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## Public comment to Select Board on Atlas Tack

1 message

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**Wayne Hayward** <stillsendit@comcast.net>  
To: Amy Hart <ahart@fairhaven-ma.gov>

Wed, Sep 16, 2026 at 11:38 AM

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### 5 attachments



**Atlas Tack 2026 Zoning.pdf**  
1609K



**EPA 1998 Proposed Cleanup.pdf**  
1268K



**Fairhaven Assessors 1996 Report.pdf**  
1251K



**Fairhaven 5-1-99 TM Art 8 Atlas Tack Rezone to WRP.pdf**  
1258K



**EPA 2002 Atlas Tack Potential Reuse Assessment.pdf**  
862K

September 2026

Dear Fairhaven Select Board Members,

I viewed the Atlas Tack Working Group (ATWG) meeting of August 06, 2026 and at the 25 minute mark, Building Commissioner Rick Forand made the following statements:



- “I can’t find anything that locks in the zoning”
- “Technically it’s still Industrial Zone”
- “It goes back to RA District”.

I respectfully disagree with the Fairhaven Zoning Officer, as this predates him by decades, but how the ATWG year-long study has not successfully identified the current zoning status is underwhelming.

The current Fairhaven Zoning Map (Figure 1) identifies the Atlas Tack property as in the Wetland Resource Protection District -WRP. (bright green areas).

1985, ten years after noticed, Atlas Tack filled in the acid lagoon pond.

1988, Atlas Tack was added to the National Superfund List.

1992, Atlas Tack attempts to have the Town of Fairhaven pay some of the cleanup costs.

1992, the EPA installs a fence around the property.

1996, Fairhaven Assessors Report to Planning.<sup>1</sup>

1999, Town Meeting rezoned the property.

2000, EPA Superfund Record of Decision.

2002, the EPA created a reuse study.<sup>2</sup>

2007, Superfund cleanup finished.

Once the acid pond was filled, removed from the site, an analysis of possible uses for the property was initiated, prior to the actual Superfund Cleanup. The Planning Board and the Administration began to study the potential reuse of the property.

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<sup>1</sup> Attachment - Fairhaven Assessors 1996.pdf

<sup>2</sup> Attachment - EPA 2002 Potential Reuse.pdf

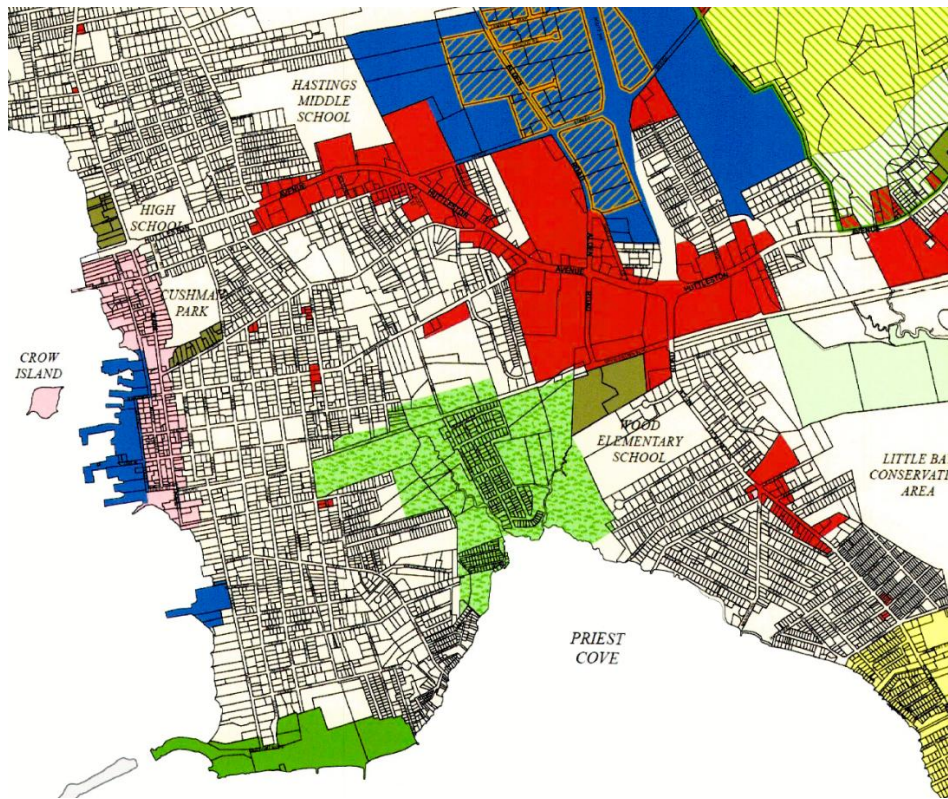


Figure 1 2025 Town of Fairhaven Zoning Map

The EPA ruled on its chosen clean up level in 1998, which would provide some onsite material storage and preclude any future residential use. A cleanup to “commercial/industrial” standard was recommended.<sup>3</sup>

The May 01, 1999 Fairhaven Town Meeting Article 8<sup>4</sup> created an entirely new zoning district in the town by amending §198-14 Establishment of District, adding Wetland Resource Protection District. (previously referred to as Wetland Conservation District). The Article also included a new WRP column in the §198-16 Use Regulation Table for each of the listed uses in town, as applied to the WRP. The Atlas Tack property was then placed in the WRP Zone. The listed residential use is still allowed by right on the property, in the 1999-2026 zoning Bylaw. The EPA cleanup did not match that intention. As a result the current residential uses are prohibited. There is a 24 inch groundwater separation barrier as well.

<sup>3</sup> Attachment - EPA 1998 Proposed Cleanup.pdf

<sup>4</sup> Attachment – Fairhaven 5-1-99 TM Article 8



Leading up to the EPA cleanup, the town was pushing for a “Residential” cleanup. The zoning amendment provided for residential uses that later would be ruled out by the EPA Record of Decision.

The Office Building is on the same lot as the manufacturing plant and has never been subdivided (Figure 2). The town had hoped, as passed by the 1999 zoning amendment, to have mixed-use residential/commercial uses in the future in the office structure, as it was not contaminated (Figure 3). Present day asbestos flooring and roofing would not qualify for superfund cleanup. There are many such remnant structures scattered throughout the United States.

The EPA announced Superfund Cleanup complete in 2007. At a cost of over \$21,000,000, with Atlas Tack agreeing to pay \$2,335,000, the EPA removed 62 toxins from the site including: heavy metals, arsenic, lead, copper, zinc and cadmium; volatile organic compounds; semi-volatiles organic compounds, mainly PAHs and PCBs; cyanide; pesticides; and toluene.

Expecting remaining trustees of a three-deep, shell-company structured entity with little or no actual business activity to act responsibly, is a multi-year legal expenditure.

To be clear, the site is currently zoned WRP. This district does not provide for industrial uses. The Record of Decision does not provide for residential uses. Remaining commercial uses are by Planning Board Special Permit only. They can be found in the §198-16 Use Regulation Schedule.

Sincerely,

*Wayne Hayward*

§ 198-29.4 Special permit for certain existing conditions in the Wetland Resource Protection District.

[Added 5-1-1999 ATM by Art. 8]

*A. Purpose. The purpose of this section is to relieve the owner of a lot in the Wetland Resource Protection District from a hardship or potential for hardship where the uses designated for that district may prove impractical because of the nature of the property, which may include the existence of a structure or structures on the lot.*

*B. Special permit granting authority. The special permit granting authority for this section shall be the Fairhaven Planning Board.*

*C. Requirements.*

*(1) The Fairhaven Planning Board may issue a special permit allowing a lot in the Wetland Resource Protection District to be used in conformance with the provisions of the Zoning Bylaw as they relate to the Mixed Use District, if the Board determines that the limitations upon use imposed by the Wetland Resource Protection District would cause a hardship or potential for hardship because of the nature of the lot, which may include the existence of a structure or structures on the lot.*

*(2) The condition to which the hardship or potential hardship relates must be a structure in existence on January 1, 1999, or a condition on the land which was in existence on January 1, 1999, and in either event the structure or condition must not have been substantially changed since January 1, 1999, unless the change was beyond the control of the property owner, or if within the owner's control, did not substantially add to the hardship or potential =[hardship. The property owner must document the hardship or potential hardship for the Planning Board; said documentation shall include a review of the allowed and permitted uses within the Wetland Resource Protection District and the nature of the conditions which were in existence on January 1, 1999, that preclude the use of the property for the allowed and permitted uses in the district. The presence of wetland resource areas shall not be considered grounds for a hardship related to the condition of the land under this section.*

*(3) A special permit under this section may be allowed only when all procedural and substantive requirements for the proposed use under the provisions of the Mixed Use District and the requirements of § 198-8 have been met.*

*(4) Where the use proposed under this section is a use authorized by special permit in the Mixed Use District, the application for special permits shall be merged under this section, and the Planning Board shall be the special permit granting authority for those permits.*

*(5) A special permit under this section shall not be barred by the discontinuance or abandonment of a prior use on the lot.*

*(6) The presence of the hardship or potential for hardship shall allow for the application of the uses in the Mixed Use District as found in § 198-16, Use Regulation Schedule. The intensity of use requirements for the Wetland Resource Protection District, as found in § 193-18, Intensity Of Use Schedule, shall apply to all development in the district regardless of the presence of or potential for hardship.*

The EPA Superfund Record of Decision of March 10, 2000; EPA ID: MAD001026319, precludes residential use. Page 44

*Monitoring and Institutional Controls - A long-term monitoring program will be undertaken to assess the effectiveness of the remedy over the long term. Soils, sediments, groundwater, surface water, and vegetation will be sampled and analyzed. Institutional controls will be established on the Site properties to ensure that the remedy is protective of human health and the environment.*

*Typically, institutional controls will be restrictive covenants running with the land in perpetuity, and may include easements. Institutional controls will be established to prevent any future use of the groundwater at the Site for drinking water. Also, institutional controls will be established to limit other activities at the Site. Such limits include restricting the types of use and construction within portions of the Commercial Area to only commercial and industrial uses (i.e., no residential use).*

*Institutional controls may also be established in the Non-Commercial Area to limit the use of that area to certain recreational uses consistent with the risk assessment and response actions conducted in that area. Review of the Completed Remedy - Because residual contamination will remain at the Site above levels that allow for unlimited use and unrestricted exposure, the Superfund statute requires that EPA review the remedial action no less often than each five years after the cleanup process begins. The purpose of this review is to ensure that human health and the environment are protected. These periodic reviews will continue until no hazardous substances, pollutants, or contaminants remain at the Site above levels that allow for unrestricted use and unlimited exposure. The overall Site cleanup strategy is to address the principal and low level threats at the Site. The Selected Remedy addresses these threats by removing the sources of contamination, monitoring the groundwater, and establishing limits to certain activities through institutional controls.*

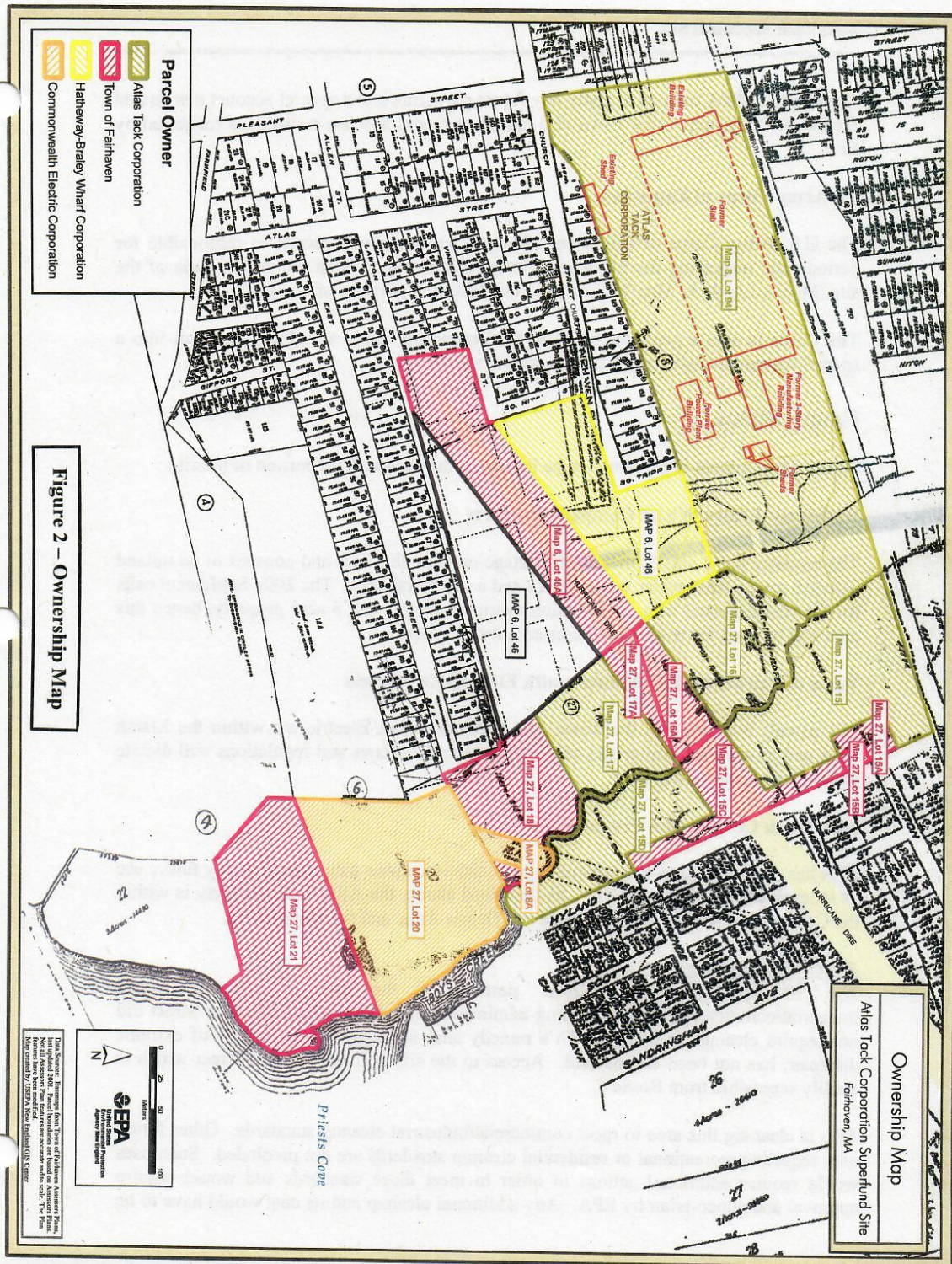


Figure 2 Ownership Map

6 | Page

## ***Proposed Cleanup Plan***

### **Atlas Tack Corporation Superfund Site Fairhaven, Massachusetts**

#### **The Cleanup Proposal...**

EPA proposes the following cleanup plan to reduce risk from the site contamination:

- **Excavate contaminated soil and sediment that presents the highest risks to human health and the environment.**
- **Treat contaminated soil and sediment, and dispose on site.**
- **Contaminated ground water will be allowed to improve naturally following removal of contamination sources.**
- **Monitor groundwater and establish institutional controls to restrict the use of groundwater.**
- **Transport solid wastes and contaminated materials that can not be treated to the appropriate off-site disposal facilities.**

*More on page 3*

#### **How would the cleanup affect the local area?**

Find out about the proposed cleanup plan and how it compares with other cleanup options for the Site at a public informational meeting on December 1, 1998. At the meeting, EPA will respond to your questions and concerns about the proposed cleanup and how it may affect you.

#### **Come to the public Information Session on the Proposed Plan**

*Tuesday, December 1, 1998  
at 7:00p.m.,*

**to learn more about how you  
can comment on the  
proposed plan during the  
30-day public comment  
period**

**and Public Hearing to give  
formal public comments on**

*Tuesday, December 29, 1998  
at 7:00p.m.*

**Both meetings will occur at  
the  
Fairhaven Town Hall  
40 Center St.  
Fairhaven, MA 02719**

For further information on the meetings, call Angela Bonarrigo, EPA Community Involvement Coordinator at (617) 918-1034.

#### **What do you think?**

EPA is accepting public comment on this proposal from December 2, 1998 through December 31, 1998. You don't have to be a technical expert to comment; if you have a concern or preference, then EPA would like to hear from you before making a final decision on how to protect your community.

*To comment formally, you can:*

✓ **Submit oral comments** during the comment portion of the public information session on Tuesday, December 29, 1998, (see page 6 for details)

✓ **Send written comments** postmarked no later than December 31, 1998 to:

Paul Craffey  
Remedial Project Manager  
U.S.EPA Region I  
1 Congress Street  
Suite 1100 (HBO)  
Boston, MA 02114-2023

✓ **E-mail comments to**  
*craffey.paul@epamail.epa.gov*  
**by December 31, 1998.**

## *Site History*

The Atlas Tack Corporation Superfund Site is located at 83 Pleasant St. in Fairhaven, MA. The former manufacturing area is about 13 acres. The land use in the vicinity is primarily residential with a tidal marsh bordering the back (east side) of the Site.

**1906** The Atlas Tack Corporation manufactures metal items (such as tacks, nails). Discharges and  
**1985** disposes of wastes onto the ground and wetlands.

**1940's** Discharges wastes containing  
**to** cyanide and heavy metals into an  
**1970's** unlined lagoon.

**1985** MA DEP initiates an emergency action to remove metal and cyanide containing sludge from the lagoon.

**1990** EPA adds the Site to the National Priorities List of Superfund sites.

**1990** EPA conducts the Remedial  
**to** Investigation to determine the  
**1995** nature and extent of contamination at the Site and the risks posed by Site contamination to public health and the environment.

**1992** EPA initiates an action to make the Atlas Tack Company fence the Site.

**1996** EPA conducts a Feasibility  
**to** Study to determine the remedial  
**1998** alternatives for this Site.

## **Why is cleanup needed?**

Portions of the Atlas Tack Corporation Superfund Site are contaminated with heavy metals, cyanide, PAHs, PCBs, and pesticides. The contaminants are present at levels that present a threat to human health and the environment from frequent or long-term exposure.

Currently, the major pathways of exposure are:

- Contact with contaminants by trespassers. Heavy metals, cyanide, PAHs, and PCBs are the major concern with respect to direct contact with and incidental ingestion of soils, sediments, and shellfish.
- Contact with contaminated soils and sediments by animals and other biota. Heavy metals, cyanide, and PCBs are the major concern with respect to direct contact with and incidental ingestion of soils and sediments.
- Groundwater beneath the Site is contaminated above the Federal and State groundwater standards.
- Groundwater serves as a conduit for the transfer of contaminants from the source areas to the ecologically sensitive site waterways and associated wetlands.
- If remediation is not performed, future site workers could come into contact with the contaminated soils.

## **What impacts would the cleanup have on the local community?**

- Any actions that disturb the contamination during the proposed cleanup could present short-term risks during excavation. Therefore, EPA will institute the appropriate engineering controls and/or monitor air to ensure that unsafe levels of contaminants and dust are not posing a risk to on-site workers or residents in the area.
- The proposed cleanup requires that part of the main building be taken down. EPA will attempt to minimize any disruption (i.e. dust or noise) to the area residents.
- The proposed cleanup will require the use of a portion of the Site to manage and store contaminated and treated soils and sediments.
- For the proposed cleanup, careful traffic management will be required to ensure the safe transport of equipment and materials to and from the Site.



## A Closer Look at EPA's Proposal...

EPA's proposal involves the excavation, treatment, and on-site disposal of contaminated soils and sediments that represent a threat to public health and the environment. The contaminants in the groundwater will be reduced by removing the source in the soils and over time through natural attenuation enhanced by phytoremediation. The Site is divided into the following areas: the Commercial Area; the Solid Waste and Debris Area; and the Marsh and Creek Bed Areas as shown on Figure 1.

### ***1. Site clearing, sampling, and contamination delineation.***

- Establish a Site office and mobile laboratory to support the field activities.
- Remove debris and vegetation from excavation and work areas.
- Sample the soil and sediment to better define the remediation areas.
- Perform a bioavailability study in the Marsh Area to determine where remediation is needed.
- Perform treatability study to determine the most appropriate treatment for the contaminated materials.
- Demolish the power plant, metal building, and part of the main building.
- Establish traffic control and monitoring programs.

### ***2. Excavation, treatment, and disposal of soils and sediments that presents a risk to human health and the environment.***

- Excavate soil and sediment wherever heavy metals, cyanide, toluene, PCBs, PAHs, and pesticides are present at levels that could threaten public health and the environment.
- Separate soils and sediments from debris. The total volume of wastes from the Site could be up to 58,000 cubic yards. The excavation in the Marsh could be less depending on results of the bioavailability study.

- Treat the contaminated soils and sediments to eliminate the potential for contaminants to leach. The Cleanup Goals are on Tables 1 and 2. Material that can not be treated (about 18,000 cubic yards) will be disposed at an appropriate off-site facilities.
- Dispose of the treated soils and sediments on the Site. Place a soil cover or other appropriate cap over the treated materials. A possible placement location of the treated material is shown on Figure 2.

### ***3. Passive treatment and institutional controls of the groundwater beneath the Site.***

- Reduce groundwater contaminants by removing and treating contamination sources.
- Control groundwater elevation by phytoremediation (trees).
- Monitor the groundwater to determine the effectiveness of the remedy.
- Establish institutional controls and deed restrictions to prevent the future use of the groundwater at the Site.

**Cost** The total cost of this action is estimated to be approximately \$17.5 million.

**Schedule** The design and studies should be completed 2 years after the Record of Decision (ROD) is signed. The physical Site cleanup should be completed 4 years after the ROD is signed. The groundwater contaminants are expected to meet protective levels within 10 years.

## **Why Does EPA Recommend this Proposed Plan?**

EPA performed a detailed evaluation of a number of cleanup alternatives for the various areas of the Atlas Tack Site. The cleanup plan proposed is recommended because EPA believes it offers the best balance among the nine Superfund criteria as detailed on pages 9 and 10, including the protection of human health and the environment.

**Compliance with Federal and State regulations:** The proposed cleanup plan complies with all Federal and State Applicable, or Relevant and Appropriate Requirements (ARARs). The treated material will be managed under the Hazardous Waste Corrective Action Management Unit (CAMU) regulations.

**Protection of human health and the environment:** The treatable contaminated material will be treated to eliminate the potential for leaching contaminants to surface water. Contaminated materials that can not be treated will be taken off site to an appropriate disposal facility.

**Long term protection and permanence:** A treatment process to immobilize the contaminants will be used to prevent the contamination of surface water and groundwater. The EPA is required to evaluate the remedy at least every five years to ensure it remains effective and is protective. A cover will be placed over the fill area to prevent human and animal contact. Institutional controls will be implemented and deed restrictions will be established to prevent the use of the groundwater and limit excavation into the covered area without appropriate precautions.

**Reduction in the mobility, toxicity, or volume of contaminants:** The treatable contaminated material, will be treated to immobilize metals. There will be a reduction in the mobility and toxicity of the metal contaminants. There may be an increase in the volume of treated material depending on the treatment method.

**Short term protection and effectiveness:** The short term impacts to the area community, on-site workers, and the environment will be minimized by using engineering controls and monitoring during remediation. None of the alternatives pose any major short term impacts to the surrounding neighborhood. Parts of the wetlands may be removed depending on the results of the bioavailability study. Any wetlands removed will be replicated.

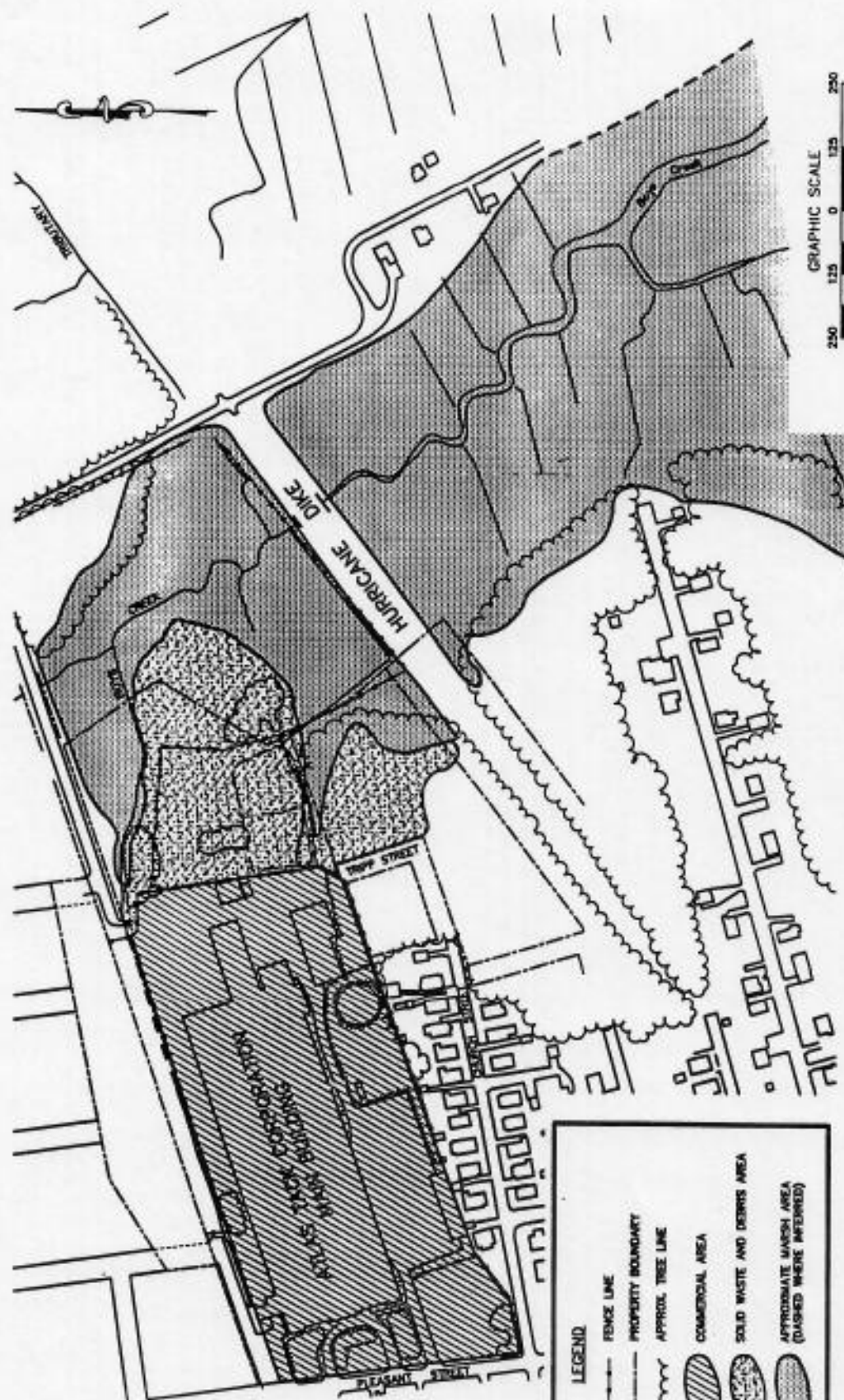
**Time to reach cleanup goal:** The cleanup process will have various components. The design and studies will take 1 to 2 years. The construction set up will take 1 year. The on-site remedial work will take 2 years. The total time for the source cleanup will take approximately 4 years once the cleanup plan has been finalized. The groundwater contaminants are expected to meet protective levels within 10 years.

**The proposed cleanup plan can be implemented:** The proposed cleanup plan can be implemented using an available technology to prevent metals from entering groundwater. A treatability study will be used to determine the most effective technology.

**The proposed cleanup plan is cost effective:** The Proposed Plan estimated costs are \$17.5 million for the Removal with Treatment with On-site Disposal and the Minimal Action Groundwater Alternatives. The proposed cleanup plan is cost effective. See page 10 for a comparison to the other treatment options considered.

**Community and State acceptance:** The acceptance of this plan will be determined after review of the public and State comments.

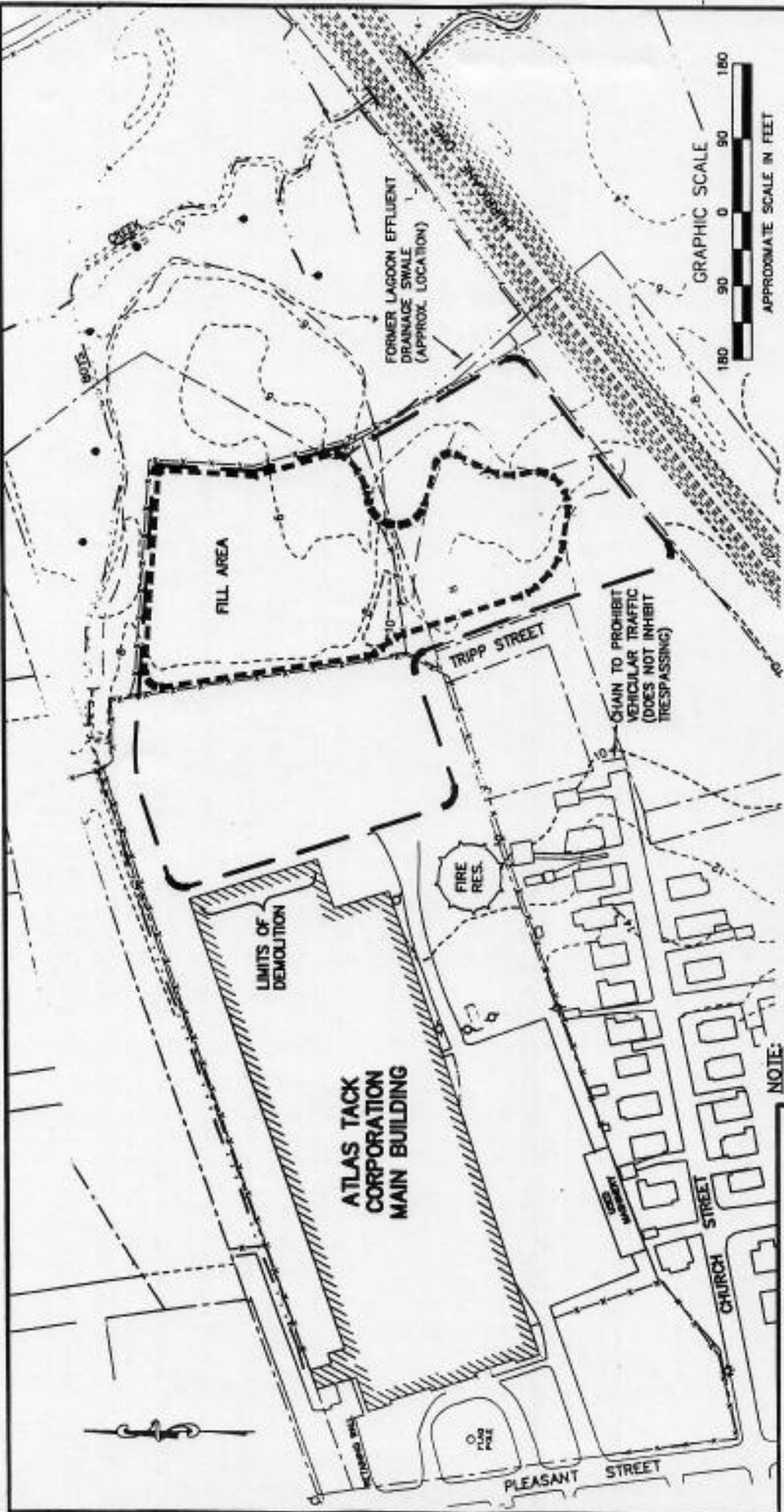
**Next Steps:** EPA will review all comments; prepare a response to comments; and sign a Record of Decision (ROD) describing the chosen cleanup plan. The ROD and a summary of responses to public comments will be made available to the public at the Millicent Public Library and at the EPA Records Center in Boston. EPA will announce the decision to the community through the local news media and a general mailing.



PROPOSED PLAN  
ATLAS TACK CORPORATION SUPERFUND SITE  
FAIRHAVEN, MASSACHUSETTS

AREA MAP

NOTE:  
DRAWING BASED ON FIGURE 1-2 FROM THE FEASIBILITY STUDY  
BY ROY F. MESTON, INC., DATED APRIL 1986.



NOTE:  
DRAWING BASED ON FIGURE 5-6 FROM THE FEASIBILITY STUDY  
BY ROY F. WESTON INC., DATED APRIL 1998.

#### LEGEND

- CREEK/TERRITORY'S
- UTILITY POLE
- APPROXIMATE FENCE LINE
- PROPERTY LINE
- BOUNDARY OF SOLID WASTE AND DEBRIS AREA (APPROX. LOCATION)
- APPROXIMATE EXISTING GROUND SURFACE CONTOURS (2 FOOT INTERVALS)
- PROPOSED PLACEMENT AREA FOR STABILIZED FILL
- OUTER BOUNDARIES OF POTENTIAL PLACEMENT AREAS FOR STABILIZED FILL

PROPOSED PLAN  
ATLAS TACK CORPORATION SUPERFUND SITE  
FAIRHAVEN, MASSACHUSETTS

PREFERRED REMEDY



**TABLE 1: Proposed Cleanup Goals for Commercial and Non-Commercial Area Soils and Sediments**

| Contaminant            | Commercial Area                                 |                                                                     | Solid Waste and Debris Area |                         | Marsh Surface Soil and Creek Bed Sediment |                         |
|------------------------|-------------------------------------------------|---------------------------------------------------------------------|-----------------------------|-------------------------|-------------------------------------------|-------------------------|
|                        | Inside Main Building<br>0-2 ft depth<br>(mg/Kg) | Outside Building and<br>Inside Main Building<br>>2 ft depth (mg/Kg) | 0 - 2 ft depth<br>(mg/Kg)   | > 2 ft depth<br>(mg/Kg) | 0 - 2 ft depth<br>(mg/Kg)                 | > 2 ft depth<br>(mg/Kg) |
| <b>Organics</b>        |                                                 |                                                                     |                             |                         |                                           |                         |
| Benzo(b)Fluoranthene   | 2.5                                             |                                                                     |                             |                         |                                           |                         |
| Benzo(k)Fluoranthene   | 25                                              |                                                                     |                             |                         |                                           |                         |
| Benzo(a)Anthracene     | 2.5                                             |                                                                     |                             |                         |                                           |                         |
| Benzo(a)Pyrene         | 0.24                                            |                                                                     |                             |                         |                                           |                         |
| Dibenzo(a,h)Anthracene | 0.25                                            |                                                                     |                             |                         |                                           |                         |
| Indeno(1,2,3-cd)Pyrene | 2.5                                             |                                                                     |                             |                         |                                           |                         |
| Toluene                |                                                 |                                                                     | 10,000                      | 10,000                  | 10,000                                    | 10,000                  |
| PCB (Aroclor - 1260)   | 10                                              |                                                                     | 50                          | 50                      |                                           |                         |
| 4,4'- DDT              |                                                 |                                                                     | 0.034                       |                         |                                           |                         |
| <b>Inorganics</b>      |                                                 |                                                                     |                             |                         |                                           |                         |
| Antimony               |                                                 |                                                                     | 2.9                         |                         |                                           |                         |
| Arsenic                | 4.8                                             |                                                                     |                             |                         |                                           |                         |
| Cadmium                |                                                 |                                                                     |                             |                         | 9.6                                       |                         |
| Copper                 | 990                                             | 990                                                                 | 33.6                        | 990                     | 270                                       | 990                     |
| Lead                   | 600                                             |                                                                     | 19.1                        |                         |                                           |                         |
| Zinc                   | 1,600                                           | 1,600                                                               | 53                          | 1,600                   | 410                                       | 1,600                   |
| Cyanide                | 34                                              | 34                                                                  | 34                          | 34                      |                                           | 34                      |

Note: Cleanup Goal calculations are in the Feasibility Study Report and Technical Memorandums, except the PCB Cleanup Goal is from the EPA's "Guidance on Remedial Actions for Superfund Site with PCB Contamination"

**TABLE 2: Proposed Interim Cleanup Goals for Water**

| Contaminant | Groundwater (ug/L) |                    | Surface Water<br>(ug/L) |
|-------------|--------------------|--------------------|-------------------------|
|             | Commercial Area    | Noncommercial Area |                         |
| Organics    |                    |                    |                         |
| Toluene     | 6,000              | 50,000             |                         |
| Inorganics  |                    |                    |                         |
| Arsenic     |                    |                    | 36                      |
| Cadmium     | 10                 | 10                 | 9.3                     |
| Copper      | 24                 | 24                 | 2.4                     |
| Lead        | 30                 | 30                 | 8.1                     |
| Mercury     |                    |                    | 0.025                   |
| Nickel      |                    |                    | 8.2                     |
| Silver      |                    |                    | 1.9                     |
| Zinc        | 900                | 900                | 81                      |
| Cyanide     | 10                 | 10                 | 1                       |

Note: Cleanup Goal calculations are in the Feasibility Study Report and Technical Memorandums located in the Millicent Public Library

### *The Nine Criteria for Choosing a Cleanup*

EPA uses nine criteria to balance the pros and cons of cleanup alternatives. For seven of the criteria, EPA has already evaluated how well each of the cleanup alternatives developed for the Atlas Tack Corp. Superfund Site meet these criteria (See Table 3). Once comments from the State and the community are received, EPA will select the cleanup plan.

- (1) **Overall protection of human health and the environment:** Will it protect you and the plant and animal life on and near the Site? EPA will choose a plan that meets this basic criterion.
- (2) **Compliance with Applicable or Relevant and Appropriate Requirements (ARARs):** Does the alternative meet all federal and state environmental statutes, regulations and requirements on-site?
- (3) **Long-term effectiveness and permanence:** Will the effects of the cleanup plan last or could contamination cause future risk?
- (4) **Reduction of toxicity, mobility or volume through treatment:** Does the alternative reduce the harmful effects of the contaminants, the spread of contaminants, and the amount of contaminated material?
- (5) **Short-term effectiveness:** How soon will site risks be adequately reduced? Could the cleanup cause short-term hazards to workers, residents or the environment?
- (6) **Implementability:** Is the alternative technically and administratively feasible? Are the right goods and services (i.e. treatment machinery, space at an approved disposal facility) available for the plan? What are the administrative barriers to proceeding?
- (7) **Cost:** What is the total cost of an alternative over time? EPA must find a plan that gives necessary protection for a reasonable cost.
- (8) **State Acceptance:** Does the State's environment agency agree with the Proposal?
- (9) **Community Acceptance:** What objections, suggestions, or modifications does the public offer during the comment period?

## Four Kinds of Cleanup

EPA looks at numerous technical approaches to determine the best way to reduce the risks presented by a Superfund site. The EPA then narrows the possibilities to approaches that would protect human health and the environment. Although reducing risks often involves combinations of highly technical processes, there are really only four basic options.



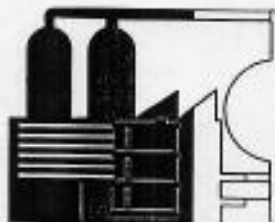
**Take limited or no action:** Leave a site as it is, or just restrict access and monitor it.



**Contain contamination:** Leave contamination where it is, and cover or contain it in some way to prevent exposure to, or spread of, contaminants. This method reduces risks from exposure to contamination, but does not destroy or reduce it.



**Move contamination off site:** Remove contaminated material (soil, groundwater etc.) and dispose of it or treat it elsewhere.



**Treat contamination on site:** Use a chemical or physical process on the site to limit the leaching, destroy, or remove the contaminants. Treated material can be left on-site. Contaminants captured by the treatment process are disposed at an appropriate off-site facility.

**Table 3: Comparison of Removal Cleanup Alternatives**

| Nine Criteria                          | No Action/<br>Limited Action                  | Removal with on-site disposal | * Removal with treatment with on-site disposal | Removal with off-site disposal | * Minimal action groundwater | Groundwater treatment |
|----------------------------------------|-----------------------------------------------|-------------------------------|------------------------------------------------|--------------------------------|------------------------------|-----------------------|
| Protects human health and environment  | ✗                                             | ✓                             | ✓                                              | ✓                              | ✓                            | ✓                     |
| Meet federal and state requirements    | ✗                                             | ✓                             | ✓                                              | ✓                              | ✓                            | ✓                     |
| Provides long-term protection          | ✗                                             | ✓                             | ✓                                              | ✓                              | ✓                            | ✓                     |
| Reduces mobility, toxicity, and volume | ✗                                             | ✗                             | ✓                                              | ✗                              | ✓                            | ✓                     |
| Provides short-term protection         | ✓                                             | ✓                             | ✓                                              | ✓                              | ✓                            | ✓                     |
| Implementable (Can it be done?)        | ✓                                             | ✓                             | ✓                                              | ✓                              | ✓                            | ✓                     |
| Cost (\$ million)                      | 0.61                                          | 13.4                          | 17.1                                           | 24.3                           | 0.39                         | 10.8                  |
| State Agency Acceptance                | To be determined after Public Comment Period. |                               |                                                |                                |                              |                       |
| Community Acceptance                   | To be determined after Public Comment Period. |                               |                                                |                                |                              |                       |
| Time to reach cleanup goal (years)     |                                               | 4                             | 4                                              | 4                              | 10                           | <10                   |

\* EPA's preferred alternative

✓ Partially meets criterion

✓ Meets or exceeds criterion

✗ Does NOT meet criterion

# Cleanup Alternatives for the Atlas Tack Corp. Superfund Site

The Atlas Tack Corp. Feasibility Study (FS) Report reviewed the options EPA considered for cleanup, as well as the EPA's proposed cleanup plan. The options, referred to as "cleanup alternatives," are different combinations of plans to **remove, contain, or treat** contamination to protect public health and the environment.

EPA developed 20 cleanup alternatives for the various areas (Commercial, Solid Waste and Debris, Marsh, and Creek Bed Areas) and Groundwater during the FS process. The same type of alternative from each area has been combined to simplify the selection of the Proposed Plan and the presentation of the alternatives. All the No-Action Alternatives (CA-1, SWD-1, MSS-1, CBS-1 and GW-1) for the different areas and groundwater have been combined into one No-Action alternative (NA-1).

*During the upcoming comment period, EPA welcomes your comments on the proposed cleanup plan as well as the other technical approaches EPA evaluated.* The alternatives are summarized below. Please consult the Atlas Tack Corp. Superfund Site FS Report for more detailed information.



## Cleanup Alternatives

### No further action on site

#### Alternative NA-1: No-Action

This alternative is a combination of all the No-Action Alternatives (CA-1, SWD-1, MSS-1, CBS-1 and GW-1) for the different areas and groundwater. This alternative involves no

treatment or containment of contaminated soils, sediments, and groundwater at the Site. The No-Action Alternative is required to be evaluated as a baseline against which all other alternatives are compared.

### Limited Action

#### Alternatives MSS-2, and CBS-2: *Limited Action with Institutional Controls*

This alternative involves no treatment or containment of contaminated soils and sediments at the Marsh and Creek Bed Areas. There are no limited action alternatives for the Commercial and Solid Waste and Debris Areas.

- Place deed restrictions on the use of the Marsh and Creek Bed Areas.
- Monitor soil, sediment, vegetation, and surface water.

### Removal with on-site disposal

#### Alternatives SWD-3, MSS-3, and CBS-3: *Removal with on-site disposal*

This alternative removes or excavates soils and sediments from contaminated areas with disposal on-site. There is no removal with on-site disposal alternative for the Commercial Area. Materials from the Commercial area requires treatment to be disposed.

- Perform bioavailability study on Marsh Area sediments to determine the appropriate amount of wetland removal.
- Remove soils and sediments with concentrations of contaminants that could threaten public health and the environment.

- Contaminated soils and sediments are permanently stored in a Hazardous Waste (RCRA) type landfill.
- The leachate is monitored. Operation and Maintenance (O&M) is required on the landfill.

### **Removal with treatment and on-site disposal**

**Alternatives CA-3, SWD-4, MSS-4, and CBS-4: Removal with treatment and on-site disposal**  
EPA's preferred alternative as described on page 3. This alternative removes or excavates soils and sediments from contaminated areas with treatment and disposal on-site. Debris and contaminated materials not suitable for treatment are sent off-site for disposal. This alternative is being combined with the minimal action groundwater alternative.

### **Removal with off-site disposal**

**Alternatives CA-4, SWD-6, MSS-6, and CBS-6: Removal with off-site disposal**  
This alternative removes or excavates soils and sediments from contaminated areas with disposal off-site.

- Perform bioavailability study on Marsh Area sediments to determine the appropriate amount of wetland removal.
- Remove soils and sediments with concentrations of contaminants that could threaten public health and the environment.
- Contaminated soils and sediments are disposed of in appropriate off-site treatment and/or disposal facilities.

### **Minimal action groundwater**

#### **Alternative GW-2: Minimal action of groundwater**

EPA's preferred alternative as described on page 3. The groundwater is not directly treated. This alternative is being combined with the removal with treatment and on-site disposal alternative which removes most of the sources of contamination to the groundwater.

### **Groundwater treatment**

#### **Alternative GW-3: Groundwater treatment**

This alternative recovers and treats groundwater contamination. This will involve the installation of sufficient groundwater extraction wells to contain the groundwater contamination on-site and treat the collected groundwater for re-infiltration into the ground. The water will be treated to be protective of human health and aquatic life prior to discharge.

- Pump contaminated groundwater from several site locations in to a central treatment unit on site.
- Treat groundwater for metals, cyanide, and volatile organic contaminants.
- Treated water is discharged on-site.
- The groundwater is monitored.

***REPORT ATLAS TACK SITE***

83 Pleasant Street  
Fairhaven, MA 02719

For

Michael Almada  
Director of Planning  
Town of Fairhaven

By

Mary Ann Hawk  
Assistant Assessor  
Town of Fairhaven

November 8, 1996

## *Trends*

A few trends in the local Real Estate market have been identified through the process of interviewing Brokers, Appraisers and Assessors. Current issues of Bankers and Tradesman, MLS and National Real Estate Investor Magazine have also been reviewed to lend insight into the local real estate market. All sales have been reviewed, market rents have been analyzed and buyer demands have been discussed and considered in an attempt to distinguish tendencies or patterns. Uses for the land ranging from a fish processing site to a maritime museum have been considered. Economic, environmental and social changes have also been visited in an attempt to help identify their influence on establishing present and future trends. The following report is a summary of pertinent conclusions regarding trends in the present real estate market.

The first trend recognized is the demand for satellite specialty medical facilities. Apparently, newer technology is allowing them autonomy. There seems to be a shifting from these facilities out of local hospitals into communities. They include but are not limited to diabetes clinics, dialysis clinics, medical testing sites and emergency care facilities.

The second trend recognized seems to involve the senior housing market. More specifically, the "assisted living" concept. This concept allows seniors to "age in place" by providing services in all phases of care. The "assisted living" concept is certainly not specific to this area. Most states have experienced a growth in this type of facility, replacing senior citizen complexes and nursing homes as we know them.

The demographics for this type of housing are compelling. Since 1983, for the first time ever there were more senior citizens in the United States than teenagers. The "assisted living" communities offers residents a choice between independent living and assisted living services with the ability for conversion from one to the other dependent on need.

Another established trend is the apparent demand in the market for larger manufacturing buildings. It is important to also note that New Bedford has an over abundant supply of older manufacturing buildings on the market. Though, there have been a few sales, most have sold for considerably less than assessed value. The city has chosen to demolish many of the old mills and factories. Many of the older buildings do not physically satisfy current manufacturing demands. The market seems to be saturated with older industrial properties. There is also a demand for distribution sites. My concern with manufacturing and distribution is the limited access and egress to the property. I realize there has been dialogue by town officials over the extension of David Drown Blvd. This would have to be finalized for most prospective buyers to consider the

site for that specific use. A manufacturer would view having to travel heavily populated roads as a potential liability.

The forth type of property which the market is still in demand for is office space. Both medical and professional office space are still in demand especially in predominately business areas. This use has been reviewed and is considered but, I'm not sure how much office space would be supported in the central core of the town as compared to Rt. 6 area. This would be a good secondary use for the site in partnership with another use. I do not feel it could be self supported.

## *Condominiums*

The Condominium market has been reviewed. The subject site could accommodate a number of units, however it is my opinion, as supported by the sales data, that the market is still showing an over supply. Fairhaven Condo sales have increased in value in the past year, though many are still selling for less than their original price. This is much more evident in the New Bedford market. Many owners and lending institutions have taken major losses. As a result some condo complexes have gone as far as de-condoing and reverting them back to rental units. Many of the complexes that have *not* been decondoed are being rented in an attempt to minimize their loss. This in itself has had a detrimental effect on some complexes.

Real estate as a whole has rebounded from the slump of the late 1980's to early 1990's. Though this is truer for some types of real estate more than others, this is not the case with condominiums. There has been a stabilization of condominiums, however it is still not competitive with the growth witnessed in other aspects of the market. The supply is much greater than demand and unregulated condo fees have a direct adverse effect on value. I feel that the Condominium market is not secure thus, it does not satisfy all elements of highest and best use for this particular site.

### ***Residential (Single Family)***

Realizing only 5-10 Acres of the total land area is upland, and taking both frontage and depth into consideration, I estimate approximately 15 - 20 house lots. Other factors such as the previous history of the site and any adverse effects it may have on it's value have not been considered. I have also used the median value of new construction as a base of valuation. It is very important to note that value will depend greatly on the size of the home, story height, type and quality of construction.

Median sale price of new construction in last 3 years is \$ 118,000

Fiscal Year 1997 Residential Rate is \$13.28/1,000

$$15 \times 120,000 = 1,800,000 \times 13.28 = 23,904.00$$

$$20 \times 120,000 = 2,400,000 \times 13.28 = 31,872.00$$

#### ***Residential Single Family***

##### ***Estimated Potential Revenue***

***Range:           \$23,904.00 - \$31,872.00***

## INCOME CAPITALIZATION APPROACH TO VALUE

### Medical /Professional Offices

**RENT:** For purposes of the income capitalization approach, market rent values will be used.

Market Rent for newer General Office space in a good location is approximately \$10.00 - \$12.00 a square foot.

Assuming the building is approximately 50,000 sf.

Estimate 80% as leasible area = 40,000 sf

*Annual*

$$40,000 \text{ sf} \times \$ 10.00 = 400,000$$

**Gross Annual Potential Income (GPI)**

\$ 400,000

Expenses 30%

(expenses include taxes & 10% Vacancy)

- 120,000

**Effective Gross Income (EGI)**

\$ 280,000

(Value = NOI/ Cap Rate) 10%

\$2,800,000

Rounded to : \$ 3,000,000

### Medical Office

#### POTENTIAL ESTIMATED REVENUE

Estimated Potential Revenue = \$ 3,000,000 x \$ 16.01 = \$ 44,030

Rounded: \$ 44,000

### Manufacturing Cost Approach

It is highly unlikely that such a large manufacturing building would be leased, thus we have used the cost approach for valuation and estimated revenue purposes. A likely case would be to leave the existing 20,000sf office building in place and construct an 60,000 sf building for light manufacturing.

The per unit costs are very general. It would be dependent on type and quality of construction used.

$$60,000 \text{ sf} \times 40/\text{sf} = \$2,400,000$$
$$20,000 \text{ sf} \times 80/\text{sf} = \underline{\$1,600,000}$$

#### *Land Value*

$$\begin{array}{r} \$4,000,000 \\ -600,000 \text{ (15\% Dep)} \\ \hline \$3,400,000 \\ + 48,000 \text{ Land Improvements} \\ \hline \$3,448,000 \text{ Improvement Value} \\ \underline{\$436,000 \text{ Land Value}} \\ \$3,884,000 \text{ Total Value} \end{array}$$

$$\begin{array}{r} 65,000 \times 5 = \$325,000 \\ 20,000 \times 5 = \$100,000 \\ 1,000 \times 11 = \$11,000 \\ \hline \$436,000 \end{array}$$

*Rounded to \$3,900,000*

#### **POTENTIAL ESTIMATED REVENUE**

$$\text{Estimated Potential Revenue} = \$3,900,000 \times \$16.01 = \$62,439.00$$

Rounded: \$62,500.00

***Tax Assessment Information***

***Fiscal Year 1997***

| <b><i>Map</i></b>                                                                                                                                | <b><i>Lot</i></b> | <b><i>Address</i></b> | <b><i>Value</i></b>         | <b><i>Rate</i></b> | <b><i>Tax</i></b> |
|--------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|-----------------------|-----------------------------|--------------------|-------------------|
| 27                                                                                                                                               | 15                | Hyland Avenue         | \$ 3,000                    | 16.01/1000         | \$48.03           |
| 27                                                                                                                                               | 15D               | Hyland Avenue         | \$ 1,700                    | 16.01/1000         | \$27.22           |
| 27                                                                                                                                               | 16                | Boys Creek            | \$ 2,000                    | 16.01/1000         | \$32.02           |
| 27                                                                                                                                               | 17                | Boys Creek            | \$ 3,000                    | 16.01/1000         | \$48.03           |
| 8                                                                                                                                                | 94                | 83 Pleasant St        | <u>\$430,200</u>            | 16.01/1000         | \$6,887.50        |
| Total Assessed Value                                                                                                                             |                   |                       | \$439,900                   |                    |                   |
| <b><i>Note: Fairhaven has a split tax rate. The Commercial/Industrial Properties are taxed at a higher rate than Residential Properties.</i></b> |                   |                       |                             |                    |                   |
| <b><i>Residential</i></b>                                                                                                                        |                   |                       | <b><i>\$13.28/1,000</i></b> |                    |                   |
| <b><i>Comm/Industrial</i></b>                                                                                                                    |                   |                       | <b><i>\$16.01/1,000</i></b> |                    |                   |

# CHAIN OF TITLE

| PLOT 27                   | LOT 15    | Bk   | Pg  |
|---------------------------|-----------|------|-----|
| Valley, David             | 1/08/1919 | 469  | 174 |
| Valley, David             | 8/19/1922 | 543  | 456 |
| Atlas Tack Corp.          | 8/26/1948 | 949  | 505 |
| Atlas Tack Corp.          | 5/01/1968 | 1564 | 698 |
| Atlas Tack Corp. (Taking) | 7/16/1992 | 2875 | 185 |

| PLOT 27                   | LOT 15D   | Bk   | Pg  |
|---------------------------|-----------|------|-----|
| Atlas Tack Corp.          | 8/26/1948 | 949  | 505 |
| Atlas Tack Corp.          | 5/01/1968 | 1564 | 698 |
| Atlas Tack Corp. (Taking) | 7/16/1992 | 2875 | 188 |

| PLOT 27                   | LOT 16     | Bk   | Pg  |
|---------------------------|------------|------|-----|
| Valley, David P.          | 12/20/1939 | 825  | 150 |
| Atlas Tack Corp.          | 1/13/1902  | 504  | 55  |
| Atlas Tack Corp.          | 5/01/1968  | 1564 | 698 |
| Atlas Tack Corp. (Taking) | 7/16/1992  | 2875 | 186 |

| PLOT 27                   | LOT 17    | Bk   | Pg  |
|---------------------------|-----------|------|-----|
| Town of Fairhaven         | 7/22/1941 | 841  | 366 |
| Valley, David P.          | 12/2/1941 | 849  | 475 |
| Atlas Tack Corp.          | 8/26/1948 | 949  | 505 |
| Atlas Tack Corp.          | 5/01/1968 | 1564 | 698 |
| Atlas Tack Corp. (Taking) | 7/16/1992 | 2875 | 187 |

| PLOT 8                      | LOT 94    | Bk   | Pg   |
|-----------------------------|-----------|------|------|
| Atlas Tack Corp.            | 4/27/1901 | 217  | 246  |
| Atlas Tack Corp.            | 6/05/1901 | 217  | 249  |
| Atlas Tack Corp.            | 5/01/1968 | 1564 | 698  |
| Atlas Tack Corp. (1970 Tax) | 4/05/1972 | 1637 | 1038 |
| Atlas Tack Corp. (Redeemed) | 11/7/1973 | 1674 | 872  |
| Atlas Tack Corp. (Taking)   | 7/16/1992 | 2875 | 189  |

Subject: *Atlas Tack*

*Site Specs*

| Map | Lot | Size        | Frontage |
|-----|-----|-------------|----------|
| 27  | 15  | 3.11 A      |          |
| 27  | 15D | 1.75 A      |          |
| 27  | 16  | 2.39 A      |          |
| 27  | 17  | 1.59 A      |          |
| 8   | 94  | <u>13 A</u> | 473.07'  |
|     |     | 21.8 A      |          |

The subject is a 21.8 Acre site located in the Town of Fairhaven. The building is constructed of brick and contains approximately 179,000 SF of plant area and approximately 19,404 SF of office area. Reportedly the building is in poor condition with the exception of the front offices. Note, the Recreation Hall was demolished in 1986. There are 473.07 ft. of frontage on Pleasant Street and access from both, Adams Street and Tripp Street. The site is zoned Industrial. However, the area is predominately residential. It is walking distance from the center of town and less than one mile from the commercial waterfront area. Route 6 and Interstate 195 are also within a three mile radius of the property.

Fairhaven is located 56 miles from Boston and contains 29.4 miles of Shore Property. There are approximately 6,000 residential Properties and 350 Commercial\Industrial Properties.

***Subject: Atlas Tack Site***

***Highest & Best Use***

There are four identifying elements used to determine highest and best use.

- 1) The first element in considering highest and best use is *Possible use*. What uses of the subject property are physically possible?
- 2) The second element is *Permissible Legal use*. What uses are permitted by zoning and deed restrictions ?
- 3) The third element of highest and best use is *Feasible use*. What possible and permissible uses will produce a net return for the owner of the site?
- 4) The fourth element is *Highest and Best Use*. Among the feasible uses, which use will produce the highest return or highest present worth?

The use must be legal and probable, not speculative or conjectural. A demand for the use must exist and it must yield the highest net return to the land for the longest period. To arrive at an estimate of the Highest and best Use, the subject was analyzed as 1) as though vacant & available for development and 2) as presently improved.

To perform an analysis on improved properties we must ask if the highest and best use of the property (as improved) is compatible with buyer motivation.

Should building be maintained as is ?

Should renovation be considered ?

Should improvements be replaced with different types of use?

**Subject: *Atlas Tack Site***

In an attempt to establish Highest and Best Use for this site we must first define Highest and Best Use. The use must be legal and probable, not speculative or conjectural. A demand for the use must exist and it must yield the highest net return to the land for the longest period of time. The four elements of Highest and Best Use must be applied to the improved and vacant property. To arrive at an estimate of the Highest and Best Use, the subject was analyzed as though vacant and available for development.

Due to the nature of the subject property there are a few variables which must be addressed prior to attempting to define it's Highest and Best Use and Valuation issues.

The property has been designated a contaminated sight for many years. It is my understanding, there is at least one last sight in the rear of the property yet to be cleaned.

I have not personally inspected the property but, it is reportedly in poor condition. I am told the only section that may be salvageable is the front section which was once used as office space.

It is important to note, that for the purposes of this report we have had to rely on certain assumptions and reasonable conclusions. We will deal with the site as clean and unimproved land. We will use 10 Acres for useable and buildable land. The remainder will be designated as Wetland and Marsh.

After identifying the four elements of highest and best use we must consider the physical attributes of the subject property that directly effects it's use.

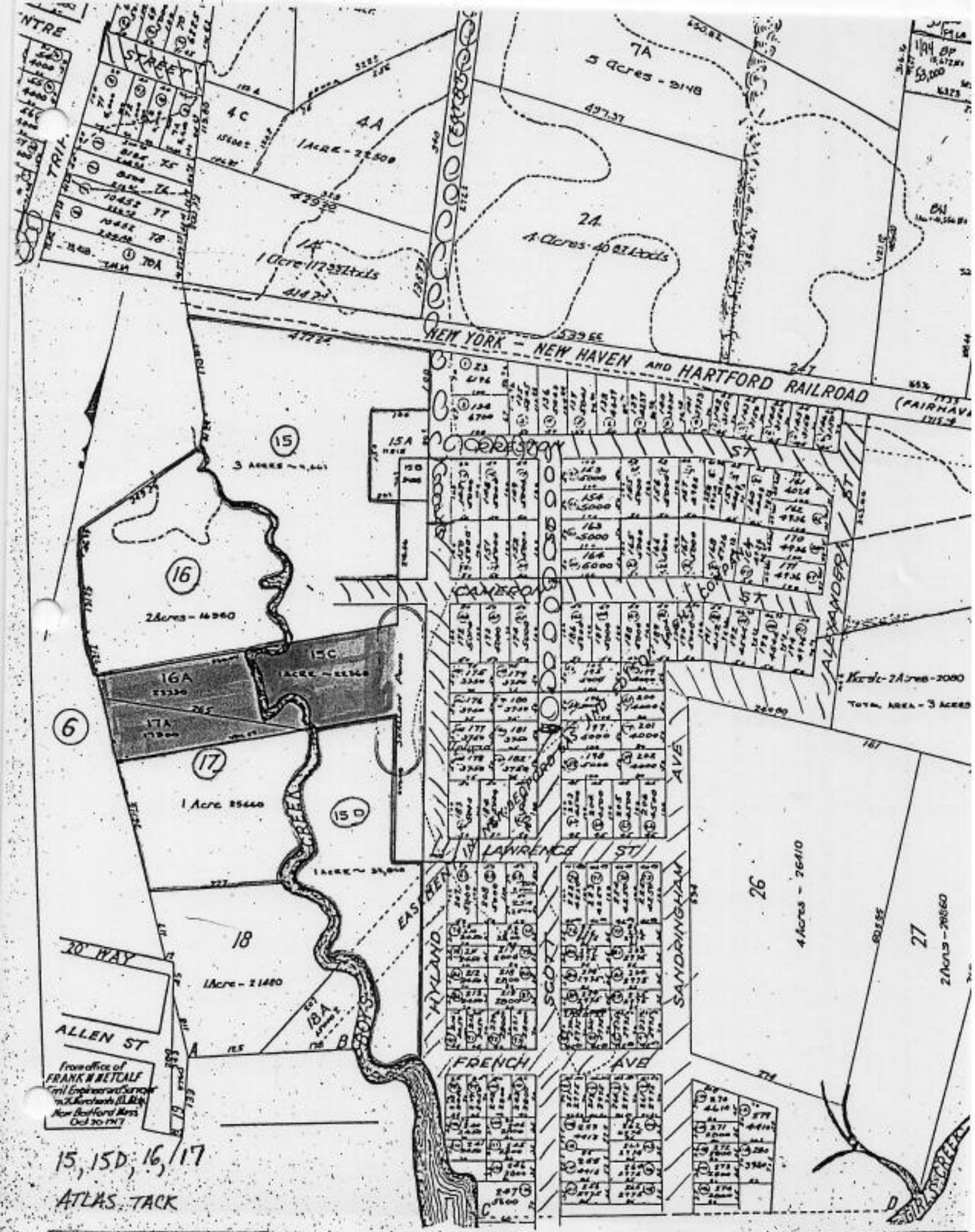
The subject contains approximately 21.8 Acres of which 10-12 Acres are buildable. The remainder is designated as Marsh and Wetlands. The land is basically level with the grade of Pleasant Street. All utilities are available to the site. Access to the property is not conducive to distribution or heavy manufacturing, though there has been some dialogue regarding the extension of David Drown Blvd.

The frontage is 473.08' on Pleasant Street and there is access to the site from both Adams Street and Tripp Street.

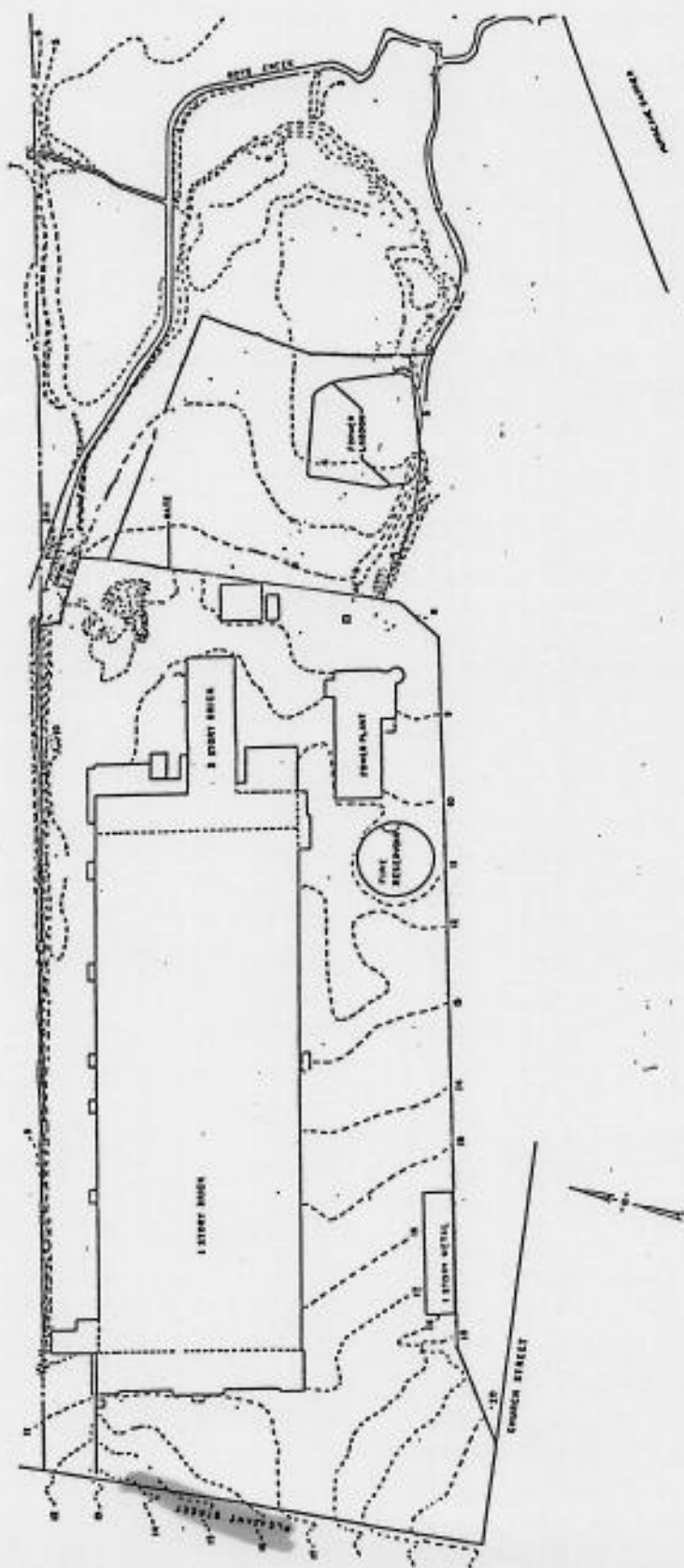
The site is designated a hazardous waste site with one spot in the rear of the property yet to be cleaned. Though this report will be based on a clean site we must consider the stigma that may follow this property, especially if used for residential. It is my understanding that if used for residential, the cost to cure may exceed any value. The requirements to clean a residential site far exceed the requirements for Commercial or Industrial use. Rex Norman, a consultant in the field of contaminated sites, claims he is unaware of anyone rezoning to Residential. "It is just too cost and time prohibitive." He also feels the stigma for Comm/Industrial use fades a lot quicker than Residential. Stigma is very difficult to measure in terms of value and "cost to cure" not only deals with cost to clean but, cost to maintain and monitor. These issues are magnified for Residential Properties.

According to many brokers and appraisers that were interviewed, a "finding" certainly does not kill the market, but does have a direct effect on value. Some sales indicate a sales price of cleaned properties as low as 50 percent of value.

I feel the physical characteristics of the site lend itself to Residential, Industrial and Commercial use. Lot size, frontage and topology would accommodate either use.









## Highest and Best Use Summary

### Rankings

*The following uses have been ranked (high to low) according to Highest & Best Use Rating.*

| <u>Highest &amp; Best Use</u>   | <u>H &amp; B Use &amp; Social Acceptance</u> |
|---------------------------------|----------------------------------------------|
| 1. Warehouse\Distribution       | 1. Recreation                                |
| 2. Manufacturing\Processing     | 2. Assisted Living                           |
| 3. Assisted Living              | 3. Medical Facility                          |
| 4. Medical Facility             | 4. Medical\Professional Offices              |
| 5. Medical\Professional Offices | 5. Single Family                             |

*The following three uses were found in both categories. I feel they each would satisfy Highest and Best Use for the subject property. However, to optimize the use of the land, considering all elements of highest and best use, the physical characteristics of the site, location, history of the site and potential estimated revenue I would consider a mixed use situation. I feel these uses could successfully co-exist.*

*In conclusion, it my opinion that Highest and Best Use for the subject property is as follows;*

*Assisted Living*

*Satellite Medical Facility*

*Medical/ Professional Offices*

The following professionals have been interviewed to lend insight into the local real estate market. These individuals were selected because, I feel they each possess a wide scope of knowledge in both the residential and commercial markets. They are all currently active, thus familiar with current market rents, sales, trends and values.

|                   |                                                                                                 |
|-------------------|-------------------------------------------------------------------------------------------------|
| Frank Ryan        | Commercial Appraiser/Assessor                                                                   |
| Patrick Flinn     | Appraiser/ Consultant                                                                           |
| Richard Gonsalves | Assessor Seekonk, MA                                                                            |
| Margaret Sweet    | Sweet Property Brokers (Comm. Broker)                                                           |
| Jeanne Vulgaris   | JVC Property Co (Comm. Broker)                                                                  |
| Robert Lyman      | R K Lyman & Associates ( Comm. Appraiser)                                                       |
| Arthur Larrivee   | Larrivee R. E. Appraisers                                                                       |
| Michael Travers   | New Bedford Co - Economic Development                                                           |
| Rex Norman        | Consultant (Specialty Hazardous Waste Site)<br>Commercial Appraiser and Assessor - Nashua, N.H. |

**Background Information:** The Board of Selectmen have requested the Planning Board consider rezoning the Atlas Tack property from Industrial to Park and Recreational. Such a zoning change raises issues related to "Statutory Taking" of private property rights. The need for zoning changes generally need to be substantiated and supported within local planning documents. The following represents the recommendations related to the Atlas Tack property and how the rezoning may apply.

***Strategic Economic Development Plan*** - February 1996

- Artist Studio/Gallery
- Charter School for the Arts
- "Due to hazardous waste contamination and road access the Atlas Tack Property is not suitable to industrial reuse" (B-32)

Zoning: Park and recreational zone would allow for a charter school as educational uses are clearly allowed. An art gallery, if it is sponsored by a philanthropic institution would be allowed by special permit. An artist studio would be clearly a commercial venture and not allowed within the zone. The Strategic Economic Development Plan notes that the area is clearly improperly zoned.

***Master Plan for the Town of Fairhaven*** - April 1996

- Priest's Cove contains an expanse of marsh which can be viewed from the hurricane barrier built across the head of the cove. This area is protected by the wetlands regulations and is bordered by the railroad right-of-way and proposed path." (12)
- "South and west of David Drown Boulevard extending to Priests Cove on Buzzards Bay, lies a large area that is also currently zoned industrial. It contains the Atlas Tack Site, a boat yard, and some metal working shops nearby. Because of extensive tidal wetlands, and the existence of a hurricane barrier just south of an abandoned rail right-of-way that traverses the area from east to west, most of the industrially zoned area to the south of the rail line will never be developed." (39)
- RE David Drown Boulevard Extension "Such a new roadway would also increase the desirability of the Atlas Tack Site for development." (48)
- RE Open Space portion of plan "Coordination with the U.S. Environmental Protection Agency (EPA) is necessary to allow site mitigation actions at the Atlas Tack site to occur in a safe and timely manner. The site is currently classified as a "superfund" site with a low priority for federal action, since there are many more sites ahead of it on EPA's priority list. This issue of getting a higher priority should be resolved as quickly as possible to allow for redevelopment of the currently unused site." (73)
- "Finally, the Atlas Tack Manufacturing site is shown as a major reuse site. This site has great potential should it be developed as a combination of uses such as elderly housing, small scale retail and meeting and recreational facilities. Its location at the "in Town" end of the multi-use trail, its view of the marshes, and being connected to the old rail right-of-way leading to the wharf sets the stage for this site to be a vibrant community asset for Fairhaven." (76)

- "Rezone much of the land just north and south of the hurricane barrier and north of Priests Cove from industrial to residential, with appropriate safeguards to insure good quality residential development, including buffer areas between industrial and residential uses" (80)
- RE: Open Space "Request EPA to review the Atlas Tack Manufacturing site within the next year, with the intent of moving it up on the priority list for action."

**Zoning:** The Master Plan recommends rezoning to residential, yet also notes small scale retail, meeting facilities, elderly housing and recreational activities. Elderly housing would not be allowed in the Park and Recreational zone, however retail and meeting facilities are not allowed in residential zones. In addition, only limited recreational facilities are allowed in residential zones. In essence, the Master Plan rezoning proposal does not correlate well with existing zoning district uses and could suggest the creation of a new zoning district.

#### *Open Space and Recreation Plan - July 1995*

- "Finally, the Atlas Tack Manufacturing site is shown as a major reuse site. This site has great potential should it be developed as a combination of uses such as elderly housing, retail and recreational facilities. Its location at the "in Town" end of the multi-use trail, its view of the marshes, and being connected to the old trolley right-of-way leading to the wharf sets the stage for this site to be a vibrant community asset for Fairhaven" (1) (42)
- "South and west of David Drown Boulevard extending to Priests Cove on Buzzards Bay, lies a large area that is also currently zoned industrial. It contains the Atlas Tack Site, a boat yard, and some metal working shops nearby. Because of extensive tidal wetlands, and the existence of a hurricane barrier just south of an abandoned rail right-of-way that traverses the area from east to west, most of the industrially zoned area to the south of the rail line will never be developed." (12)
- **"Hazardous Waste Sites"**  
"The Atlas Tack site on the southeastern edge of Fairhaven Center presents the primary hazardous waste site clean-up problem in Town. The Environmental Protection Agency has declared it a "superfund" site. As yet, cleanup activities have not been scheduled. The site is important to open space and recreational planning because it is located on the route of the proposed multi-use recreational trail."
- "Coordination with the U.S. Environmental Protection Agency (EPA) is necessary to allow site mitigation actions at the Atlas Tack site to occur in a safe and timely manner. The site is currently classified as a "superfund" site with a low priority for federal action, since there are many more sites ahead of it on EPA's priority list. This issue of getting a higher priority should be resolved as quickly as possible to allow for redevelopment of the currently unused site." (36 - 37)
- G. Request redesignation of the Atlas Tack site from its current superfund status, to allow cleanup to occur earlier. This site will be important as a link along the multi-purpose trail and as a possible community gathering area." (40)

**Zoning:** The Open Space plan correlates with the recommendations of the Master Plan, except that it goes a step further in its recommendations to suggest it be used as a possible community gathering area. A community gathering area could suggest support for municipal acquisition of the property. Municipal uses are allowed by right in all zones.

**Proposal:** This proposal calls for the creation of a new zoning district that promotes recreational oriented land uses and land conservation. Minimum lot sizes will be held constant at the 100,000 square feet requirement in the Industrial zone. Lot coverage for buildings will be reduced to 25% of the land area and a total lot coverage for all impervious surface would be set at 50% - thereby maintaining 50% of any lot as green space. Upland requirements will be set at 95% as is required in business zones.

### **Proposed Recreation and Conservation District**

#### **198-14 Establishment of Districts**

1

Add to Section A:

Recreation and Conservation District      Rec.

#### **198-15 Use Regulations**

Modify Section C to add after "Park [P],":

"Recreation and Conservation [Rec.],"

Add new Section D

D.      The Purpose of the Recreation and Conservation District is to:

- Promote development that is compatible with the sensitive environmental features of the designated Recreation and Conservation areas.
- To promote increased public access recreation and conservation areas in town.

#### **Permitted Uses**

The following uses are permitted [Y] within the Recreation and Conservation Zoning District:

- Agricultural Uses
- Farm without livestock;  
Green house with retail sales for site over 5 acres

Green house with wholesale only for site over 5 acres

Livestock raising on farm over 5 acres

- Institutional Uses

Municipal Use

Religious Use

Nursery school/preschool

Other commercial schools

Other Schools

Club or Lodge

- Recreational Uses

Sportsman's Club game preserve

Public and Private riding stables

Bath houses, commercial beaches

- Residential Uses

Single Family Residential

Two Family

#### Authorized Uses

The following uses are authorized [A] in the Recreation and Conservation District with a Special Permit granted by the Fairhaven Planning Board

- Institutional Uses

Artist Studio/Gallery

Charter School for the Arts

Museum

Philanthropic Institution

Public Utility with service area

Public Utility without Service area

- Commercial Uses

Museum

Bicycle rental/repair shop

Restaurant

Conference/meeting facility

- Recreational Uses

Marina

- Residential Uses

Assisted Living Facilities on sites containing 5 acres or more at a density ratio of one unit per 5,000 square feet of land area

Hotel/Motel

## 198-16 USE REGULATION SCHEDULE

Add new column to table.

| ACTIVITY OR USE | DISTRICT<br>Rec. <sup>16</sup> |
|-----------------|--------------------------------|
|-----------------|--------------------------------|

<sup>16</sup> See section 198-15 D for allowed and permitted uses in the Recreation and Conservation District.

## 198-18 INTENSITY OF USE SCHEDULE

Add new column to table.

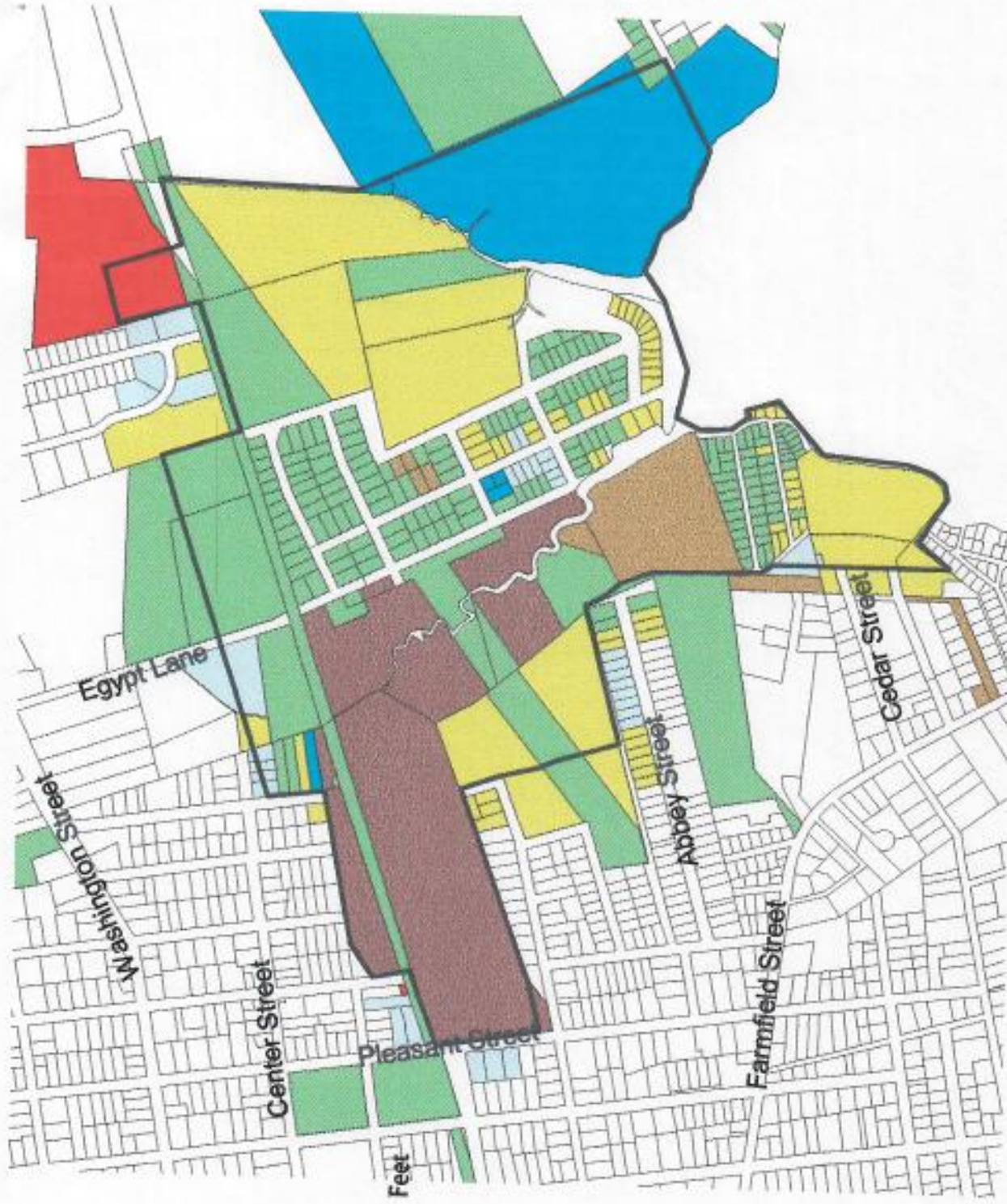
| MINIMUM LOT REQUIREMENTS                            |               |
|-----------------------------------------------------|---------------|
|                                                     | Rec.          |
| Lot Area<br>(sq. ft.)                               | 100,000       |
| Frontage at<br>Street (ft.)                         | 140           |
| Contiguous Upland<br>Percent of minimum<br>lot area | 95,000<br>95% |

| MINIMUM YARD REQUIREMENTS        |                 |
|----------------------------------|-----------------|
| Building Setbacks                |                 |
|                                  | Rec.            |
| Front (ft.)                      | 20              |
| Side (ft.)                       | 10              |
| Rear (ft.)                       | 30              |
| Maximum Building<br>Height (ft.) | 35              |
| Maximum Lot<br>Coverage %        | 25 <sup>8</sup> |

<sup>8</sup>. Building coverage shall be a maximum of 25%, total coverage of lot shall be 50% including building and all accessory uses such as parking etc. At least 50% of the lot shall remain in its natural state.



0 300 600 900 1200 Feet



- Single Family Housing Units
- 2 Family Housing Units
- Commercial Uses
- Industrial Uses
- Utility
- Vacant land
- Government or Land Trust Owned
- Fairhaven Property Boundaries

# "ATLAS TACK" AND SURROUNDING AREA PROPOSED TO BE REZONED EXISTING LAND USE



# "ATLAS TACK" AND SURROUNDING AREA PROPOSED TO BE REZONED PROPOSED REZONINGS

- Proposed recreation and conservation zone
- Proposed rezoning to business
- Proposed rezoning to residential
- Fairhaven Property Boundaries

## Proposed Wetlands Resource Protection District

### 198-14 Establishment of Districts

Add to Section A:

Wetland Resource Protection District                      WRP.

### 198-15 Use Regulations

Modify Section C to add after "Park [P].":

"Wetland Resource Protection District [WRP]."

Add new Section D

D.     The Purpose of the Wetland Resource Protection District is to:

- Promote development that is compatible with the sensitive environmental features of the designated Wetland Resource Protection areas.
- To promote increased protection for wetland resource areas in town.

The Planning Board shall be the Special Permit Granting Authority for all uses allowed by special permit in the Wetland Resource Protection District.

### 198-16 USE REGULATION SCHEDULE

Add new column to table.

| DISTRICT                   | WRP.           |
|----------------------------|----------------|
| ACTIVITY OR USE            |                |
| AGRICULTURAL USES          |                |
| Farm without Livestock     | Y              |
| GREEN HOUSE                |                |
| with retail sales          |                |
| Site under 5 Acres         | N              |
| Site Over 5 Acres          | Y              |
| wholesale only             |                |
| Site Under 5 Acres         | N              |
| Site Over 5 Acres          | Y              |
| Roadside Stand (temporary) | N              |
| Roadside Stand (permanent) | N              |
| Livestock Raising ***      |                |
| Site Under 5 Acres         | N <sup>a</sup> |
| Site Over 5 Acres          | Y <sup>a</sup> |

| DISTRICT                                | WRP. 14 |
|-----------------------------------------|---------|
| ACTIVITY OR USE                         |         |
| COMMERCIAL USES                         |         |
| Animal Kennel or Hospital               | N       |
| Business, Professional Office           | N       |
| Funeral Home                            | N       |
| Auto, Boat sales, rental, service       | N       |
| Printing Shop                           | N       |
| Bank                                    | N       |
| Restaurant                              | A       |
| Retail sales or service, x              | A       |
| Wholesaling without storage             | N       |
| Wholesaling with storage                | N       |
| Non-accessory signs 1                   | N       |
| Launderettes                            | N       |
| Limousine service                       | N       |
| Museum                                  | A       |
| Conference/Meeting Facility             | A       |
| INDUSTRIAL USES                         |         |
| Manufacturing, Processing, Research     | N       |
| Bulk storage                            | N       |
| Contractors yard                        | N       |
| Earth removal                           | N       |
| Junk yard                               | N       |
| Transportation terminal                 | N       |
| Warehouses                              | N       |
| Radio Transmission                      | N       |
| Steam laundry or dry cleaning plant     | N       |
| Water towers & reservoirs               | N       |
| INSTITUTIONAL USES                      |         |
| Municipal use                           | Y       |
| Religious use                           | Y       |
| Nursery school/pre-school               | Y       |
| Other commercial schools                | Y       |
| Non-Profit Corporation Educational Uses | Y       |
| Religious Organization Educational Uses | Y       |
| Other schools                           | Y       |
| Cemetery (3)                            | N       |
| Crematoria 15                           | N       |
| Hospital                                | N       |
| Nursing, convalescent, rest home        | A       |
| Philanthropic institutions              | A       |
| Public utility with service area        | N       |
| Public utility without service area     | N       |
| Club or lodge (4)                       | Y       |
| Passenger station                       | N       |
| Assisted Living Residence               | A       |
| Artist Studio/Gallery                   | A       |
| Charter School for the Arts             | A       |
| Museum                                  | A       |

| DISTRICT                                                      | WRP. 14 |
|---------------------------------------------------------------|---------|
| ACTIVITY OR USE                                               |         |
| RECREATIONAL USE                                              |         |
| Boatyard                                                      | N       |
| Camping commercial(10)                                        | N       |
| Camping supervised                                            | N       |
| Golf course                                                   | N       |
| Indoor commercial recreation                                  | N       |
| Non profit indoor recreation <sup>13</sup>                    | N       |
| Outdoor commercial recreation                                 | A       |
| Non profit outdoor recreation <sup>15</sup>                   | A       |
| Sportsman's club game preserve                                | Y       |
| Public stables                                                | Y       |
| Bath house commercial beaches                                 | Y       |
| Commercial picnic area, outing areas                          | A       |
| Marina                                                        | A       |
| Private Dock 11                                               | A       |
| RESIDENTIAL USES                                              |         |
| Dwelling                                                      |         |
| Single family                                                 | Y       |
| Semi detached                                                 | N       |
| Two family                                                    | Y       |
| Multi-family (9)                                              | N       |
| Non family accommodations                                     | N       |
| Motel or hotel                                                | A       |
| Mobil home (stored or occupied),<br>subject to section 198-23 | N       |
| Dwelling conversion                                           | A       |
| <i>(subject to the provisions of Section 198-32A)</i>         |         |
| Bed & breakfast home                                          | A       |
| OTHER PRINCIPAL USES                                          |         |
| Temporary structures                                          | A       |
| Airport, heliport                                             | N       |
| ACCESSORY USES                                                |         |
| Home occupation see section 198-23                            |         |
| Parking Not More Than:                                        |         |
| 2 non commercial vehicles<br>per dwelling unit(6)             | Y       |
| 1 commercial vehicles not<br>over 1 1/2 tons                  | Y       |
| Parking in excess of above                                    | N       |
| Taking of boarders                                            | Y       |
| Signs (7)                                                     | Y       |
| Light manufacturing for retail<br>sales primarily on premises | N       |
| Storage of camper or utility trailer (8)                      | N       |
| Other customary uses                                          | Y       |
| Wireless Communications Facilities                            | N       |
| Facade and Roof-Mount Antennas                                | N       |

<sup>16</sup> Subject to the provisions of Section 198-29C (?) the Planning Board as Special Permit Granting Authority may, by special permit, allow a use or combination of uses on a lot in the Wetland Resource Protection District provided that such use or combination of uses is either permitted or authorized by special permit in either the district in which the lot was last zoned or in the Mixed use District.

<sup>17</sup> - Aquaculture facilities allowed by Special Permit

<sup>18</sup> - *Provided that no individual retail business unit exceeds 5,000 square feet*

#### 198-18 INTENSITY OF USE SCHEDULE

Add new column to table.

##### MINIMUM LOT REQUIREMENTS

|                                | WRP.    |
|--------------------------------|---------|
| Lot Area<br>(sq. ft.)          | 100,000 |
| Frontage at<br>Street (ft.)    | 140     |
| Contiguous Upland              | 50,000  |
| Percent of minimum<br>lot area | 50%     |

##### MINIMUM YARD REQUIREMENTS

| Building Setbacks                | WRP.             |
|----------------------------------|------------------|
| Front (ft.)                      | 20               |
| Side (ft.)                       | 10               |
| Rear (ft.)                       | 30               |
| Maximum Building<br>Height (ft.) | 35               |
| Maximum Lot<br>Coverage %        | 25 <sup>18</sup> |

<sup>18</sup> Building coverage shall be a maximum of 25%, total coverage of lot shall be 50% including building and all accessory uses such as parking etc. At least 50% of the lot shall remain in its natural state.

#### 198-29C Special Permit for Certain Existing Conditions in the Wetland Resource Protection District

- A. Purpose - The purpose of this section is to relieve the owner of a lot in the Wetland Resource Protection District from a hardship or potential for hardship where the uses designated for that district may prove impractical because of the nature of the property, which may include the existence of a structure or structures on the lot.
- B. Special Permit Granting Authority - The special permit granting authority for this section shall be the Fairhaven Planning Board.
- C. Requirements
  1. The Fairhaven Planning Board may issue a special permit allowing a lot in the Wetland Resource Protection District to be used in conformance with the provisions of the zoning by-law as they relate to either (i) the district in which the subject lot was last zoned prior to its being zoned in the Wetland Resource Protection District, or (ii) the mixed-use district, if the Board determines that the limitations upon use imposed by the Wetland Resource Protection District would cause a hardship or potential for hardship because of the nature of the lot, which may include the existence of a structure or structures on the lot.
  2. The condition to which the hardship or potential hardship relates must be a structure in existence on January 1, 1999, or a condition on the land which was in existence on January 1, 1999, and in either

event the structure or condition must not have been substantially changed since January 1, 1999 unless the change was beyond the control of the property owner, or if within the owner's control, did not substantially add to the hardship or potential hardship. *The property owner must document the hardship or potential hardship for the Planning Board, said documentation shall include a review of the allowed and permitted uses within the Wetland Resource Protection District and the nature of the conditions which were in existence on January 1, 1999 that preclude the use of the property for the allowed and permitted uses in the district. The presence of wetland resource areas shall not be considered grounds for a hardship related to the condition of the land under this section.*

3. A special permit under this section may be allowed only when all procedural and substantive requirements for the proposed use under the provisions of the previously applicable zoning district or of the mixed use district, and the requirements of Section 198-8 have been met.

4. Where the use proposed under this section is a use authorized by special permit in the previously applicable zoning district or in the mixed use district, the application for special permits shall be merged under this section, and the Planning Board shall be the Special Permit Granting Authority for those permits.

5. A special permit under this section shall not be barred by the discontinuance or abandonment of a prior use on the lot.

6. *The presence of the hardship or potential for hardship shall allow for the application of the uses in the previously applicable zoning district or of the mixed use district as found in Section 198-16 Use Regulation Schedule. The intensity of use requirements for the Wetland Resource Protection District, as found in Section 198-18 Intensity Of Use Schedule, shall apply to all development in the district regardless of the presence of or potential for hardship.*



## TOWN OF FAIRHAVEN

### DEPARTMENT OF PLANNING AND ECONOMIC DEVELOPMENT

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40 CENTRE STREET  
FAIRHAVEN, MA 02719

Telephone (508) 979-4082 FAX (508) 979-4087

For Immediate Release

October 9, 1998

#### FAIRHAVEN PLANNING BOARD SEEKS COMMUNITY INPUT ON INDUSTRIAL/COMMERCIAL AREA REZONING

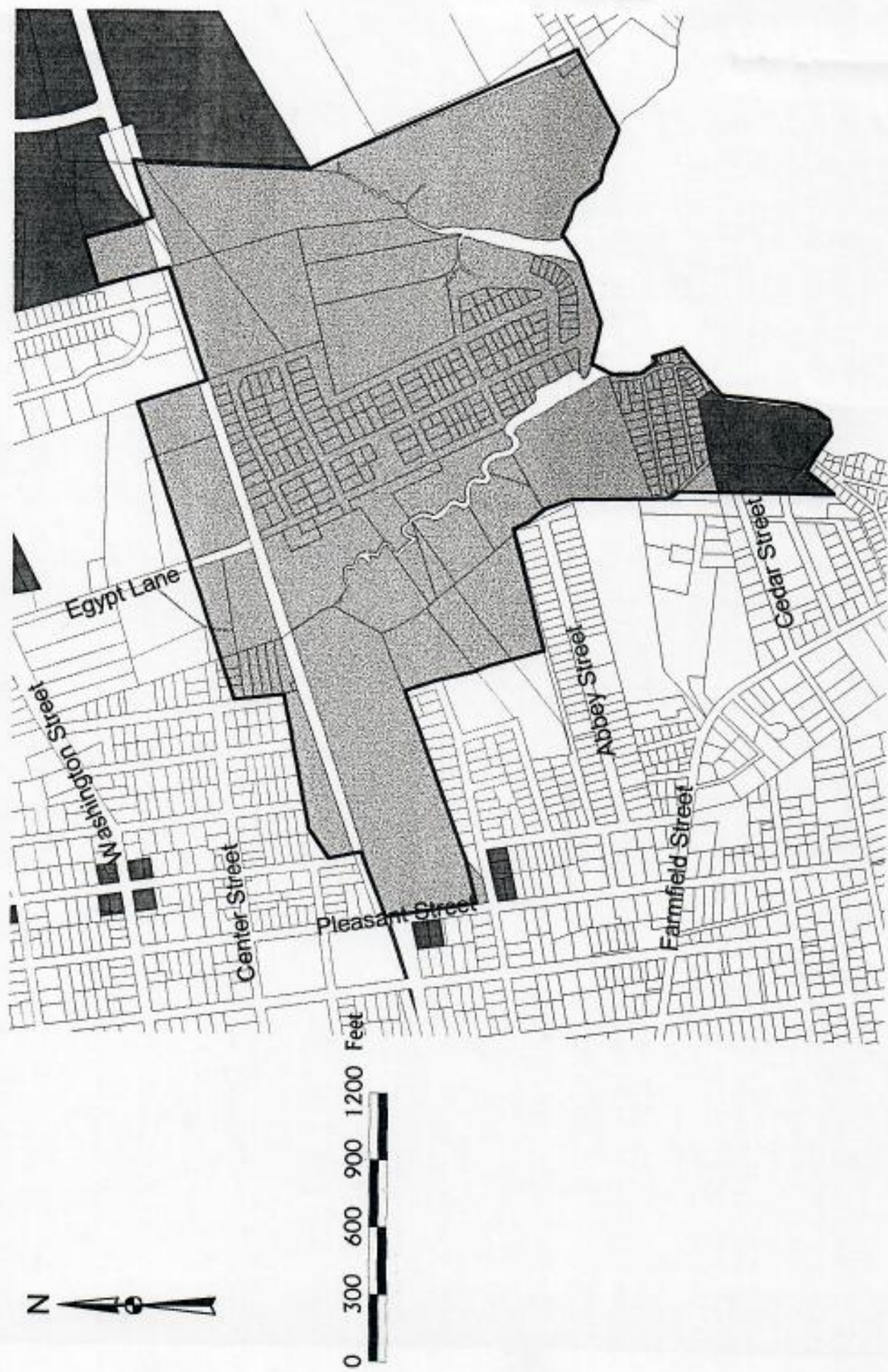
On October 27, 1998, at 6:30 p.m., the Fairhaven Planning Board will hold a workshop to discuss options for rezoning land generally located bounded by Pleasant Street on the west, Elizabeth Street on the east, the Fairhaven Bicycle Path on the north and Priest's Cove on the south. This land is currently zoned for Industrial and commercial land uses.

The 1996 Fairhaven Master Plan, the 1996 Fairhaven Economic Development Strategy and the 1995 Fairhaven Open Space Plan all recognize that this area is inappropriately zoned. The Planning Board is developing a rezoning proposal for the area with the hope of presenting a recommendation at the May 1999 Annual Town Meeting.

The Planning Board has prepared a preliminary concept for rezoning this part of town. This concept calls for the creation of a new zone tentatively referred to as a Recreation and Conservation Zone. This draft proposal promotes recreational oriented land uses and land conservation. Minimum lot sizes will be held constant at the 100,000 square feet requirement in the Industrial zone. Lot coverage for buildings will be reduced to 25% of the land area and a total lot coverage for all impervious surface would be set at 50% - thereby maintaining 50% of any lot as green space. Upland requirements will be set at 95% as is required in business zones. Allowed uses would include residential, elderly assisted living facilities, educational facilities, meeting/conference facilities, business uses compatible with recreational uses, agricultural and aquacultural uses.

On October 27, 1998 residents will be provided an opportunity to learn about the rezoning and to suggest ideas for compatible land uses in this area. The Planning Board will use the discussion at this workshop to aid in the development of a rezoning proposal for the area.

For more information contact Daniel Fortier in the Fairhaven Planning Department.



# MAP OF AREA PROPOSED TO BE REZONED

Business Zone  
Industrial Zone  
Fairhaven Property Boundaries

**ATLAS TACK CORPORATION**

FAIRHAVEN, MASSACHUSETTS, 02719

Please reply to:

266 Beacon Street  
Boston, MA 02116  
(617) 262-4315 Tel.  
(617) 262-4376 Fax

January 11, 1999

**VIA FACSIMILE AND FIRST CLASS MAIL**

Department of Planning and Economic Development  
Town of Fairhaven  
Town Hall  
40 Center Street  
Fairhaven, MA 02719  
(508) 979-4087

RE: Proposed Amendments to Fairhaven Zoning By-Law  
Public Hearing January 12, 1999

Gentlemen/Ladies:

Atlas Tack Corporation has received and reviewed the Fairhaven Planning Board's proposed amendments to the Fairhaven Zoning By-Law and has the following comments. By these comments, Atlas Tack does not waive any of its rights with regard to proper notice as required by law.

The proposal is to create a new zoning district, which would include the property owned by Atlas Tack, and to change the zoning from commercial/industrial to recreational/conservation.

Atlas Tack is opposed to and will not support the proposed zoning amendments. Any such amendments would be contrary to state law and would amount to a taking of Atlas Tack's property, for which the town would have to compensate Atlas Tack. In addition, the town is reminded that this issue has been decided previously: on May 20, 1996 at a noticed public hearing the citizens of Fairhaven voted overwhelmingly to keep the Atlas Tack property zoned as commercial. That decision was transmitted to the U.S. Environmental Protection Agency and has been used by EPA in its decision-making process about how to remediate the Atlas Tack property. It is unclear why the Planning Board believes it can now disregard the clear will of the citizenry and revisit this issue.

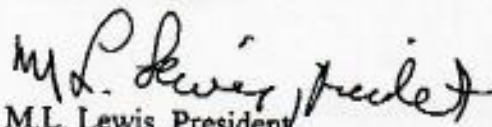
Department of Planning and Economic Development  
February 11, 1999  
Page 2

after a vote and decision were previously made to maintain commercial zoning for the Atlas Tack property.

Be advised that Atlas Tack will pursue all legal remedies against the town, including seeking an injunction and/or monetary damages, should the town attempt to enact the proposed change. If the town seeks to use Atlas Tack's property for municipal purposes, including any park or recreational purposes, it can enter into negotiations with Atlas Tack to purchase the property.

Should the Board have any questions or wish to discuss this subject further, please contact me or Atlas Tack's attorney, Martin Legg.

Very truly yours,

  
M.L. Lewis, President

MLL:sjp  
Cort018

cc: Thomas P. Crotty, Esq.



## Preliminary Reuse Assessment

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# Atlas Tack Superfund Site



Office of Site Remediation and Restoration  
September 2002

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## PURPOSE OF THIS DOCUMENT

EPA-New England is responsible for the cleanup of over 100 Superfund sites throughout the six New England states. Although protecting human health and the environment is the primary objective of these cleanups, EPA also recognizes the value in helping to return Superfund sites to beneficial reuse. Understanding the current and likely future uses of a site is key to achieving both of these objectives.

To establish cleanup standards and design a protective remedy, it is necessary to first determine how the site and immediate surroundings will be used. This information is then used to make reasonable assumptions about potential exposures to contaminants. For this reason, the types of site use, as well as the level of certainty regarding those uses, can have a dramatic impact on the final remedy and associated project costs.

This Reuse Assessment summarizes information about current and future land uses at the site that was readily available to the EPA case team. It is intended to be the basis for working with local communities, property owners and other stakeholders to develop a more complete and realistic understanding of site use. Where there is uncertainty regarding potential reuse options, EPA will encourage and assist local efforts to resolve that uncertainty. This collective information will help support EPA's decisions regarding appropriate response actions at the site, including the consideration of site use/reuse in the design and implementation of the cleanup.

The Preliminary Reuse Assessment is presented in three sections:

- **Section 1 - Site Background:** Describes the physical, environmental, and historical context of the site, particularly as it applies to current and potential future uses;
- **Section 2 - Reuse Status:** Summarizes the current uses and identifies some potential reuse issues and considerations associated with individual areas of the site; and
- **Section 3 - General Findings/Recommendations:** Identifies some specific actions EPA plans to take to work with stakeholders and other parties to resolve remaining questions about future site use.

---

## SECTION 1 - SITE BACKGROUND

### General Description

The Atlas Tack Corp. Superfund site (site) is located at 83 Pleasant Street in Fairhaven, Massachusetts, approximately one-half mile from Fairhaven Center (See Figure 1 - Site Location Map). The site includes property owned by the Atlas Tack Corporation (Atlas Tack) including a portion of Boys Creek, its tidal marsh, and property at the end of Church Street owned by the Hathaway-Braley Wharf Company. The Fairhaven hurricane barrier, constructed in the mid-1960s, cuts through the tidal marsh. In addition to the Atlas Tack facility, the site includes a disposal area, the Commercial and Industrial Debris (CID) Area located on a 3.2-acre unimproved parcel on Church Street (Map #6, Lot # 46) owned by Hathaway-Braley (hereinafter the Church Street property). The Church Street property which includes fresh water wetlands, abuts the southeast side of the Atlas Tack property. The total site area covers about 24 acres. (See Figure 2 - Study Area)

### QUICK FACTS

**Location:** 83 Pleasant St.  
Fairhaven, CT  
(Bristol County)

**ID Number:** MAD001026319

**Site Area:** 24 acres

**Current Uses:** Abandoned industrial area

**Ownership:** Multiple, private owners

**Cleanup Status:** Remedial design

**EPA Contact:** Elaine Stanley  
(617) 918-1332

With the exception of the tidal marsh, the area surrounding the site is predominantly residential. There is a bike path and a boat-related industry just north of the site and an elementary school about 200 feet to the northwest.

Atlas Tack owns the tidal marsh north and immediately south of the hurricane barrier. The remainder of the southern portion of the marsh is owned by the town of Fairhaven and the Commonwealth Electric Company.

Soil, sediment, groundwater, and surface water at the site are contaminated with heavy metals, volatile organic compounds and other contaminants as a result of on-site disposal activities and discharges from the former manufacturing processes.

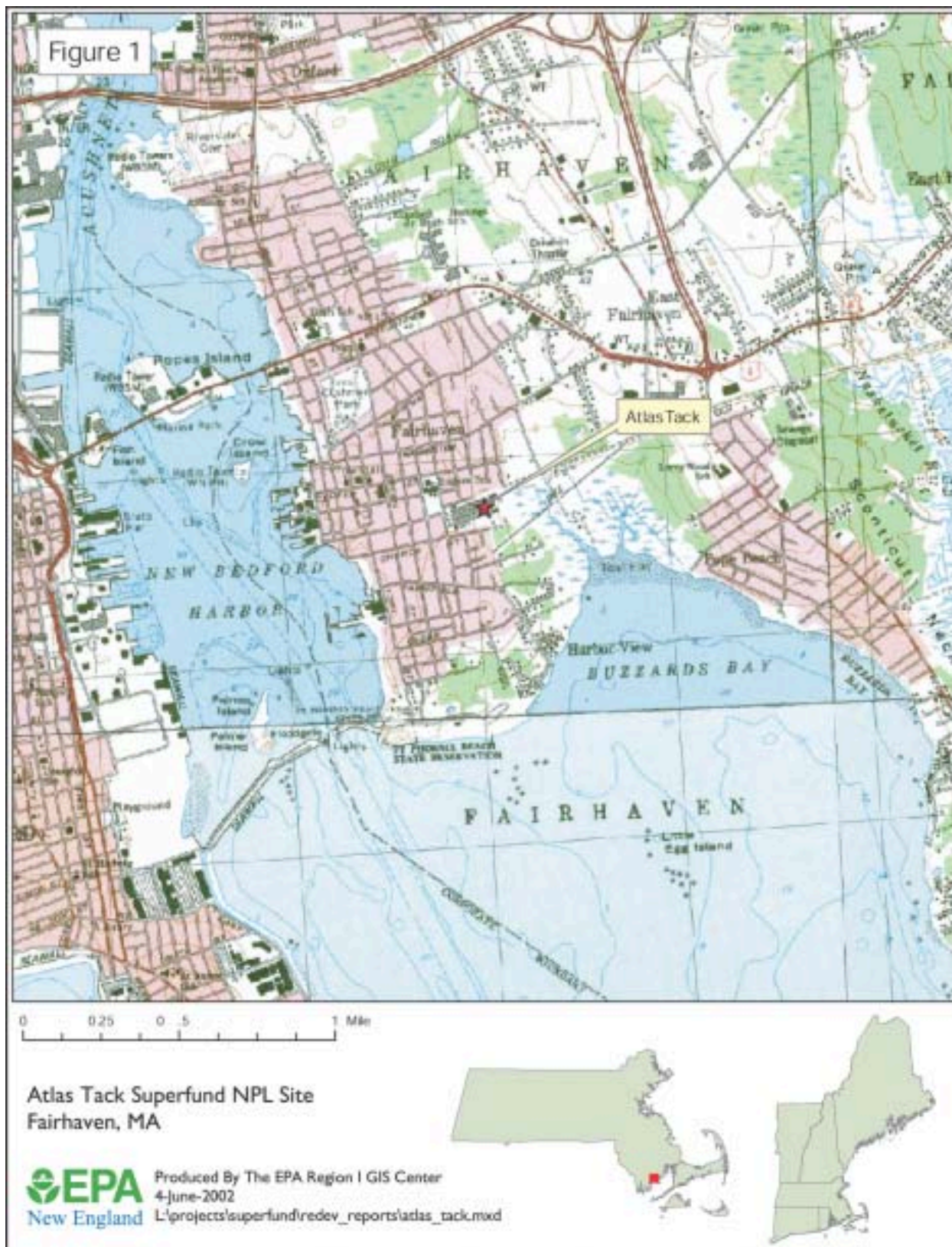
The groundwater beneath and in the vicinity of the site is not currently used as a drinking water supply. The groundwater is generally unsuitable for potable purposes because of the influence of salt water. The Massachusetts Department of Environmental Protection (DEP) has not classified the groundwater as a current or potential drinking water supply. Similarly, Boys Creek is tidally influenced and is not believed to be usable as a drinking water supply. All homes in the vicinity of the site are connected to the public water supply.

The closest public water supply well is about one mile from the site.

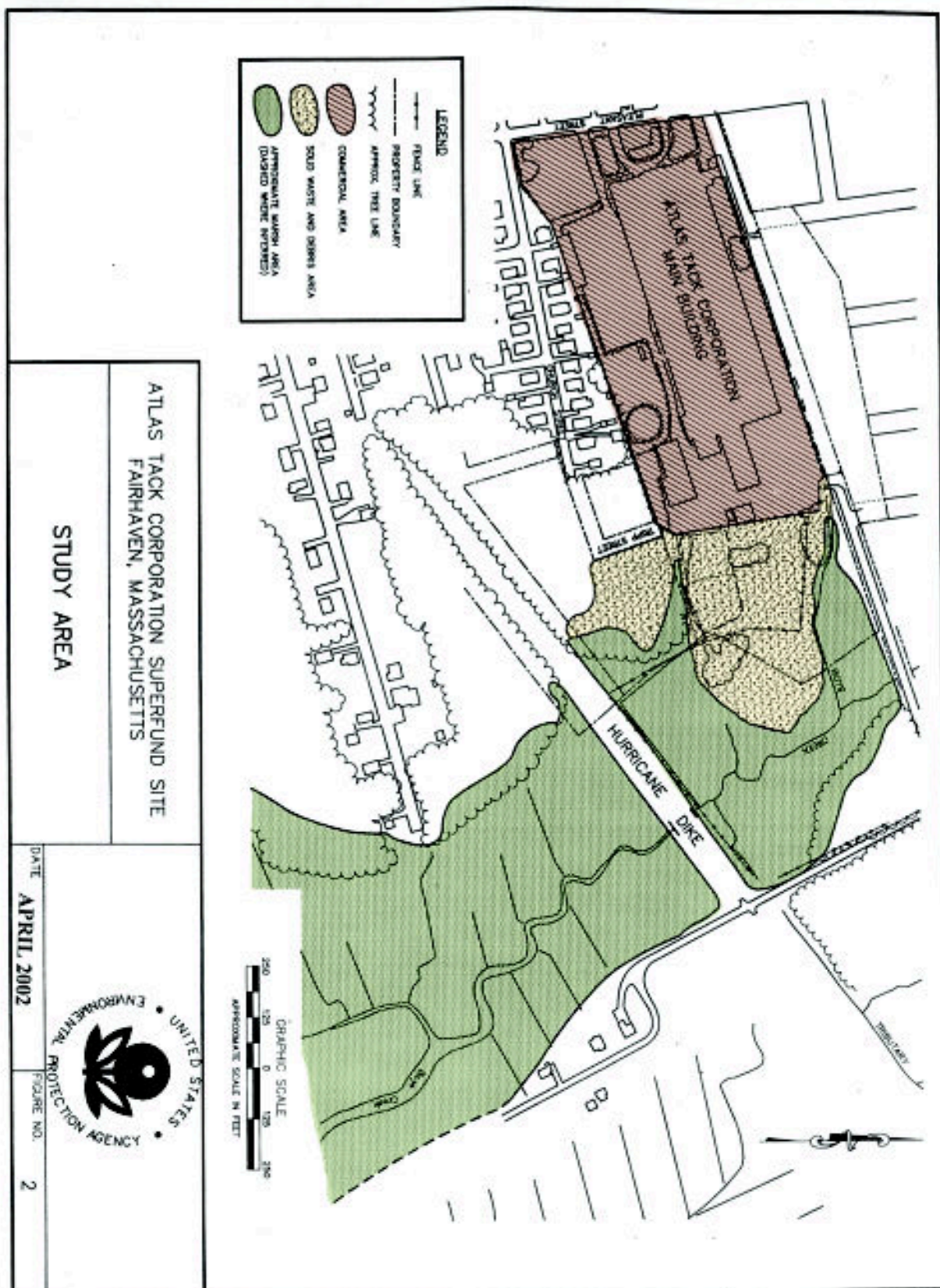
Groundwater flows under the site in a northeasterly direction and discharges into the marsh and Boys Creek. The vast majority of the marsh area is high marsh, with well-established vegetation. The predominant vegetation in some areas at higher elevations is common reed or phragmites. The predominant vegetation in most of the high marsh is salt hay. Fauna that inhabit the marsh include the great blue heron, the black duck, the meadow vole, and a variety of other small mammals and surface-feeding ducks.

Boys Creek and its tributaries are areas of low marsh. Spike grass is established along the banks and in the small tributaries. Fauna that inhabit the Boys Creek sediments include ribbed mussels, soft shell clams, and benthic and epibenthic organisms.

► Fig. 1



►Fig. 2



## Environmental History/Status

### ►Past Site Operations:

The Atlas Tack facility was built in 1901 by Fairhaven resident Henry Huttleston Rogers. Historically, Atlas Tack manufactured wire tacks, steel nails, rivets, bolts, shoe eyelets and similar items. In 1967, M. Leonard Lewis became the President of Atlas Tack Corp. when Great Northern Industries, Inc. purchased it. Atlas Tack became a Massachusetts corporation at that time, and conducted manufacturing operations at the site until about 1985.

Based on EPA's investigation, it appears that the facility's operations included electroplating, acid-washing, enameling, and painting. Process wastes containing acids, metals such as copper and nickel, and solvents were discharged into drains in the floor of the main building and into an on-site lagoon. The lagoon effluent discharged to the salt marsh and Boys Creek. Chemicals also permeated the floors and timbers of the building and migrated to adjacent soils and groundwater. For example, the plating area, located in one of the facility's buildings, included a cyanide treatment pit. Sludge and liquid from this operation contained cyanide, and the surrounding building materials have residual cyanide contamination. Approximately 8,500 cubic yards of industrial fill was deposited on top of the original marsh surface to the east of the Atlas Tack buildings.

The CID Area, located on the Church Street property, may also have received wastes from Atlas Tack and other sources. This disposal area is located approximately 500 feet southeast of the main Atlas Tack Corporation building and contains approximately 3,000 to 4,000 cubic yards of material.

### Site Contamination/Risk Assessment:

The Remedial Investigation/Feasibility Study (RI/FS) conducted by EPA determined that extensive contamination exists throughout the site. These results are detailed in the RI report (Weston, 1995) and in the Record of Decision (ROD) (EPA, 2000). EPA is currently conducting a multi-phase bioavailability study of the marsh to examine how contaminants present affect the marsh ecology.

Results of the baseline human health risk assessment identified concentrations of arsenic, polyaromatic hydrocarbons (PAHs), polychlorinated biphenyls, (PCBs), and lead in soils and sediments in the commercial area and Boys Creek that are present at levels which represent unacceptable carcinogenic and non-carcinogenic risks.

As described earlier, neither Boys Creek nor the groundwater beneath and in the vicinity of the site is currently or expected to be used for drinking water.

Results of the baseline ecological risk assessment identified concentrations of copper, lead, mercury, nickel, silver, zinc and cyanide in surface waters throughout the site that frequently exceeded unacceptable risk levels. There is a risk to aquatic organisms in the surface waters and associated wetlands from exposure to these chemicals of ecological concern. Concentrations of endosulfan sulfate, anthracene, DDT (total), cadmium, copper, cyanide, lead and zinc were identified as representing the greatest risk to the survival, reproduction and growth of the benthic community. The risk to the benthic community is confirmed by results from the sediment toxicity testing, which indicated an increase in mortality at locations north of the hurricane barrier where contaminants of concern were elevated. Through direct consumption of marsh vegetation and incidental ingestion, the meadow vole is potentially at risk from exposure to several compounds. The chemicals



Marsh North of the Hurricane Barrier

---

contributing the greatest risk are endosulfan II, endosulfan sulfate, iron, and lead. The exposure pathway responsible for risk to the black duck is the ingestion of benthic fauna and incidental sediment ingestion. Arsenic and cyanide are the major contaminants of concern contributing to the risk to the black duck and great blue heron, through the ingestion of contaminated fish.

### **Description of the Selected Remedy:**

The ROD presents the selected remedy for the site and utilizes source control and management of migration components to address the principal site risks. The site is divided into the following areas: the Commercial Area; the Solid Waste and Debris Area (SWD); and the Marsh and Creek Bed Areas. The remedial action will address the following principal threats to human health and the environment posed by site conditions: worker exposure to contaminated surface soil and sludge in the Commercial Area; migration of contamination from the Commercial Area; the SWD Area (this area includes the CID Area and the Fill and Lagoon Areas on the Atlas property) and the Marsh surface soil to groundwater, surface water, and creek sediment; exposure of biota to contaminated surface soil and sediment in the SWD and Marsh Areas, and to contaminated surface water and sediment in Boys Creek; and, human ingestion of contaminated shellfish from Boys Creek



Boys Creek South of Hurricane Barrier

The selected remedy for the source areas includes the excavation of approximately 54,000 cubic yards of wastes, soils, and sediments with contaminant concentrations greater than the cleanup goals, and the off-site disposal of these materials at an appropriate licensed waste disposal facility. On-site treatment of some of the contaminated materials, where practicable, will be conducted to reduce the off-site disposal costs.

The management of migration component of the remedy includes monitored natural attenuation with phytoremediation (planting of trees to lower the groundwater table) of site groundwater. The contaminants in the groundwater will be reduced to levels protective of the ecological receptors in the surface water by removing the contamination source in the soils. EPA estimates that it will take approximately 10 years to achieve (through monitored natural attenuation) the groundwater quality goals consistent with a viable ecosystem in Boys Creek and the associated marsh areas. The selected remedy will also provide environmental and ecological benefits through the restoration of an estuarine wetlands system.

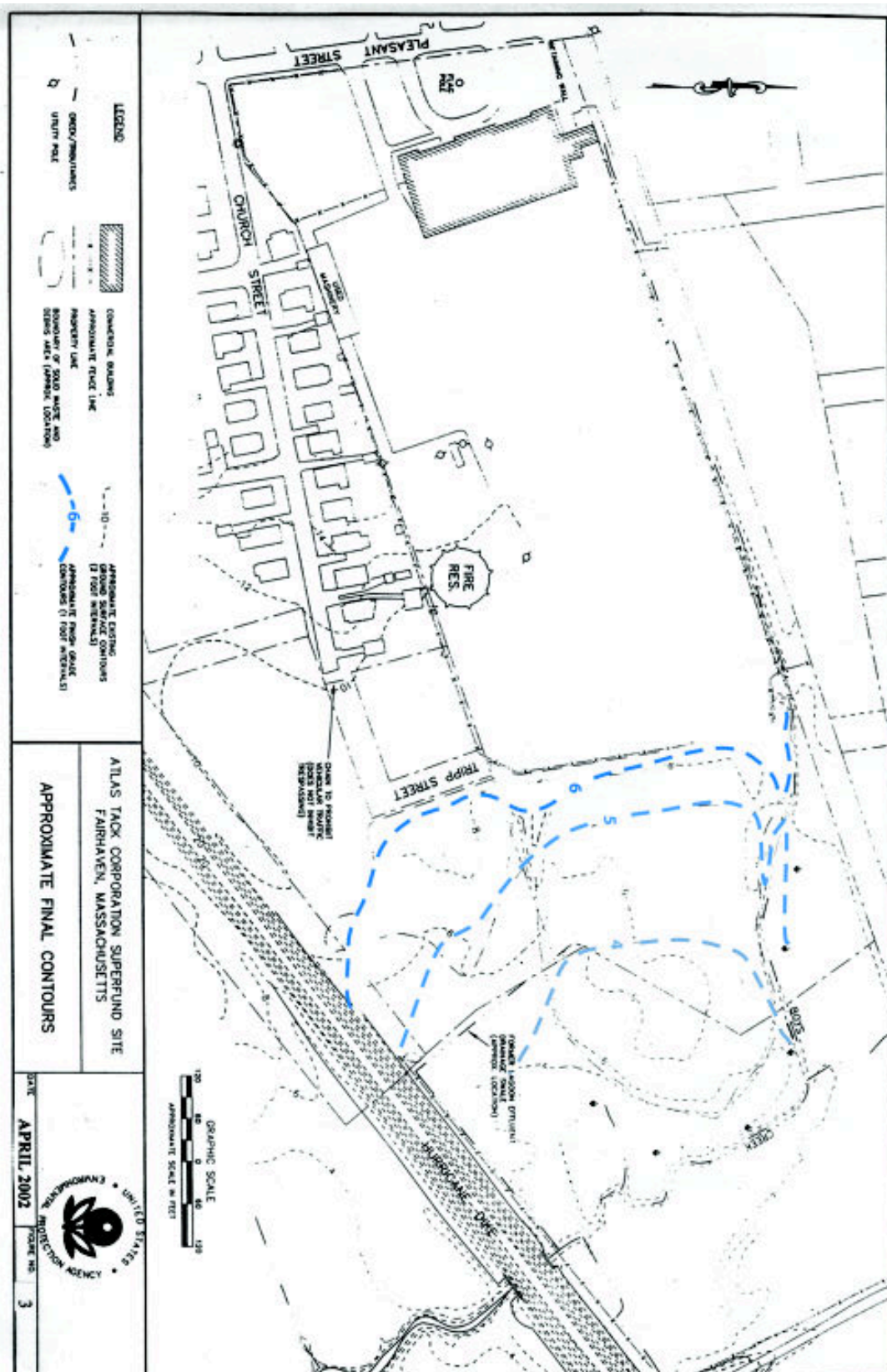
The total estimated cost to complete the remedy is \$18.2 million dollars. The remedy is scheduled to be performed in three phases in the event that the site can only be partially funded at different times. Phase I includes the demolition of what remains of the highly contaminated Atlas Tack buildings. This will cost an estimated \$1.8 million. Phase II will include the excavation and restoration of the contaminated soils in the Commercial and Solid Waste and Debris Areas. The estimated cost for this work is \$11.3 million\*. Phase III includes the excavation and restoration of the marsh soils and the creek bed sediments. This phase is estimated to cost \$4.3 million. Monitored natural attenuation and monitoring of site restoration will cost approximately \$0.8 million.

\* see Figure 3—approximate Final Contour

## CHRONOLOGY OF KEY EVENTS

- **1970 through 1979** - Atlas Tack had numerous compliance problems regarding its National Pollution Discharge Elimination System (NPDES) Permits
- **1981 through 1991** - The Commonwealth of Massachusetts took a series of legal actions against Atlas Tack requiring it to conduct various site characterization and cleanup activities.
- **June 1985** - Atlas Tack ceases manufacturing operations in Fairhaven.
- **October 1985** - The Commonwealth completed removal of the wastewater lagoon
- **January 1987** - Site was listed on DEP's Hazardous Waste Sites list.
- **June 1988** - Site was proposed for inclusion on EPA's National Priorities List ("NPL").
- **February 1990** - Site was placed on the NPL.
- **1992** - EPA issued a Unilateral Administrative Order (UAO) requiring Atlas Tack to install and maintain a fence to limit access to the site.
- **May 1995** - EPA completed the Remedial Investigation (RI).
- **July 1998** - EPA completed the Feasibility Study (FS).
- **April 27, 1998** - EPA issued a General Notice of Responsibility and Potential Liability to Atlas Tack.
- **July 31, 1998** - EPA issued a General Notice of Responsibility and Potential Liability to the Hathaway-Braleigh Wharf Company.
- **August 13, 1998** - Superior Court judgment entered against Atlas Tack in an action taken brought by the Fairhaven Fire Chief to abate fire hazards at the Atlas Tack facility.
- **December 1998** - EPA issued a Proposed Plan for the selected remedy.
- **Fall 1998 through January 1999** - Atlas Tack demolished the middle section of the main building.
- **August 9, 1999** - EPA issued a second UAO to Atlas Tack to remove asbestos-containing materials from the front office building, rear three-story building and the power plant.
- **September 28, 1999 through February 9, 2000** - EPA removed asbestos from the buildings after Atlas Tack failed to comply with the August 9, 1999 UAO.
- **March 10, 2000** - The record of decision was signed.
- **October 2, 2000** - EPA issued a Special Notice of Responsibility and Potential Liability to Atlas Tack inviting Atlas Tack to perform the selected site cleanup remedy under a negotiated Remedial Design/Remedial Action (RD/RA) consent decree. Atlas Tack has not entered into the RD/RA consent decree with EPA.
- **January, 2001 to Present** - EPA completed the remedial design for the first two phases of the RA. EPA is also conducting a bioavailability study to better define the extent of cleanup necessary in the salt marsh areas (third phase of the RA).

► **Fig. 3**



## SECTION 2 - REUSE STATUS

From the standpoint of reuse, the site may be divided into areas based upon site characteristics. Additionally, consideration must also be given to the fact that there are two owners of two separate properties at this site. Thus, for reuse evaluation and planning purposes, the Hathaway-Braley's property and the Atlas Tack property should be considered separately. EPA currently has Superfund liens on both the Atlas Tack property and the Hathaway-Braley property.

### ►Atlas Tack Corporation Property

As described above, the Atlas Tack property consists of the Commercial Area, the SWD Area, the Marsh Area and the Creek Bed Area. As these areas of the site have different characteristics (and will be addressed separately in the remedial action), current and potential uses may vary between the respective areas, as will the potential use/reuse issues and considerations.

#### Commercial Area

##### Current and Potential Future Uses:

The Commercial Area portion of the site consists of the former main building, the power plant, several small outbuildings and the immediate surroundings (Map #8, lot #94 on the Town Assessors Map). This area is currently zoned industrial/commercial.

The central section of the main building has been demolished, but the terminal sections of the building are still intact and are in a state of extreme disrepair. The concrete slab below the central section still remains, but may be removed depending upon the extent of contamination below the slab and whether removal will facilitate the cleanup. The western section of the building is expected to remain. The eastern section of the building and the power plant are slated for demolition.



Rear of Administration Building

The western two story section was the administration building. Although potentially reusable, it appears to be in a state of extreme disrepair as do the other remaining buildings. EPA did not conduct a structural evaluation of the remaining buildings. EPA removed asbestos from these buildings in late 1999 through early 2000.

EPA has no information concerning Atlas Tack's intentions with respect to any future use or redevelopment of its property.

Although there was some discussion at a public meeting held on April 10, 1996, of the Town taking a portion of the site through a tax foreclosure, the Town has no plans for reusing the site at this time.

A poll of the attendees at the May 20, 1996 public meeting indicated that "eight favored a residential cleanup; 19 a commercial cleanup; and three favored a mixed (residential/commercial) cleanup." (Weston, 1998).

EPA's ROD assumes a commercial/industrial exposure scenario, although the remedy does not preclude other future uses providing the associated risk scenario criteria are met.

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**Potential Use/Reuse Issues and Considerations:**

To date, Atlas Tack has been unwilling to conduct the necessary cleanup. Accordingly, cleanup is unlikely to occur until EPA has available funding.

The Commercial Area has frontage on Pleasant Street and Church Street, which would likely be the primary route of access to the site.

The Commercial Area will be remediated to attain exposure levels acceptable for a commercial/ industrial area. In a commercial/industrial setting, cleanup levels based on direct human contact are generally established for the top two feet of soil. Additional soil removal may be necessary to meet the ecological threats, however.



Former Lagoon area

Institutional controls will also be implemented as part of the remedy. For the Commercial Area this will likely include restricting this area to non-residential use, and imposing restrictions or conditions on groundwater use and soil excavation.

**Solid Waste and Disposal Area****Current and Potential Future Uses:**

On the Atlas Tack property, approximately six acres (including the former lagoon area and the fill area) are considered part of the SWD Area. This area is also part of the parcel identified on the Town Assessors Map as Map #8, Lot 94. It is a significant source area for contamination. Much of this area was originally a salt marsh, however, and it will be returned to a functioning wetland. Wetland protection laws will likely preclude this area from being used for other purposes.

**Potential Use/Reuse Issues and Considerations:**

None Identified.

**Marsh and Creek Bed Area**

The remedy selected in the ROD provides for excavation and restoration of the Marsh and Creek Bed Areas of the site (including areas north and south of the hurricane barrier). The extent of this remediation has not yet been determined. It is expected that the decision will be made in conjunction with the other remedy design activities that are currently in progress for the site. Atlas Tack owns the marsh area north and immediately south of the hurricane barrier. Other sections of the south marsh area are owned by the town and either owned or controlled through an easement by Commonwealth Electric.

**Current and Potential Future Uses:**

Should the salt marsh areas need remediation, they will be remediated through excavation, natural attenuation, monitored groundwater, and the excavated areas will be restored. Development of wetland areas may be limited and/or precluded entirely by applicable law. Further, institutional controls may also be established to further limit these areas to certain recreational uses.

**Potential Use/Reuse Issues and Considerations:**

None Identified.

### ►Hathaway-Braley Wharf Company Property

This property abuts the southeast side of the Atlas Tack property and is approximately 500 feet southeast of the main building on the Atlas Tack property (Map # 6, Lot # 46 on the Town Assessors Map). In terms of site characterization and remedial action, this parcel includes both a portion of the SWD Area as well as a portion of the marsh area.

#### **Current and Potential Future Uses:**

The property consists of an upland wooded area, a fresh water wetland area and a salt marsh area. There are no structures currently on this parcel and it is not known if any portions can be built on. As noted above, this parcel includes the CID area.

Because much of the parcel is considered wetlands, it is expected that following remediation and restoration, this area will be used primarily for wildlife habitat and conservation purposes.

#### **Potential Use/Reuse Issues and Considerations:**

This property has a small amount of frontage on Church Street.



Hathaway-Braley Company Property

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## SECTION 3 - GENERAL FINDINGS/RECOMMENDATIONS

This section summarizes some issues that may impact the future use of the site and outlines follow-up actions by EPA to refine its understanding of potential future uses of the site, consistent with the general exposure scenarios established in the ROD.

Because the individual site parcels are owned by private parties, EPA's primary role will be to ensure that local reuse efforts are considered in EPA's decision making with respect to the site response actions.

### Potential Reuse Issues/Considerations

This document is based on available information, and the reuse issues and considerations identified in this section may represent only a partial list of the potential site-specific factors that may need to be considered. Future development at the site is presumed to be limited to the non-wetland portion of the property.

**Project Timing:** With the remedial design for the initial cleanup phases complete, EPA will begin implementation of the selected remedy as funding becomes available. EPA's ability to consider potential changes to the remedy will be increasingly limited as the implementation proceeds. It is, therefore, important that any site reuse proposals be brought to EPA's attention as early as possible.

**Third Party Liability Concerns:** Any party interested in redeveloping the site needs to be aware of and consider Superfund liability issues.

**Site Ownership/Control:** The site parcels are currently owned by Atlas Tack and Hathaway-Braley Wharf Company, which are not pursuing site cleanup or site reuse. Atlas Tack is not currently performing the RD/RA work at the site. EPA costs incurred at the site to date are approximately \$5.5 million. The future cost of the cleanup is projected to be approximately \$18,200,000.

**Site Reuse Planning:** At some point in the future, the town may initiate reuse planning that involves all or part of the site. Depending on the nature and timing of this reuse planning, EPA may be able to provide technical assistance or other resources to support those efforts. However, it should again be noted that EPA's ability to accommodate future site reuse may be more limited at this stage of the remedial process.

Among the EPA resources potentially available for site-related reuse planning are Superfund Redevelopment Initiative ("SRI") pilots. SRI pilots provide up to \$100,000 in funding or other resources to enable local communities to better evaluate future land use options at nearby Superfund sites. The active involvement of the community and other stakeholders in the site reuse planning process is viewed by EPA as a critical component of the SRI Pilots. Only federal, state, local and tribal governmental entities are eligible and the typical recipients are municipal and tribal governments. EPA may recover the costs of the SRI Pilot from the PRPs at the site.

**Institutional Controls:** The remedy contemplates that institutional controls will be implemented at the site. These likely will prohibit residential use (and certain other uses such as daycare centers and community gardening) and restrict future soil excavation and construction activities in designated areas. Installation and use of groundwater wells will also likely be prohibited. The removal of most of the contamination source is expected to significantly reduce the levels of contamination in the groundwater over time, however, and any restriction on groundwater use might ultimately be eliminated once the groundwater quality meets all appropriate criteria.

### Recommendations for Follow-up

As stated previously, EPA is best able to accommodate site reuse when specific proposals are available early in the remedial process. The same is true for any reuse planning activities that might involve the site. EPA is not aware of any reuse proposals for the Atlas Tack property, or of any efforts by the town or other parties to acquire the property. Nonetheless, should such intentions be presented in the future, there are a number of ways that EPA may be able to support site reuse during the implementation phase of the cleanup, such as:

- a. Making available guidance materials and providing technical assistance regarding
  - i. EPA policies and requirements pertaining to site reuse; and
  - ii. Relevant federal/state programs and potentially-available resources.
- b. Considering proposed reuse plans in the implementation and scheduling of cleanup activities.
- c. Working with current and future owners to evaluate the feasibility of a proposed use in terms of adverse impact on the remedy, undue risks posed or inconsistency with the requirements of institutional controls.
- d. Working with the town to help them assess their options relative to the future acquisition of site properties. This could possibly include providing limited resources to assist with community-based, reuse planning efforts.

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## **APPENDIX A - Reference Documents Cited**

Weston, 1995 - Remedial Investigation report - Atlas Tack Corporation, Fairhaven, Massachusetts (May 5, 1995), Volume I.

EPA, 2000 - Decision Summary for Record of Decision - Atlas Tack Corporation, Fairhaven, Massachusetts (March 2000).

Weston, 1998 - Draft Final Feasibility Study - Atlas Tack Corporation Superfund Site - Fairhaven, Massachusetts (July 1998), Appendix A.1(a) - "Minutes of the public meeting on 20 May 1996, and the letter dated 11 September 1996 (Town of Fairhaven, Massachusetts)".



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