter of noncompliance. In addition there were 50 tractor-trailer loads of snow dumped on the site which is a violation of the Zoning Board, as it is a no-snow zone being a Zone 2 of the water system. Mike Brumber still hasn't addressed the noise and traffic complaints from the Building Inspector, Peter Tartakoff. The State is in a fact-finding mode. Scott will see if he can get the minutes from that meeting. 194 Lowland Street, Brumber's leaf composting

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site still has a Cease and Desist Order from the Conservation Commission, Planning and Building Departments."

I respectfully request that you deny the application for the permit, for all of the reasons outlined herein.

Sincerely,



Joseph P. Marsden Jr., Esq.
Vice-Chairman, Holliston Board of Selectman