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## **Reuse and Redevelopment Planning Alternatives Blackburn & Union Privileges Superfund Site Walpole, MA**

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## **Executive Summary**

The Blackburn & Union Privileges Superfund Site, located on South Street in Walpole, Massachusetts is a Superfund Site and listed on the U.S. Environmental Protection Agency (EPA) National Priority List (NPL). This Reuse and Redevelopment Planning report was prepared by The Superfund Committee of the Town of Walpole (Town) based upon a two-year process of soliciting and obtaining input from all stakeholders.

The Superfund Committee's mission is to present its recommendations for reuse and redevelopment of this site to the Board of Selectmen and then ask them to support the recommendations or make changes and forward the Town's recommendations to EPA. The Committee's recommendations are based on the site background, the environmental status of the site, development considerations and most importantly feedback that they received from the public.

Town input will help EPA understand how people might use the site and therefore, help USEPA make informed risk decisions on the standard of cleanup of the site based on future use of the site.

This report will outline information gathered about the site by various parties, identify the interests of various stakeholders and articulate a roadmap to redevelopment identifying various options for the stakeholders.

### **Committee's Recommendations**

Based upon all the input gathered during public programs, as well as other considerations on May 18, 2004 the Superfund Committee voted on several motions, including:

- To recommend to the Town that they obtain parcels 41-53 and 33-123 by tax title.
- To explore developing trails on the peripheral properties east of Cosmec and to explore the Town talking control of those parcels.

The Committee also formally voted on their preferred and alternative development schemes. The Committee's preferred scheme would include municipal buildings on Area B and Commercial offices/Light industrial on Area A. Alternatively, the Committee chose a second option should their preferred scheme not be viable. The alternative option would include

qualified age restricted housing on Area B and Commercial offices/Light industrial on Area A.

### **Site Background**

The Site is located just south of the intersection of South Street and Common Street, approximately one-half mile south-southeast of the center of Walpole. It is bisected by both South Street and the Neponset River.

Industrial and commercial activities have historically occurred on much of the Site. The former Kendall Mill located on Area A was used for industrial purposes through the late 1980s. Since that time, Area A has been vacant. Today, Area B includes five industrial/warehouse buildings, which are occupied by Cosmec, Inc. a manufacturer of bearings and bushings. The peripheral parcels in Area C are residential and non-commercial properties, as is much of the neighborhood. The thirteen parcels are currently zoned Limited Manufacturing, Residential B, General Residential, and Industrial.

The Site lies within the boundaries of the Neponset River drainage basin. Municipal wells located within 4 miles of the site draw water from the School Meadow Brook/Mine Brook aquifer. In 1988, USEPA designated the head of the Neponset aquifer a Sole Source Aquifer.

The Neponset River bisects the Site in several locations. Portions of the Site contain wetlands and are located in the 100 Year Flood Zone and the 100' River Protection Buffer.

### **Environmental Status**

The site is currently in the Remedial Investigation phase in the CERCLA process. It is being investigated by Tyco Incorporated, the sole respondent to the Administrative order of Consent for performance of the Remedial Investigation/Feasibility Study. This report will provide the basis for considering various options for cleanup as part of the feasibility phase of the process. The report discusses the nature and extent of the contamination found on site and its potential impact on reuse.

### **Development Considerations**

The Town of Walpole completed a combined Master Plan and EO418 community Development Plan dated June 2004 (Master Plan). The Plan identifies the Superfund Site as an Economic Opportunity Area and recommends that redevelopment concepts for the site

should take into account its relationship to the downtown. Recent public opinion has supported retention and expansion of commercial taxpayers, thus the committee has kept such sentiments and approaches in deliberations of reuse options.

The Master Plan also included a comprehensive review of town buildings and facilities. According to the Master Plan, public safety departments, the Senior Center, the Library and Town Hall need more space and upgrades. The Library Director, on behalf of the Library Board of Trustees, submitted a letter to the Superfund Committee asking them to consider the Site as a potential place for the construction of a new library.

Portions of the Site abut town property on the eastern border. The Master Plan recommends expanding open space and creating a Green Network. The Green Network, as proposed in the Master Plan, intersects and overlaps the Site in several locations.

A draft market analysis prepared by Bonz and Company concluded that the site would be best suited for residential and recreational uses. The report indicated that the site is not well located for office or retail uses, and current market conditions are prohibitive for new industrial development.

This report explores each of these approaches to redevelopment and outlines the potential risks associated with the processes. Additionally, the issue of a 'windfall lien' was addressed. A windfall lien gives EPA the right to collect costs should it be determined that their actions resulted in an increase in value of the property. A windfall lien may or may not be a significant financial impact on the redevelopment financing.

### **Public Participation**

Numerous stakeholders were involved throughout the development of this reuse plan for the Blackburn & Union Privileges site. The public participation programs included a public question and answer meeting, a Visioning Workshop which 60 people attended, a redevelopment workshop for town officials, a Board of Selectman meeting, and an EPA public meeting. In addition, a survey was distributed to site abutters.

### **The Redevelopment Process-the Next Steps**

In order to move forward with redevelopment, a number of steps need to be taken. These steps should be timed such that they help move the USEPA's approval process forward. Additional information needs to be gathered with regard to the real estate market, available state and federal incentive programs and the options and costs of redevelopment.

Once a redevelopment process is determined, the Town authorities must endorse the redevelopment process and the role that the Town intends to take. The Town needs to be decisive about the role it chooses and provide that information to the USEPA and the responsible parties on the site.

It will be necessary as part of the implementation of the redevelopment plan to negotiate acceptable timeframes that allow for the coordination of the cleanup and redevelopment. Only by agreeing ahead of time as part of the consent decree, can redevelopment of the Blackburn and Union site move forward. The Town's timing of actions is interdependent with EPA and the PRP's cleanup schedule.

## **1.0 Purpose**

The Blackburn & Union Privileges Superfund Site, located on South Street in Walpole, Massachusetts is a Superfund Site and listed on the U.S. Environmental Protection Agency (EPA) National Priority List (NPL). This Reuse and Redevelopment Planning Report (Reuse Report) was prepared by The Superfund Committee of the Town of Walpole (Town) with support of Vita Nuova LLC, a national consulting firm focused on the redevelopment of environmentally-contaminated property.

The Superfund Committee, a subcommittee of the Walpole Economic Development Committee, is composed of members of Walpole's local government and community. It is comprised of Richard Adams (resident and abutter to the site), Clem Boragine (Assessor), Steele Lightbody (Fire Captain), Paul Millette (member of the Walpole Economic Development Committee), Ken Fettig (Chairman of the Walpole Economic Development Committee) and Robin Chapell (Health Agent). The Health Agent did not vote in any of the decisions.

The Committee also received valuable advice and opinions from Mark Good (Finance Director), Gail Nixon (Deputy Health Agent), and Michael Boynton (Town Administrator). Fuss & O'Neil, Bonz & Company, and Walpole Town Counsel provided technical, marketing and legal advice on certain tasks of this project. Sanborn Head and Associates, Inc., consultants for Tyco, Inc. provided environmental data and maps for our use and consideration.

The Town had several objectives in developing a reuse plan for the Blackburn & Union Privileges Site. The objectives were to:

- Understand the contamination at the site.
- Understand how the contamination will impact remediation and future use.
- Seek Public input, including abutters, to help determine the best future use of this site.
- Include all stakeholders to help determine the best use for this site.
- Integrate the needs of the community into future uses of this site.
- Understand the current neighborhood to develop a supportable reuse plan.

The stakeholders for this project include the following:

- Town of Walpole, including appropriate departments and representatives
- US EPA, Region 1
- Massachusetts Department of Environmental Protection
- Walpole Superfund Committee
- Shaffer Realty Nominees Trust, Solomon Feldman, Attorney
- Tyco Healthcare Group, LP, Craig H. Campbell, Attorney
- Abutters and neighbors

## 2.0 Site Background and Environmental History

### 2.1 Site and Project Definition

The Blackburn and Union Privileges Superfund Site (Superfund Site), as defined in the USEPA Administrative Order by Consent, includes 21 parcels of land over an area of approximately 22 acres. The Superfund Site consists of both *On-Facility* and *Off-Facility* properties, as well as other locations where contamination has come to be located.

This Reuse Report addresses twelve parcels within the Superfund Site boundary, as well as a two acre parcel of vacant land currently owned by various Shaffer interests, including Shaffer Realty Nominee Trust and the BIM Investment Corporation (collectively, the Shaffers). See Figure 1: Reuse Planning Parcels.

For the purposes of analyzing the parcels for reuse, the thirteen parcels totaling nearly 25 acres (herein referred to as the Site) have been divided into three distinct areas (See Figure 2: Areas of Consideration):

#### Area A: Former Kendall Mill Site (Parcels West of South Street):

Area A consists of 3 parcels (Map/Lot 33/172, 33/173, and 33/174) known as the former Kendall Mill site and totaling 5.89 acres. Located on the west side of South Street, it includes a 62,746 square foot former mill building. A portion of this area contains a capped asbestos landfill.

#### Area B: Parcels East of South Street:

Area B includes five lots on the east side of South Street totaling 5.25 acres. Lots 33/126, 33/127, and 33/128 are occupied by Cosmec, Inc. and contain industrial buildings. Lots 33/121 and 33-130 are vacant parcels located adjacent to the Cosmec properties.

#### Area C: Peripheral Properties:

The five peripheral parcels of land total approximately 15 acres. A railroad bed (33-120) accounts for over 8.5 acres and runs parallel to South Street. The remaining four parcels (33-123, 33-137, 33-129, 41-53) are all vacant parcels of land.

Figure 1: Reuse Planning Parcels

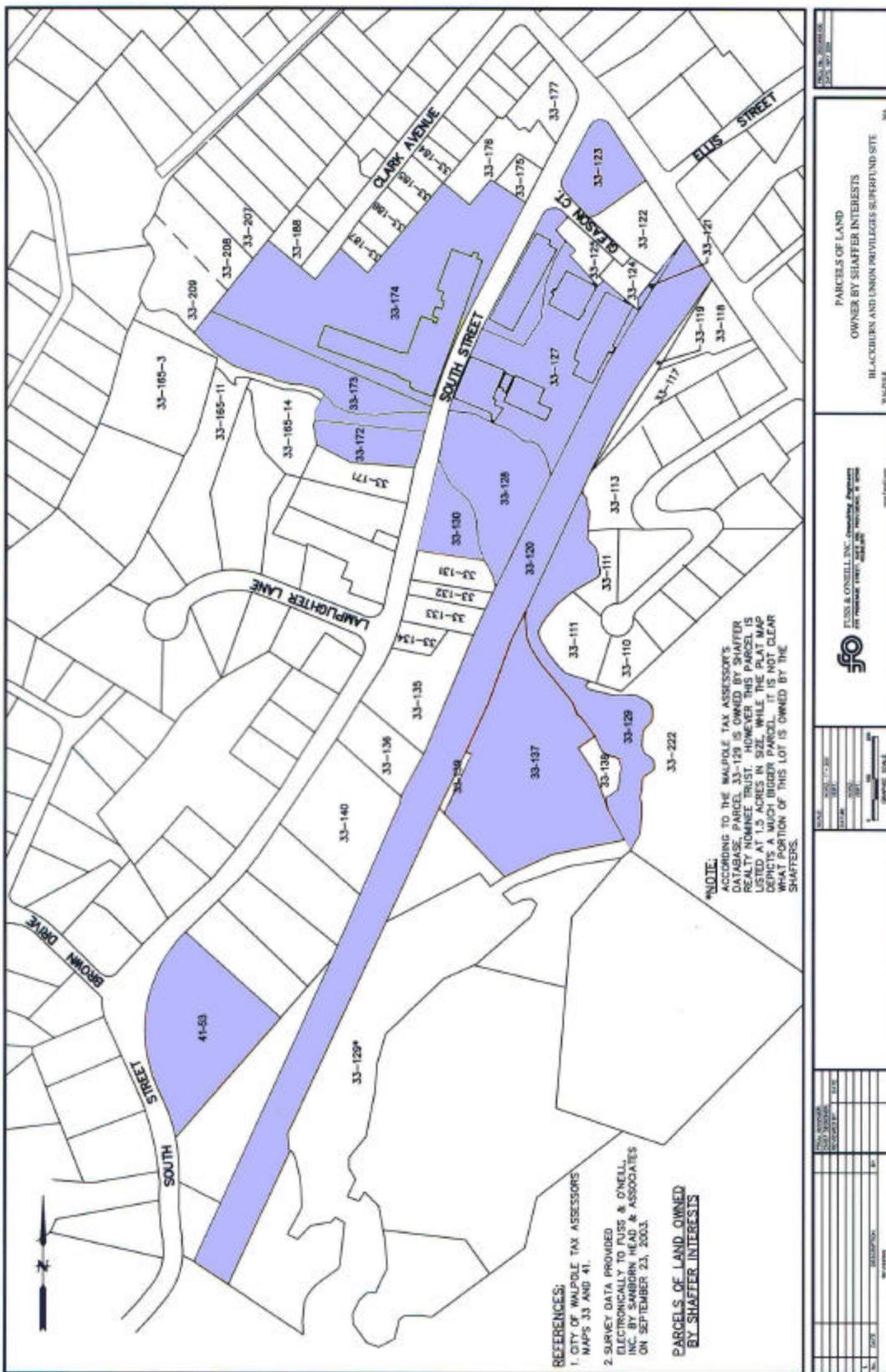
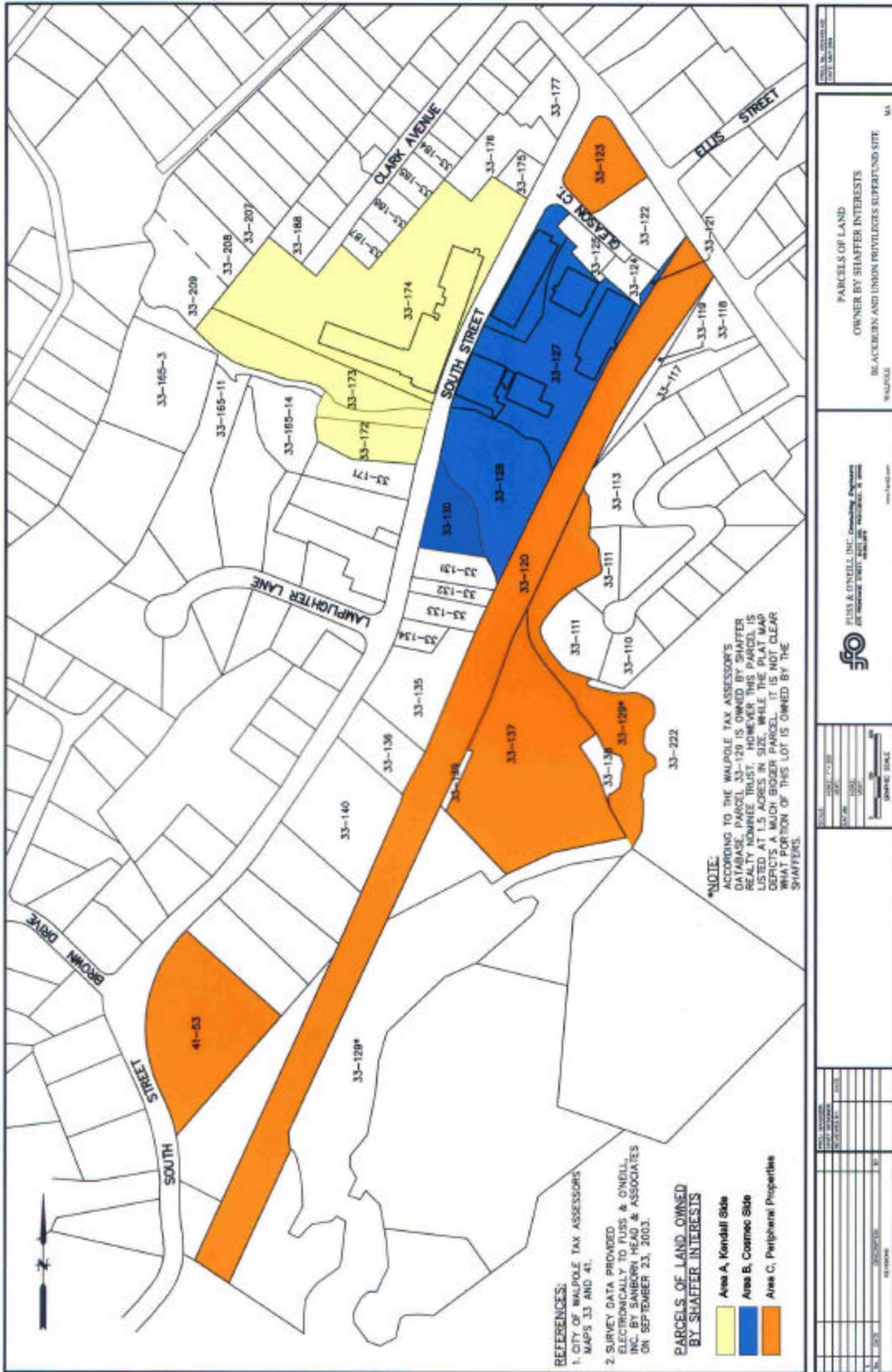


Figure 2: Areas of Consideration



## 2.2 Site Ownership

Presently the Town does not own the Site. The parcels are owned by the Shaffers under two corporate entities. According to the Town of Walpole Assessor's Database, Lots 33/172 and 33/174 of Area A are owned by B I M Investment Corporation. The remaining eleven lots are owned by Shaffer Realty Nominee Trust, c/o R K Bozzo.

The relationship between the owner, the Town and EPA has not been cooperative. Most of the parcels have been in tax arrears since fiscal year 1989. According to the Town of Walpole Finance Director, over \$1,000,000 in back taxes are delinquent including penalties and interest. Interest is accruing at a rate of about \$81,000 a year. The outstanding taxes due, on a parcel basis, are as follows:

<b>Year Taken</b>	<b>Map/lot</b>	<b>Principal Due</b>	<b>Interest Due</b>	<b>Total Due</b>
1989	033/172	\$ 13,585	\$ 13,970	\$ 27,555
1989	033/173	\$ 10,149	\$ 11,129	\$ 21,277
1989	033/174	\$ 106,205	\$ 149,228	\$ 255,434
1989	033/121	\$ 1,318	\$ 1,726	\$ 3,044
1989	033/126	\$ 92,811	\$ 105,701	\$ 198,512
1989	033/127	\$ 220,380	\$ 235,637	\$ 456,017
1989	033/130	\$ 10,889	\$ 13,070	\$ 23,959
1989	033/123	\$ 16,954	\$ 17,440	\$ 34,394
1989	041/053	\$ 24,983	\$ 26,219	\$ 51,201
1998	033/120	\$ 8,676	\$ 4,009	\$ 12,685
2003	033/129	\$ 323	\$ 15	\$ 338
<b>Total</b>		\$ 506,272	\$ 578,144	\$ 1,084,416

Parcels 33/128 and 33/137 have not been taken by tax title. However, the parcels have been in tax arrears for approximately one and a half years, owing \$465.89, plus interest and charges.

An on-line review of the Norfolk County Registry of Deeds did not identify any unsatisfied mortgages or liens on these parcels of land. A comprehensive title search would be required in order to further identify any legal encumbrances on the parcels.

The Town may foreclose the property owner's right to redeem the tax under the authority found in MGL Chapter 60. Throughout the redevelopment planning process, extensive discussions were held with regard to the Town acquiring this site through foreclosure proceedings. A detailed discussion of the Town's concerns is included in Section 4 of this Reuse Report.

### 2.3 Site Location

Walpole, Massachusetts is a suburban community located approximately 20 miles to the South of Boston. The Site is located just south of the intersection of South Street and Common Street, approximately one-half mile south-southeast of the center of Walpole. It is bisected by both South Street and the Neponset River.

The Site is located just off of I-95 roughly 7 miles from I-495 and 7 miles from the intersection of I-95 and I-93. The MBTA Commuter Rail with service to Boston is located approximately one mile away in the town center on West Street.

The Site is neighbored in all directions by residential properties. Walpole High School is located approximately 1,000 ft east of the Site on Common Street; Plimpton Elementary School is located immediately southeast of Walpole High School.

There are some commercial properties south of the Site on South Street, which include mini-storage, auto repair, propane distribution, and a landscaping company. The site is separated from these sites by topography and by residential neighborhoods.



**Figure 3:** Aerial photograph of the railroad bed shows Walpole Senior High School, Plimpton Elementary School, the Neponset River and recreational fields to the east and southeast. Some commercial properties can be seen west of the railroad bed.

## 2.4 Land Use and Zoning

Industrial and commercial activities have historically occurred in Area A and portions of Area B since the 17th century. Snuff, iron, nails, cotton, and wool were produced at the Union Privilege site and a tannery was located in this area. Power was generated by a dam on the Blackburn Privilege for the production of machinery, cotton, yarn, batting, and lamp wicking. Until 1959, Lower Mill Pond covered Lot 33-128 and portions of Lot 33-129.

Beginning in 1915, Standard Woven Fabric Co. manufactured asbestos brake linings that involved the crushing of raw asbestos on the parcels in Area A. In 1920, the company changed its name to Multibestos. In 1937, the plant was closed and the properties were sold to Kendall Co., which used the site for various cotton and fabric production processes. The plant was closed in the late 1980s. Since that time, Area A has been vacant.

Today, the parcels in Area B include five industrial/warehouse buildings, which are occupied by Cosmec, Inc. a manufacturer of bearings and bushings. Cosmec has approximately 75 employees. Parcels 33-128 and 33-130 are predominantly wetlands.

The peripheral parcels in Area C are residential and non-commercial properties, as is much of the neighborhood.

The thirteen parcels are currently zoned Limited Manufacturing, Residential B, General Residential, and Industrial. The size, current usage and zoning of the parcels are as follows:

### Area A: Kendall Mill Sites

33/172	0.48	vacant	zoned RB
33/173	0.71	vacant - edge river	zoned LM
33/174	4.7	2 story mill building	zoned LM

### Area B: Cosmec Sites

33/121	0.24	Sliver of land at end of Gleason	zoned GR
33/126	0.71	1 story warehouse	zoned GR
33/127	2.3	4 industrial buildings	zoned LM
33/128	1.50	vacant	zoned IND
33/130	0.50	vacant	zoned LM

Area C: Peripheral Sites

33/120	8.62	old railroad bed	zoned LM
33/123	0.65	vacant corner lot at Common St.	zoned GR
33/129	1.50	vacant	zoned RB
33/137	3.50	vacant	zoned GR
41/53	2.0	vacant	zoned LM

A general description of allowable uses under the zones is as follows.

- **Limited Manufacturing:** church or place of worship, religious or public education, nursery school or day care, public safety or administration, recreational or water supply use, commercial recreation, customary home occupation, professional office, rooming house, garaging or maintaining of vehicles or service station, Christmas tree sales, store for sale of goods, showroom for building supplies, retail bakeries, restaurant, shop for builders and carpenters etc., printing or publishing, business or professional office, funeral parlor, hotel, kennel, light manufacturing, small and medium shopping malls, wholesale office, warehouse, outside storage of materials, bottling or packaging, metals and plastic fabrication, manufacturing electrical devices or components, manufacturing of other goods as defined. Age Qualified Village and Assisted and Independent Living Facilities are allowable by Special Permit. Additional uses may be possible with a special permit.
- **Residential B:** church or place of worship, religious or public education, library or community building, nursery school or day care, public safety or administration, recreational or water supply use, agricultural production, detached one family dwelling, professional office, and rooming house. Assisted and Independent Living Facilities and Residential Care are allowed by Special Permit. Additional uses may be possible with a special permit.
- **General Residential:** church or place of worship, religious or public education, library or community building, nursery school or day care, public safety or administration, recreational or water supply use, detached one family dwelling, professional office, rooming house. Assisted and independent living facilities, multi-family, nursing homes, and residential care are allowable by Special Permit. Additional uses may be possible with a special permit.

- **Industrial:** church or place of worship, religious or public education, nursery school or day care, recreational or water supply use, customary home occupation, professional office, rooming house, garaging or maintaining of vehicles, Christmas tree sales, showroom for building supplies, shop for builders and carpenters etc., printing or publishing, wholesale office, truck terminal, warehouse, outside storage of materials, bulk processing or wood or lumber, laundry or dry cleaning, research or testing laboratory, bottling or packaging, metals and plastic fabrication, manufacturing electrical devices or components, quarry, manufacturing of other goods as defined. Public safety, commercial recreation by Special Permit. Additional uses may be possible with a special permit.

In order to combine these parcels for redevelopment, the reuse would need to qualify under all applicable zoning. The following uses would currently be allowed in all four zones without a Special Permit. Additional uses would be allowed with a special permit.

- Church or place of worship, religious or public education, library or community building, nursery school or day care, public safety or administration, recreational or water supply use, professional office, or rooming house.

If the intended development required the assemblage of parcels for a use not listed above, a zone change may be required. In the Town of Walpole, zone changes must be requested through the Zoning Board of Appeals and be voted on in a Town Meeting.

## **2.5 Site Characteristics**

The following site information was obtained from fact sheets and reports prepared by the USEPA, Sanborn Head and Associates, Inc. and Fuss & O'Neill, Inc. Photos have been obtained online from the Town of Walpole Assessor's Database.

The site lies within the boundaries of the Neponset River drainage basin which bounds the southern portion of the site. Municipal wells located within 4 miles of the site draw water from the School Meadow Brook/Mine Brook aquifer, one of two well fields which supply drinking water to approximately 19,500 people of the Town of Walpole. In 1988, USEPA designated the head of the Neponset aquifer a Sole Source Aquifer.

Area A:



Area A consists of nearly six acres of land. The main parcel of Area A contains a 62,746 square foot building constructed in several sections at different times throughout its history. The Neponset River bisects Area A within parcel 33-173. The site lies within the boundaries of the Neponset River drainage basin. Portions of the site along the River are located in the 100 Year Flood Zone, the 100' River Protection Buffer.

The 1992 Removal Action on the site changed the area's landscape. During the Removal Action, asbestos-containing soil was consolidated in an area located south of the former mill building and additional asbestos-containing soils were consolidated in a high density polyethylene-lined containment cell located west of the mill building. This area was capped with a 30 inch soil cover and has been fenced to ensure that the cap remains undisturbed. An asphalt cap was constructed over an area of concern north of the building.

In addition, a plate arch culvert, approximately 400 feet in length, was installed along the original alignment of the Neponset River to prevent potential erosion of asbestos-containing soils from the banks of the Neponset River in this area. The impact of these actions is discussed in Section 4 of this Reuse Report.

Area B:

Area B includes five contiguous parcels of land totaling approximately 5.25 acres east of South Street. Two parcels currently contain five buildings occupied by Cosmec, Inc.



The Neponset River bisects this area at the boundary of between lots 33-127 and 33-128. Portions of the site along the River are located in the 100 Year Flood Zone, and the 100' River Protection Buffer.

Prior to approximately 1959, this area comprised a pond known as Lower Mill or Union Pond. Lower Mill Pond was created by a dam located at South Street on the Neponset River and was a predominant site feature between approximately 1904 and 1958. Water was diverted from the dam through a canal

constructed just north of the Neponset River, through a power house and then a tailrace before discharging back in the Neponset River west of the Site in an area referred to as the former mill tailrace. Records indicate that the dam failed in 1959, from which time the tailrace was no longer used.

According to Normandeau Associates, Inc.'s 2001 Ecological Site Characterization Report, this portion of Area B includes approximately 21,000 square feet of wetland located along the eastern bank of the Neponset River, between South Street and the former railroad bed. According to Normandeau, this area "is now most accurately classified as a Shallow Emergent Marsh (70%), with a young Alluvial Red Maple Swamp component (30%) on its northern edge."

#### Area C:

The five peripheral parcels of land that comprise Area C vary in size and characteristics. Portions of the area are located within the 100 Year Flood Zone, the 100' River Protection Buffer.



Lot 33-123 is a vacant parcel of residential land located at the corner of South and Common Streets. This parcel is bordered to the west by Gleason Court and is not contiguous to any of the other properties within the Site.

Lot 33-120, a former railroad bed, accounts for over 8.5 acres of land and runs north/south parallel to South Street. Wetlands exist with the site at various locations.



On the Walpole Plat Map, Lot 33-129 is identified as the Neponset River. A 1.5 acre portion of the lot is residential land located southeast of the railroad bed. Historical information indicates that the Lower Mill Pond covered portions of this lot until 1959. Wetlands cover much of the 1.5 acres.

Lot 33-137 is approximately 3.5 acres which include approximately two acres of wetlands. The Normandeau report identified approximately 66,500 ft<sup>2</sup> of wetland located on the western side of the Neponset River, characterized as an Alluvial Red Maple Swamp. In



addition, approximately 19,000 ft<sup>2</sup> of Shrub Swamp islands are within the Neponset River on the site. Normandeau indicates that “this wetland likely provides a useful riparian corridor, and it is located in close proximity to the pond above the dam (Blackburn Pond).”

Lot 41-53 is not part of the Superfund Site. The lot is two acres of industrial zoned land located east of the intersection of Brown Drive and South Street. The parcel is not contiguous to any other property within the Site. This site has not been assessed with regard to wetland and topography.



## 2.6 Site Improvements

The Site includes six buildings, the former mill building on Area A, and five buildings located in area B. The Town of Walpole retained Fuss & O’Neill to perform a cursory inspection of the interior and exterior accessible portion of each of the six buildings. A structural Engineer from Fuss & O’Neill accompanied Steele Lightbody during a cursory inspection of the six buildings on March 30, 2004. A Memorandum of findings was completed by Fuss & O’Neill and is included in Appendix C.



The former mill building on Area A is approximately 62,746 square feet and contains several sections constructed at different times. Generally the older sections of the building appear to be in fair condition (but missing mortar and voids on the exterior surface) and the newer sections appear to be in good condition.

The five buildings in Area B vary in size, construction and condition. Building #1 is a two-story 25,560 square foot building constructed of timber framing and roofing. Some of the second floor timber beams and roof joists have been strengthened with steel. Several areas of the roof are leaking and a concrete retaining wall adjacent to the north end of the building is failing. Overall, the building is in fair condition.

Building #2 is a 7,440 square foot pre-engineered metal building. The building appears to be in good condition although one interior support pedestal is cracked.

Building #3 is a 13,596 single story warehouse construction of steel framing and metal roofing with non-bearing concrete block exterior walls. The building appears in good condition although there are areas of cracking in the masonry wall joints.

Building #4 is 5,921 square foot warehouse building consisting of steel roof framing and timber roofing supported on brick masonry walls. The building is showing signs of general deterioration and is generally in fair condition.

Building #5 is a single story 9,327 foot building that appears to have undergone several modifications. The building consists of steel framing with metal roofing supported in some areas by brick masonry walls. In other areas, the building is supported by steel columns and covered with corrugated metal siding. The steel portions of the building appear in good condition while the brick walls are in fair to poor condition.

No comprehensive inspections have been conducted on the buildings. Additional investigations, asbestos inspections, and cost estimates for demolition would be required prior to fully determine reuse options.

### **3.0 Environmental History and Site Status**

#### **3.1 Environmental History**

The following site information was compiled from fact sheets and reports prepared by the USEPA, Sanborn Head and Associates, Inc. and Fuss & O'Neill, Inc.

The Blackburn and Union Privileges Superfund Site is approximately 22 acres in size. Once known as The Blackburn Privilege and The Union Factory Privilege, these two areas were originally part of 10 distinct water privileges established along the Neponset River in the 17th century. Industrial and commercial processes conducted during the 17th and 18th centuries involved various hazardous substances, including chromium, arsenic, and mercury. Beginning in 1915, Standard Woven Fabric Co. manufactured asbestos brake linings that involved the crushing of raw asbestos. In 1920, the company changed its name to Multibestos.

In 1937, the plant was closed and the properties were sold to Kendall Co., which used the site for various cotton and fabric production processes. During Kendall's occupation of the Superfund Site, wastewater discharges from on-site operations were treated in a neutralization tank located at the southwest corner of Kendall's facility. Subsequent to neutralization, process water was discharged to two settling basins where cotton fibers settled out. Neutralized wastewater was then discharged to the Walpole sanitary sewer. Kendall stopped using the first lagoon as a disposal area in 1982; the second lagoon received non-contact cooling waste until 1985. Environmental investigations were initiated on the site in 1985.

The current owners of these properties are Shaffer Realty Nominee Trust and BIM Investment Trust. In 1988, Shaffer Realty Nominee Trust and BIM Investment Trust removed buried tanks and disposed of them off site.

During an asbestos Removal Action in 1992, asbestos-containing soil excavated from various areas of the Superfund Site was consolidated in an area located south of the former mill building. In addition, excavated asbestos-containing soil from the former mill tailrace was consolidated in a high density polyethylene-lined containment cell constructed in a former Settling Basin west of the former mill building. These areas south and west of the former mill building, along with an existing area of asbestos-

containing soil north of the former mill building have been designated the Area of Containment (AOC). South and west of the former mill building, the AOC is capped with six inches of clean topsoil, placed over 24 inches of clean sand; north of the mill building, the AOC is covered with an asphalt cap. A 400-foot long aluminum plate arch was built to isolate a portion of the Neponset River running through the area where asbestos contaminated soils were consolidated and capped. The AOC is subject to deed restriction and its perimeter is surrounded by an eight-foot high barbed-wire security fence.

The property was placed on the USEPA Superfund list on May 31, 1994. The Superfund Site consists of both “on-facility” properties of historic industrial usage, and “off-facility” properties that have been potentially impacted by contamination. An investigation into the nature and extent of contamination began in October 1999. Once the investigation is complete, cleanup alternatives will be recommended.

### **3.2 Environmental Status**

The site is currently in the Remedial Investigation phase in the CERCLA process. The site is currently being investigated by Tyco Incorporated, the sole respondent to the Administrative Order of Consent for performance of the Remedial Investigation/ Feasibility Study. A draft remedial investigation will be submitted to EPA by Tyco’s consultant Sanborn Head and Associates in November 2004. This report will provide the basis for considering various options for cleanup as part of the feasibility phase of the RI/FS.

The Town’s input on potential uses of the property is essential at this point so that EPA may consider future use as part of the remedy selection. The Town was awarded a Superfund Redevelopment Pilot Grant to be used to develop this redevelopment plan using public input. This input will help EPA understand how people might use the site and therefore, help EPA make informed risk decisions based on future use of the site.

### **3.3 Nature and Extent of Contamination**

The Town of Walpole retained Fuss & O’Neill, Inc. (Fuss & O’Neill) to provide a summary of environmental conditions of the properties in Walpole, Massachusetts owned by the Shaffer Realty Nominee Trust and BIM Investment Corporation. Fuss & O’Neill developed their summary using data collected by Sanborn Head and

Associates on behalf of Tyco Healthcare, and documented in the Phase 1A Remedial Investigation report dated July 2002.

Charles L. Head, P.E. and Bradley A. Green, P.G. of Sanborn Head reviewed Fuss & O'Neill's summary report dated May 13, 2004. In their Memorandum dated June 24, 2004, Sanborn Head stated, "Given the Remedial Investigation (RI) Report has not yet been completed, SHA feels it is premature to comment on the nature and extent of contamination."

The following includes excerpts of Fuss & O'Neill's report. A complete copy of their letter report dated May 13, 2004 is contained in Appendix A. In addition, portions of the following section were taken directly from the Initial Site Characterization Report, prepared by Sanborn Head and Associates, submitted to the Town of Walpole in July 2003.

According to the Phase 1A Remedial Investigation report dated July 2002 prepared by Sanborn Head and Associates on behalf of Tyco Healthcare, the primary contaminants detected at the Site during the Phase 1A RI include elevated pH and metals, and to a lesser degree polyaromatic hydrocarbons (PAHs) and aromatic volatile organic compounds (AVOCs). In general, the predominance of soil contaminants resides below the capped portion of the AOC. Soil contamination was also detected intermittently in the industrial area east of South Street currently occupied by Cosmec, as well as in portions of the former railroad ROW. Potential soil contamination detected in other Site areas was significantly limited in both areal extent and concentration.

According to Fuss & O'Neill's summary, the primary environmental concerns of materials found that exceeded regulated levels in each of these areas are:

Area A:

Shallow and deep groundwater under the industrial parcels west of South Street contained concentrations of metals, semi-volatile organic compounds (SVOCs), volatile organic compounds (VOCs), and pH at levels exceeding Massachusetts Contingency Plan (MCP) criteria.

This portion of the site includes the deed restricted and capped asbestos landfill. Deep soil in the capped landfill contained concentrations of asbestos, metals, polynuclear

aromatic hydrocarbons (PAHs) and pesticides that exceed the MCP criteria. No shallow soil samples were collected from within the landfill cap.

Shallow soil samples collected in areas outside of the landfill contained metals, pesticides, and PAHs at concentrations exceeding the criteria. Deep soil outside of the landfill contained concentrations of metals, PAHs, VOCs, petroleum hydrocarbons, and pesticides at concentrations exceeding the MCP criteria.

Area B:

Groundwater beneath the industrial parcels east of South Street contained concentrations of several metals in shallow groundwater, and arsenic and manganese in deep groundwater that exceed MCP criteria.

Shallow soil in this area contained concentrations of metals and PAHs at concentrations exceeding the criteria. Deep soil contained concentrations of metals exceeding MCP criteria.

Area C:

Limited soil and groundwater data was collected and analyzed for the parcels included in Area C.

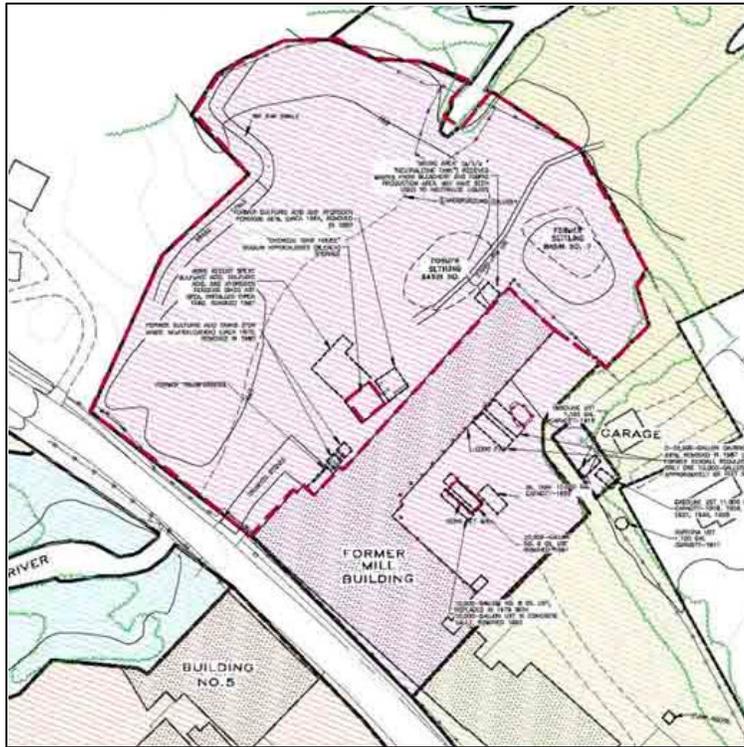
### **3.3 Potential Impacts on Development**

Area A:

As previously described, during the 1992 asbestos Removal Action, asbestos-containing soil excavated from various areas of the Superfund Site was consolidated on-site and capped with thirty six inches of clean soil south and west of the former mill building. In addition, excavated asbestos-containing soil from the former mill tailrace was consolidated in a high density polyethylene (HDPE)-lined containment cell constructed in former Settling Basin No. 2 (a/k/a Lagoon No. 2) west of the former mill building. These areas, along with the asphalt cap north of the mill building are subject to deed restrictions.

According to the Notification and Grant of Use Restrictions and Easement, no activities shall be performed in this area which may disturb or disrupt the integrity of the cap or culvert. The prohibited activities include, construction of any buildings, roads, parking lots, driveways, walkways, paved or asphalted areas, fences, sign or

other structures; excavation, digging, dredging, drilling or other similar activities, including underground utilities; the use of motorized vehicles of any nature on unpaved portions of the Restriction Area, except those necessary for repair or maintenance activities.



**Figure 4: Deed Restricted Area of Containment on Area A.**

The red dotted line signifies the boundary of the restricted area. The purple shaded area shows the area of historic industrial activities.

Fuss & O’Neill’s report states that “redevelopment of the former industrial parcels on the west side of South Street is achievable; however, measures will need to be implemented to ensure that health risks are managed.” Shallow and deep groundwater beneath these parcels contains concentrations of contaminants that may pose a potential exposure risk to future users of the property if unrestricted redevelopment of these parcels were to occur. One potential exposure concern is the volatilization of organic compounds into the indoor air of structures constructed over the contaminant plume. This potential exposure concern can be mitigated through the use of engineered controls incorporated into construction (i.e. installation of a vapor barrier or passive or active soil gas venting system beneath the footprint of any buildings.)

Additionally, the groundwater beneath these parcels has been impacted by a release of sodium hydroxide, which has significantly increased the pH of the groundwater. Consequently, if the redevelopment of these parcels includes the installation of subsurface structures that have the potential to come into contact with groundwater,

additional precautions will be warranted to maximize the resistance of those structures to a caustic environment.

Shallow and deep soil at these parcels has also been impacted by contaminants that can pose health risks to users of the site if inadvertent ingestion were to occur. The potential for direct exposure can usually be effectively managed by engineered controls, consisting of a soil cap, a permanent structure (i.e. a building foundation or asphalt pavement) or a clean soil cap.

Area B:

According to Fuss & O'Neill, the groundwater quality beneath the parcels of land currently occupied by Cosmec on the east side of South Street does not pose a major hindrance to potential redevelopment of those parcels.

Fuss & O'Neill's report further states that generally, the types of contaminants detected in soil on the eastern side of South Street are similar to those discussed previously on the western side of South Street. Consequently, the soil management considerations during development would be similar to those previously discussed. However, on many of the parcels in this area, the contaminants are predominantly present in the shallow soil horizon (0-1 foot below grade). Consequently, it may be possible to effectively manage certain areas of limited contamination through excavation and relocation or disposal.

Area C:

According to Fuss & O'Neill's summary, groundwater data from many of the parcels located in the peripheral areas was not analyzed during the Phase 1A RI. However, most of these parcels are generally located upgradient from the documented groundwater plume beneath the industrial areas of the South Street Superfund Site. It is not likely that groundwater quality beneath most of these parcels has been significantly impacted by releases of hazardous materials at the site. Groundwater quality beneath the peripheral properties will not likely hinder redevelopment of those parcels.

Soil and sediment on the peripheral parcels has been documented to contain concentrations of anthropogenic contaminants at concentrations that may require remediation.

### **3.4 Responsibility Parties**

The USEPA issued a Unilateral Administrative Order to Shaffer Realty Nominee Trust and BIM Investment Trust on December 15, 1988. This 1988 Unilateral Administrative Order required the potentially responsible parties to undertake a comprehensive site assessment to determine the extent of asbestos-contaminated soil at the site. A second Unilateral Administrative Order was issued to Shaffer Realty and W.R. Grace in 1992, which required the companies to initiate removal actions. In October 1999, an Administrative Order on Consent was reached with W.R. Grace and the Kendall Company for performance of a Remedial Investigation/ Feasibility Study (RI/FS) at the site. An agreement for the recovery of past costs was also reached with W.R. Grace and the Kendall Company in September 1999. On April 2, 2001, W.R. Grace filed for reorganization under Chapter 11 of the U.S. Bankruptcy Code. On September 25, 2001, Grace notified EPA that it would stop performing and funding work at the site. On May 1, 2002, EPA issued a letter to JPMorgan Chase Bank exercising the letter of credit. Currently, EPA is receiving Grace's share of the response costs for the RI/FS from the Letter of Credit Trust.

## **4.0 Development Considerations**

### **4.1 The Town of Walpole Master Plan**

The Town of Walpole completed a combined Master Plan and EO418 community Development Plan dated June 2004 (Master Plan). The Master Plan sets out a strategic framework for making decisions about the future development of Walpole. The Master Plan includes guidance and recommendations with regard to open space, housing, economic development, and municipal facilities. The Master Plan specifically addresses the Site. The Plan states, “The South Street Superfund Site should also become an Economic Opportunity Area and DIF District. Redevelopment concepts for this site should take into account the relationship of this area to the downtown.” The recommendations in the Master Plan were considered relative to the redevelopment of the Blackburn and Union Privileges site.

### **4.2 Potential Municipal Uses of the Site**

The Master Plan included a comprehensive review of town buildings and facilities. According to the Master Plan, public safety departments – police and fire - have the highest priority need for new facilities. The Library and Town Hall also need more space and upgrades. The current Senior Center is inadequate and the community expressed the need for a Community Center.

The Master Plan identified 16 acres of underutilized town-owned land in downtown and recommends that the Town take advantage of the downtown land for municipal uses and in the creation of a municipal campus.

The Master Plan suggests that the current library could be sold and a new library built. While the Master Plan suggests locating the library in the central downtown area, the Superfund Committee contacted the Municipal Building Use Study Committee and asked that the Blackburn & Union Privileges site be considered in their deliberations for Town building needs. Robin Chapell, Health Agent, received a letter from the Library Director on behalf of the Library Board of Trustees asking the Committee to continue to consider the site as a potential place for the construction of a new library (see Appendix D).

The east side of the Site abuts town property. Existing walking trails are located along portions of the old railroad bed. The trails lead to an historic dam and Walpole High School. The Master Plan recommends expanding open space and creating a Green Network – an interconnected network of open spaces that protect environmental resources, provide habitat corridors, and offer opportunities for nature-based recreation. The Green Network, as proposed in the Master Plan, intersects and overlaps the Site in several locations.

#### **4.3 Marketing Analysis**

The site is located approximately one-half mile from the center of Walpole. The area is predominantly residential, however, a majority of the Site has been used historically for industrial purposes. Cosmec, Inc., a manufacturer of bearings, currently operates on approximately 2.5 acres of the Site employing 75 people. Additional commercial and industrial properties exist south of the Site, along South Street. The Superfund Committee has been working toward defining a reuse for the site using various tools, including surveys, a visioning workshop and gathering supporting data.

In March 2004, the Superfund Committee asked Dick Bonz, from Bonz & Company, Inc., to evaluate the redevelopment potentials, the highest and best use and the potential value of the Blackburn & Union Privilege Superfund Site. Bonz developed a **draft** memorandum for the Committee's review. This evaluation was based upon three assumptions: 1) that the site has been remediated to the extent that an AUL would permit the use being considered; 2) that the site may be rezoned for any use or density; and 3) that the site is vacant and all of the existing improvements on the site were demolished.

Bonz evaluated the site's potential use for office, retail, industrial, residential, and recreational use. According to Bonz, "The current market for residential and recreational uses, in conjunction with the characteristics of the site's location, make these uses feasible. The site is not well located for office or retail uses, and current market conditions are prohibitive for new industrial development."

Bonz' conclusions are based upon the following information. According to Bonz, the location of the site in a residential area away from most major transportation routes would likely make this site less attractive to commercial users. The subject site is not in an established office location, and is surrounded by residential uses. The site's limited access, the surrounding residential uses, and the amount of vacancy in this

market would indicate that this site would not be attractive for the new development of office space. While the retail market is more robust than office space, the subject site lacks visibility and direct access from major roadways, thus is not considered to be attractive for the development of retail uses.

Bonz further considered the possibility that the site could attract a distribution center as some industrial users exist further down South Street. Current vacancy in the industrial market for the southern suburbs according to *Spaulding and Slye's Winter 2004* report is 15.4% with availability at 18.6%. However, there have been very few recent sales in this area for the development of new industrial properties. Based on the current market conditions and the subject site's location, Bonz would not consider the site attractive for the development of industrial uses.

The residential market in Walpole and the surrounding communities is very healthy. The site is situated in a residential neighborhood. While the economic recession has led to a decrease of rents in the Boston area (and a decrease in per unit value of land prices), land sales and proposals for new development continue. Based on current conditions in the housing market, it appears that residential development is feasible for this site, including age restricted, condominiums, or single family homes.

The site also has some potential for recreational use. There have been a number of sales of land for the development of driving ranges, hockey rinks, sports complexes, and fitness centers.

A complete copy of Bonz' memorandum, including statistics and values, is available in Appendix B. While the Bonz report provides insight into the potential market, it is not conclusive of the range of options that could be considered for the site and was provided in 'draft' form only.

#### **4.4 Current Development Plan**

Currently there is a purchase and sale agreement between Shaffer Realty Trust and developer OMLC of Everett, Massachusetts. According to Mr. Trettel, a representative of OMCL, the company is considering the development of condo-style age-restricted housing. The developer has not submitted any plans to the Town for comment as of this report, however the developer has met with the Health Agent, Finance Director, USEP Project Manager, and the PRPs.

## 4.5 Site Ownership

The Site is owned by Shaffer under two corporate titles as previously discussed. The parcels are all in tax arrears and extensive discussions have been held with regard to the Town acquiring this site through foreclosure proceedings.

- A September 5, 2002 workshop spent considerable time addressing the risks associated with acquiring and redeveloping the site. A summary of the points discussed include:
  - The Town doesn't want to take the site until certain that the Town would not have any liability.
  - The town needs to clearly understand all the potential costs associated with the redevelopment before proceeding with taking ownership
  - The town needs to determine what protection, if any, it would have if there was a future claim related to health or other issues.
  - The town would need to take the site in order to have some control of what happens to it.
  - EPA is more likely to take the Town's redevelopment plan more seriously and try to incorporate their plan into the clean up program if foreclosure begins.
  - The foreclosure needs to be completed about the same time that EPA finalizes the Record of Decision on the cleanup and signs the Consent Decree with the responsible parties.

Some of the solutions identified at that workshop include:

- The town can start the foreclosure process and stop it at any time prior to the court transferring ownership. However, the current owner could at any time come in and pay the back taxes.
- Foreclosure and redevelopment can be done on a parcel by parcel basis in order to limit the town's liability and costs. If one parcel is foreclosed on and sold to a developer, proceeds from the sale could potentially be used to redevelop other parcels.
- Once the Town has ownership the Town can release a RFP under 30 B to solicit proposals for the redevelopment.

- The owners could pay the back taxes during the process (and the Town would gain over \$1,000,000).
- The Town could sell the property and use the money to pay outstanding tax, interest and penalty, any remaining balance would be for Town use.

#### **4.6 Liabilities and Responsibilities**

Municipalities can typically avoid government enforcement actions on properties taken through involuntary actions such as tax foreclosure, however, they usually are then added to the list of parties responsible for addressing contamination issues. The municipality could then be obligated to undertake cleanup actions unless other potentially responsible parties (such as previous owners or operators of the property) take responsibility and provide some guarantee of performance to ensure cleanup of that property. Town of Walpole officials, including the Town Administrator, met with State and Federal attorneys to discuss liability issues. The question as to whether the Town may be liable or responsible in any way for remedial actions or other liabilities associated with the Blackburn and Union Site depend on the following factors:

- Whether or not the town takes ownership of the property
- Whether or not another party provides assurances that it will cleanup the property
- How the property is transferred and redeveloped.

##### **4.6.1 Legal Opinions**

Two opinion letters were requested by the town from attorneys regarding potential legal and financial liability regarding the site. The first letter was submitted by John Giorgio of Kopelman and Paige, P.C. on January 13, 2003. The subject of the letter was state and federal liability should the town conduct an involuntary tax foreclosure of the site. The second letter provided by Patrick Costello of Merrick, Louison and Costello, LLP on May 10, 2004 also addressed state and federal liability but also addressed potential financial responsibility for cleanup activities should the town foreclose on the site. Those letters are included in the appendix and should be read in their entirety before any actions are taken with regard to potential liabilities.

Here are brief summaries of their conclusions:

January 13, 2004 letter from John Giorgio:

The town is most likely exempt from enforcement action under state and federal statutes regarding involuntary foreclosure of contaminated property due to specific provisions in state and federal law as long as the town has had no role in causing or contributing to the contamination. Mr. Giorgio specifically states that these protections are not generally applied but must be provided by the enforcing agency. Specifically, the State of Massachusetts has a number of requirements that the town must meet to avoid liability and a covenant not to sue must be obtained from the state.

May 10, 2004 Letter from Patrick Costello:

Mr. Costello agrees with Mr. Giorgio regarding potential state and federal liability. He was also asked if the town might have any financial liability if they took the site. He says, "In short, should the town proceed with foreclosure the rights of redemption with respect to the Shaffer properties, there is no guarantee that the town would not be required to expend sums of money to secure, maintain, and perhaps, remediate the property." His concerns arise from the town's inability to market or sell a contaminated property and the potential that failing the action of the potentially responsible parties or EPA, the town as owner of the property may have to expend funds to maintain or cleanup the property at some point in the future.

#### **4.6.2 Other Liabilities**

The attorneys did not address the potential for third party liability should the town become the owner of the property. As with any town-owned property, third parties could claim harm under a variety of scenarios, including coming in contact with contamination on the site or from contaminants that migrate off of the site.

These issues affect the role the Town should play in ensuring the site is cleaned up, redeveloped, and put back on the tax roles.

### **4.6.3 Redevelopment Options and Related Liabilities/Responsibilities**

As discussed previously, the extent of liability and responsibility the Town may incur depends on its actions and the action of other parties. Since many determinations have not been made, the following list of alternative scenarios and how they may affect the liability of the town are presented to assist in making reuse and redevelopment decisions.

Scenarios that involve the Town or the developer undertaking remediation were not evaluated for this report because the overlap of remediation and redevelopment activities could not be evaluated as the cleanup requirements are not known at the time of this report.

#### **4.6.3.1 Town Forecloses on Property - Resells all portions**

Under this scenario the Town could steer the future use of the properties by reviewing development plans as one of the criteria for evaluating prospective buyer(s) of the properties. Based on EPA's guidance for involuntary acquisition of property, the Town would not be liable under Superfund. However, Attorney Costello's legal opinion indicates that the state could impose a time limit on the Town for reselling the property after which they would become liable for cleanup. In discussions with Robin Chappell, Health Agent, the state indicated that they would consider providing the Town of Walpole with a Comfort Letter stating that the state would not pursue the Town. The state is willing to start the process when the Town is ready.

At this time, the Tyco Corporation has signed an Administrative Order agreeing to complete the RI/FS under Superfund. However, at this time Tyco has not entered into an agreement with EPA to perform or fund the future cleanup. Presumably, EPA would continue with cleanup activities if Tyco does not conduct the cleanup. Funding for such Federal-lead activities has been limited in recent years due to budget constraints for Superfund. However, should the Town take the property now, the Town could be put in a position to conduct cleanup activities under state enforcement if Tyco or EPA does not conduct the required

cleanup actions. In addition, the Town would be responsible for all maintenance activities while owning the property and could be liable for third parties actions.

#### **4.6.3.2 Town Forecloses on Property- Resells a portion and uses a portion for its own use.**

Under this scenario the Town could steer future use of the portion of the property that it sells and would directly control future use of the portion of the property of which it retains ownership. Foreclosing on all of the property, selling a portion and retaining a portion generates similar potential liabilities to the Town as the previous scenario foreclosing and selling all of the property. The Town would need to ensure that someone else was going to cleanup the portion of the site they planned to keep and work out long-term operations and maintenance activities of the cleanup. This could include working with EPA and/or Tyco, to develop an agreement that ensures all the responsibilities related to cleanup of the site are covered in that agreement. Cleanup and long-term monitoring/maintenance of the deed restriction would need to be agreed upon by all the parties.

#### **4.6.3.3 Developer purchases property from Shaffers - repays taxes**

Under this scenario the Town's control over the future use of the property would be limited to zoning and building permit controls. This scenario generates fewer potential liabilities for the Town than the foreclosure options. The developer, the regulatory agencies and Tyco would work out the details of clean up cost distribution and indemnifications for liabilities between them, without involvement of the Town.

While a developer currently has an option to purchase from the Shaffers, there is no guarantee in place that the developer will follow through on the development nor is there a guarantee the developer will use the property for a use the town supports. Assuming the developer does follow through, they would then become a bona fide prospective purchaser of the site. Though not responsible under Superfund if they

satisfy certain requirements, they may become liable for the cleanup under state law should EPA and/or Tyco not perform the cleanup and they may become liable for third party claims.

#### **4.6.3.4 Town Auctions the Tax Lien**

The auctioning of tax liens has been successfully used in other towns as a means to encourage redevelopment. Liens are usually purchased at a fraction of the actual taxes owed. By auctioning the lien, the town can avoid the chain of title as the developer would become a bona fide purchaser of the site. As outlined in the previous scenario, the developer could become liable for the cleanup or for third party claims.

#### **4.6.4 Windfall Lien**

Attorney Costello raises the issues of the ‘windfall lien’ which gives EPA the right to collect response costs (i.e. removal action and oversight costs) should it be determined that their actions were the cause of an increase in value of the property. A windfall lien may or may not be a significant financial impact on the redevelopment financing.

## 5.0 Public Participation

Public involvement has been sought throughout the development of a supportable reuse plan for the Blackburn & Union Privileges site. The following is a summary of the stakeholder initiatives and the outcome of these participation programs.

### 5.1 Question and Answer Meeting

On Thursday November 15, 2001 a question and answer meeting was held was to answer questions of residents and all interested parties regarding the Superfund Site. Informal discussions were held regarding investigations at the site, the redevelopment process and the planned Visioning workshop.

### 5.2 Visioning Workshop

On November 19, 2001 a visioning workshop was held as a first attempt to gather interested parties in a planning workshop to discuss future possibilities for the site. The objective of the workshop was to review options for the Superfund Site, investigate issues, define preferred alternatives and identify follow up steps that the Town of Walpole should take in its efforts to redevelop the Superfund Site.

Approximately 60 people attended this all day workshop, which included residents, community leaders, town employees and guests. A broad representation of the community attended the visioning exercise and expressed ideas on how to develop the Superfund Site.

Four redevelopment concepts were discussed in detail – municipal use, light commercial use, open space/park use and residential use. The following is a list of advantages and disadvantages of each option gleaned from this workshop.

#### Municipal Use

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**Advantages:**

Town keeps control of site  
Land needed for municipal uses  
Site is available - not many are

**Disadvantages:**

Tax base lessened  
Town incurs costs - bonding capacity

#### Light Commercial Use

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**Advantages:**

Limited commercial property

**Disadvantages:**

Traffic

available in town  
Tax base preserved or increased  
Zoning works with portions of the site

In opposition to neighborhood  
Problems Rezoning to light commercial

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#### Open Space/Park Use

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**Advantages:**

Least impact on neighborhood  
Provides needed active recreation

**Disadvantages:**

Need funding sources  
Reinstating the former pond could be problematic

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#### Residential Use

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**Advantages:**

Town has great needs for low income and elderly housing  
Attractive to developer  
Consistent with neighborhood

**Disadvantages:**

School / town services impact  
Rezoning needed - unlikely to succeed

Although it was hoped that one of these options would be the most favored at the end of the day, this did not happen. A straw vote of the participants showed that commercial and municipal reuse had the most support. However, after further discussion, a mixed-use option gained the most support.

The participants agreed that additional information was needed before the reuse options could be explored in more detail. Through this participatory process, the key issues of site redevelopment were identified and discussed. A list of *Next Steps* were developed that served as a guide for the Town as they continued the stakeholder process.

1. A written report of the workshop should be compiled
2. The municipality's role in taking over the Superfund site and potential liability should be investigated
3. The Superfund Committee should continue to meet and the public is invited to the meetings
4. Information needs to be gathered on the Rivers Act
5. Municipal employees involved in the redevelopment program should undergo negotiation training
6. Residents / neighbors should be surveyed
7. The results of the Remedial Investigation should be obtained and reviewed when complete
8. Access to the property should be obtained and a site walkthrough scheduled

9. A redevelopment plan and/or choices should be developed

### **5.3 Superfund Redevelopment Workshop**

On September 5, 2002 a workshop was held to assess the Town's role in the redevelopment of the Blackburn & Union Superfund Site and to establish a process for the redevelopment of the site. The committee, Board of Selectman, Finance Director, Town Counsel and Town Administrator were invited.

The workshop included a brief review of the actions already completed by the Superfund Committee and an update of the US EPA efforts at the Superfund Site. Representatives from Vita Nuova, LLC made presentations on the development process. Topics included:

- Constraints for Redevelopment: liability risks, real estate risks, and future risks
- Opportunities for Redevelopment: insurance to limit risks, options for taking ownership, and facilitating development
- The Redevelopment Process: one example of how the Town can facilitate redevelopment.

Various topics and points were discussed throughout the workshop. The discussion fell into three categories: risk to the town, foreclosure, and the development process. The participants recognized these key points regarding redevelopment:

- The town needs to be in a position to control the site in order to facilitate redevelopment. EPA will want that and so will potential developers.
- If the municipality owns the site, EPA is more likely to take the town's redevelopment plan more seriously and try to incorporate the plan into the cleanup program.
- The town could let out an Expression of Interest to potential developers to get a feel for what the market will bear on the site. This would not commit the town. Developers will want to know that the town has control – or is working toward control/ownership of the site before they will spend the time on submitting a package.

- Once the town has ownership, the town can release an RFP under 30B to solicit proposals for the redevelopment. This will give the town more control over site usage and not make it a pure bid decision.

Workshop participants assembled the following list of additional information that they would need prior to making a decision about foreclosing on the site.

- Value of the current library site
- Understand site constraints related to cleanup
- Determine costs of environmental cleanup – and responsibility for costs
- Determine potential liability of town (federal and state)
- Determine condition of buildings on the site – demolition costs
- Perform cash flow analysis on the site
- Obtain a market study
- Look at potential reuse options and potential tax revenues

#### **5.4 Board of Selectmen Meeting**

On August 5, 2003 the EPA and the Superfund Committee made a presentation to the Board of Selectmen. A formal slide presentation was presented by EPA. The presentation discussed the project status, investigation results, anticipated timetables, and the potential integration of the redevelopment plan.

#### **5.5 Public Meeting**

On October 8, 2003, the EPA and the Superfund Committee held a public meeting regarding the Superfund Site. EPA prepared and distributed a fact sheet regarding the investigation efforts that Superfund Site. The Superfund Committee discussed the redevelopment planning process and the survey that would be going out to abutters as well as interested parties and Town Boards.

#### **5.6 Survey**

In October 2003 a survey was distributed to abutters either by mail or hand delivered. 49 surveys were returned. In addition, on two separate nights, Pat Dowling from Fuss & O'Neill went door-to-door soliciting comments from the survey.

The survey results showed that a large majority of the respondents were in favor of redeveloping the site and that it would be beneficial to all parties involved. Most people that responded to the survey valued keeping the neighborhood quiet and maximizing property values. Their next highest priorities were to generate additional tax revenues for the Town and to preserve open space.

The survey asked the participants to examine three options – an age qualified village, a residential condominium complex, and a medical park. The medical/office park and age-qualified village were favored by a small margin. Residential condominiums were not supported by the respondents.

The survey also asked respondents to provide other redevelopment recommendations. Responses varied widely, ranging from open space to housing, industrial, and recreational. The most popular response we received from the door-to-door solicitation was the age restricted residential use and a mixed municipal/athletic field use.

Four themes emerged from the survey comments. Everyone wants to see the site cleaned up. There is concern over maintaining the quiet neighborhood and there is a desire to connect the neighborhood to the Neponset River. Finally, the town desires to increase its tax base, however, there is not a clear majority in favor of developing this site for commercial and industrial uses.

### **5.7 Meeting Regarding Site Liability Issues**

On May 17, 2004, a meeting was held to discuss and answer questions regarding the Town's liability issues in the event ownership is acquired through foreclosure. EPA, EPA's attorney's, DEP, State Attorney General's staff, Town Administrator, Finance Director, Health Agent, Potentially Responsible Parties' attorney, and Town Counsel attended.

### **5.8 Superfund Committee Action Items**

On May 18, 2004, the Superfund Committee convened to review all the data, facts, and opinions gathered to date and to formalize draft redevelopment schemes to present for further public comments and ultimately to the Board of Selectmen. At various

times during the meeting the Finance Director, a Library Trustee and the Town Administrator met with the committee to offer their opinions.

After the review was completed, the Committee listed all possible redevelopment options and discussed pros and cons for each option taking into consideration all the information the Committee has received.

Several Motions were voted on.

#### **5.8.1 Taking of Parcels**

There are two parcels that do not have any contamination associated with them. Parcel 41-53 is not part of the Superfund Site, and parcel 33-123, which is part of the Site, appears to be clean. The Committee voted unanimously to recommend to the Town that the Town should obtain these sites by tax title. The owner, Shaffer Realty owes the Town taxes on these parcels.

#### **5.8.2 Town Trails**

The Committee voted unanimously to explore developing trails on the east side of the “Cosmec” side of the Superfund site. The Committee also voted unanimously for the Town to explore taking control of the parcels along the railroad bed presently owned by Shaffer Realty that would be part of the trails program.

#### **5.8.3 Single Use of the Site vs. Mixed Uses**

The Committee reviewed the many reuse options for the site and decided that the Site had the potential for multiple uses. In voting for their preferred redevelopment alternatives, the Committee chose to look at options for Areas A and B independent of each other. However, the Committee was not opposed to the same type of reuse occurring in both Areas.

#### **5.8.4 Preferred Redevelopment Scheme**

The Superfund Committee’s preferred redevelopment scheme would include municipal Buildings on the “Cosmec” side and commercial offices/light industrial on the “Kendall” side. Examples of commercial offices/light

industrial include sign makers and Internet providers. Parking could occur over the culvert area.

The Superfund Committee felt it necessary to dedicate part of this site to enhance the tax base and provide jobs. While this site is near residential areas, it is presently zoned general residential and light manufacturing. The committee felt this type of commercial offices/light industrial use would not greatly impact the residents if the site was properly landscaped and buffered. According to Mr. Bonz's memo there presently is not a thriving market in this area for this type of reuse, but it is the hope of the Committee that when the site is ready to be redeveloped the market will be better and the Town's Economic Development and Grants Officer will make this successful.

The Committee felt that with the Town's need for new municipal buildings, with this site's proximity to downtown Walpole and with the "Cosmec" side abutting Town land and trails leading to the High School, the "Cosmec" side would be an ideal location for this type of reuse. Further, the Library Trustees have expressed an interest and this side of the site could easily contain more than one municipal building.

The Superfund Committee recognizes that if the Town chooses this redevelopment scheme, then it would need to consider ownership of at least the "Cosmec" side of this Superfund site. The Superfund Committee voted to suggest to the Town that if this option was the preferred option, the Town should consider ownership of this part of the site when the site was remediated but that the Town should complete the foreclosure proceedings and the agreements with EPA and the State (covenants not to sue) now. The Town should not take ownership until all liability issues and out of pocket expense issues are completely resolved.

#### **5.8.5 Alternative Redevelopment Scheme**

The Committee developed a second redevelopment scheme for two reasons:

- The Town may choose not to use this site for municipal buildings. Further, even if it does, the preferred redevelopment scheme would be contingent on successful negotiations with EPA and the State.

- The housing market for restricted age qualified housing may be too good for the Town not to take advantage of it.

The Alternative Redevelopment Scheme would include Housing (but qualified) on the “Cosmec” side and commercial offices/light industrial on the “Kendall” side.

The reasons for the commercial offices/light industrial reuse option are the same as in the preferred redevelopment scheme.

The Superfund Committee envisioned housing component as a restricted development, such as age qualified, so as to limit impact on any remediation that would need to occur at the site. This form of housing would provide more protection over single family housing with regard to the institutional controls that would be placed on the site. There would be more control over landscaping and other particulars of a development and maintenance now and in the future.

When discussing this project with developers, there was a keen interest in the housing reuse option. The market analysis done also showed a real potential for this type of reuse.

## **6.0 Redevelopment Strategies and Process**

The town's interest in the Blackburn and Union Superfund site include:

- Ensuring the site is remediated so that no further potential health threats exist for town residents
- Ensuring the site is redeveloped so that at a minimum, the site can be returned to the tax roles.
- Potentially, providing recreational space or other municipal uses for the town.

This report has attempted to provide town leaders, members of the community, and related stakeholders the information that is necessary for an informed reuse process on the site. This report has provided information on the environmental issues related to the site, the physical characteristics of the site, and articulated various issues that must be addressed in order for the site to be redeveloped. Presented below are some alternatives for moving forward.

### **6.1 Redevelopment Strategies**

Three options currently exist for the town to ensure redevelopment of the site:

- 1) Work with a developer selected by Shaffer
- 2) Identify a developer through an expression of interest, foreclose on the site, and resell it to the selected developer
- 3) Auction the tax lien on the site to a qualified developer

#### **6.1.1 Work with the Interested Developer**

This option offers many advantages in that it requires the least amount of work for the town and does not require entering the chain of title. However, the town has no role in qualifying the buyer. The Town's ability to affect the reuse is generally limited to zoning.

Under the Commonwealth of Massachusetts' Municipal Tax Abatement Program, municipalities are able to negotiate back taxes, including interest, with developers undertaking projects such as this one. This may provide an avenue for the Town to affect the redevelopment. Under this program, a

municipality must adopt a by-law before negotiating agreements with developers.

### **6.1.2 Town Completes Process of Selecting Developer**

This may be the preferred option given that the town can screen the developer, select a reuse option and limit potential liability by developing an exit strategy prior to taking the property. Under this strategy, the Municipal Tax Abatement Program may also be of value in attracting an appropriate developer.

### **6.1.3 Auctioning the Tax Lien**

The auctioning of tax liens has been successfully used in or towns as a means to encourage redevelopment. Ideally, developers would be prequalified followed by a closed-bid auction of the tax liens. By auctioning the lien, the town can avoid chain of title and better direct the potential for redevelopment. However, the town will likely not recoup the full amount of back taxes and will give up all power except zoning once the lien is sold. Further research must be done with regard to the process of auctioning tax liens under Massachusetts law.

## **6.2 Next Steps**

In order to move forward with redevelopment, a number of steps need to be taken. These steps should be timed such that they help move the USEPA's approval process forward. The following steps may be required:

### **6.2.1 Additional Information**

Regardless of whether the Town pursues redevelopment for municipal purposes or a private developer is interested in the redevelopment, all parties need to understand the options and costs related to redevelopment. The Town should weigh the advantages and disadvantages of the options before deciding whether to foreclose, sell the tax liens or take some other role in the redevelopment.

### **6.2.1.1 Expanded Market Assessment**

The real estate market often varies from quarter to quarter. The draft market analysis provided by Bonz was a reasonable overview of the market at the time of the report. Prior to determining the best use for the site, additional market research should be conducted, including an assessment of existing commercial real estate within the immediate vicinity of the site, the local business climate, potential interest of local companies to expand on the property, and current real estate trends within the local Walpole market.

### **6.2.1.2 Research Tax Abatement and Incentive Programs**

Tax incentives and abatements can be used to affect redevelopment activities of private parties. The Town should identify those state and federal programs that are applicable to this site. The Municipal Tax Abatement Program through the Commonwealth of Massachusetts is of considerable interest and should be looked at further.

### **6.2.1.3 Identify Costs for Redevelopment**

Regardless of whether the Town pursues redevelopment for municipal purposes or a private developer is interested in the redevelopment, all parties need to understand the costs related to redevelopment. No comprehensive inspections have been conducted on the existing buildings. Additional structural investigations, asbestos inspections, and cost estimates for demolition would be required prior to fully determining reuse options.

## **6.2.1 Town Endorsement**

Town authorities will need to endorse the redevelopment process and the role that the Town intends to take. As described under Redevelopment Strategies above, there are several roles that the Town can take. The Town needs to be decisive about the role it chooses and provide that information to the USEPA and the responsible parties on the site.

### **6.2.2 General Plan of Development**

The Town will need to engage a firm to with environmental and planning expertise to develop a general development plan for the site. This will involve an analysis to determine actual land available for development, buildable square footage, and site development requirements. The elements of this plan should be coordinated with the feasibility phase of the environmental process to identify opportunities to integrate cleanup and redevelopment. During the planning process, the Town should definitively determine whether it desires the property for municipal use. This plan can be referenced in the ROD by EPA. It may be possible to convince the PRPs to help pay for the plan as it is necessary to complete the remedial design as long as general reuse options can be agreed upon ahead of time.

### **6.2.3 Negotiate Acceptable timeframes with EPA and PRP**

It will be necessary as part of the implementation of the redevelopment plan to negotiate acceptable timeframes that allow for the coordination of the cleanup and redevelopment. Once the cleanup requirements are established the Town should evaluate the potential merits of combining the redevelopment and cleanup activities. Should the Town decide to take an active role in the redevelopment or ownership of the property they should explore liability transfer mechanisms such as indemnification agreements and insurance. Only by agreeing ahead of time as part of the consent decree, can redevelopment of the Blackburn and Union site move forward. The Town's timing of actions is interdependent with EPA and the PRPS cleanup schedule.

## **6.2 Timeline**

The Remedial Investigation is due to EPA in early November 2004. Once the draft Remedial Investigation report is evaluated, a Feasibility Study will then be conducted which will evaluate cleanup alternatives based on the outcome of the Remedial Investigation. A Record of Decision (ROD) is planned for the site in the fall 2005. During the next three to six months, the Town of Walpole needs to collect the additional information outlined above and begin the process of creating a general plan of development for the site. By engaging further in the planning process, the

development plan will be accurately timed to coincide with EPA's feasibility phase and the remedy will be better tailored to remove impediments to redevelopment and achieve the town's goals for reuse on the site.

## Abbreviations and Acronyms

Area A:	Former Kendall Mill Site (Parcels West of South Street):
Area B:	Five Parcels East of South Street, three of which are occupied by Cosmec, Inc.
Area C:	Five Peripheral Properties; lots 33-120, 33-123, 33-137, 33-129, 41-53.
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act, commonly known as Superfund.
EPA	U.S. Environmental Protection Agency
HDPE	High density polyethylene, used as a liner for containment cells
MADEP	Massachusetts Department of Environmental Protection
MCL	Maximum Contaminant Level under the Massachusetts Contingency Plan
MCP	Massachusetts Contingency Plan
MGL	Massachusetts General Law
NPL	National Priority List of sites
PAHs	Polynuclear aromatic hydrocarbons
PRPs	Potentially Responsible Parties at a Superfund site. The Superfund enforcement program identifies the PRPs at a site; negotiates with PRPs to do the cleanup; and recovers from PRPs the costs spent at Superfund cleanups.
RFP	Request for Proposal
RI/FS	Remedial Investigation/Feasibility Study - The RI serves as the mechanism for collecting data, while the FS is the mechanism for the development, screening, and detailed evaluation of alternative remedial actions.
Shaffers	Collectively refers to Shaffer Realty Nominee Trust and the BIM Investment Corporation
USEPA	U.S. Environmental Protection Agency
SVOCs	Semi-volatile organic compounds
VOCs	Volatile organic compounds