

CITY OF FITCHBURG  
BOARD OF HEALTH

IN THE MATTER OF:	]	
AKS Recycling, Inc.	]	Site Assignment Minor Modification
15 Cobbler Drive	]	
Fitchburg, Massachusetts 01420	]	

**DECISION**

March 2, 2020

**I. INTRODUCTION**

On February 6, 2020, the Board of Health (Board) of the City of Fitchburg (City) held, upon due notice a public hearing on the application of AKS Recycling, Inc. (AKS), for Minor Modification of a prior site assignment which had been approved for a solid waste transfer station located at 15-35 Cobbler Drive, Fitchburg, Massachusetts. By a vote taken March 2, 2020, the Board determined that, based on the facts in the administrative record which are incorporated by reference herein, the criteria established by applicable law, and subject to conditions and restrictions imposed pursuant to 310 CMR 16.20(12) set forth herein, the modification of this operation will not endanger the public health, safety or the environment and therefore grants the Modified Site Assignment.

## **II. THE PROPOSED MODIFICATION TO THE EXISTING FACILITY**

AKS proposes to install a solid waste baler in the Solid Waste Building to reduce waste bulk volume. The baler will be located as shown on the attached Sketch Plan. MSW will be loaded by a small excavator onto a conveyor belt that will convey waste to the hopper where it is fed into the piston compressor for baling. Bales will be popped out a new side door to the Bagging Shed in which the cubed bales are placed in plastic bags and sealed.

From there a small lift tractor will transfer the bales to the Recycling Building for staging until loaded on trucks for transportation. Other than the bagging, all baling will take place within the Solid Waste Building. Bales weight 2,000± pounds.

The former office section will be removed (demolished) to provide additional space. A sprinkler fire suppression system will be installed in the building. Construction of a small pre-fabricated tent building or lean-to set on a 400 to 600 sf concrete pad.

Installation a typical 100 ft. by 100 ft. (10,000 sq. ft.) pre-fabricated tent-type building constructed of poly fabric/sheeting with aluminum framing, to be located on Parcel R114-10-2B. The building will be used for overflow bale storage. The building will be set on a concrete pad and located more/less in the area where MSW storage in closed containers was originally proposed. AKS is not seeking any other modification and is not proposing to accept any additional waste.

## **III. PRIOR PROCEEDINGS**

AKS obtained a site assignment on January 21, 2004 to operate a solid waste facility as defined in M.G.L. c.111 s.150A, more specifically, a Municipal Solid Waste (MSW) Transfer station, on a parcel of land on 15-35 Cobbler Drive, and 41 Blueberry Lane in Fitchburg, to accept up to 350 tons per day of MSW and up to 50 tons per day

of source separated Recyclables generated by municipalities and private entities in Massachusetts. The Site Assignment was issued after a Positive Site Suitability report from the Department of Environmental Protection (DEP). In June 6, 2006, the Board allowed a Major Modification of a Site Assignment to allow AKS to accept up to 250 tons per day of MSW and 250 tons per day of Construction and Demolition Waste (C&D) for a total of up to 500 tons per day, after a finding of Positive Determination of Site Suitability from DEP on March 17, 2006. On April 14, 2008 the Board again allowed AKS a Minor Modification to increase its operational hours from 5AM to 5PM on Monday through Friday and 5AM to 12 Noon on Saturdays. On October 23, 2019 the Board received a notice from the DEP of the request by AKS to Modify its Site Assignment of a Large Handling Facility to bale and store MSW as described in the previous section entitled the Proposed Modification to Existing Facility, specifically Section II of this document. Hearing were set for December 19, 2019 and January 23, 2020. These hearing were continued due to potential violations of the Open Meeting laws. The proposed Modification was then rescheduled to February 6, 2020 and the hearing commenced at 5:06PM

#### **IV. THE SITE ASSIGNMENT HEARING**

The site assignment public hearing commenced at 5:06 PM on February 6, 2020 and adjourned on February 6, 2020 at 6:21 PM. Transcripts (TR) of the hearing were taken by Teresa Rose Wood of McCarthy Reporting. The hearing was duly posted and published in accordance with 310 CMR 16.20(7), see Hearing Exhibit #5. As required

by the Site Assignment Regulations, 310 CMR 16.20(11), the Board appointed Attorney John F. Shea of the Law firm Mackie, Shea and Durning PC. This firm is located in Boston, Massachusetts. The Hearing Officer is tasked with duties to define issues, receive relevant evidence, exclude irrelevant evidence and ensure an orderly presentation of evidence as provided in 310 CMR 16.20(10)(d).

At the hearing, the Board heard testimony from and was presented with certain documentary evidence by AKS, acting through its consulting engineer Alton Day Stone, P.E., LSP, SE and Christopher Karras, President and the “applicant” of AKS Recycling, Inc. Those testifying were asked to testify under oath by the Hearing Officer. Mr. Stone and Mr. Karras were questioned by the Board members and the Director of the Public Health after their presentation regarding the current operations and the Modification. No persons registered to intervene as provided by 310 CMR 16.20(9) (a).

During the hearing, AKS, through its engineer Mr. Stone presented the three phased process for the Modification. The first is the baling operation, the second is the installation of a new industrial building for storage capacity, and the third is the “reassignment” of one of the buildings at the AKS facility. First is the baling operation proposed to the existing facility. MSW, will be baled into approximately 2000 lb. bales from the tipping floor of the “Solid Waste Building” (SWB) by machinery, including a conveyer, piston and baler, and then will be directed to the exterior of the building to be sealed in plastic bags in the “Bagging Shed”. The Bagging Shed will be constructed on the B side of and adjacent to the “Solid Waste Building”. Bales will then be transferred by Side Lift to the former “Recycling Building”. The Recycling Building is approximately

6400 square feet and bagged bales will enter via the loading dock ramp and bales will be staged for loading and transport. The Recycling Building must be reassigned by the Board for this operation to be permitted. Board conditions currently only allow recycling operations in the Recycling Building such as the separation of commingles. Previously this building was used by AKS to disassemble Coca-Cola Machines and beverage machines and other items to be recycled. This recycling operation no longer occurs in this building and it currently sits vacant. The recycling Building is now proposed to store sealed bales for transport to a disposal facility. The third portion of this Modification is the proposed construction of a 10,000 square foot, light industrial building, similar to an aluminum and steel tent constructed on a concrete pad. The purpose of this building would be for overflow if the former Recycling Building exceeds its capacity. This building will be retrofitted with a fire suppression system and will be constructed and installed with approval of the Fitchburg Building Dept., Fire Dept., and MADEP.

During the hearing the Board heard testimony from Mr. Stone and Mr. Karras and five (5) documents were assigned as Exhibits and placed in evidence by Hearing Officer, Shea. Mr. Stone and Mr. Karras then answered questions posed by Board members and the Director of Public Health regarding storage of the bales and the number of bales that could be stored at one time in both storage buildings proposed.. Mr. Stone and Mr. Karras also clarified the process of making sure bales moved so that no bale or bales are left in storage for an extended amount of time.

After hearing all of the testimony, the Board closed the hearing.

On March 2, 2020, the Board met and discussed the application and voted to grant the Site Assignment Modification, subject to conditions which are contained herein.

#### **V. STANDARD OF REVIEW**

The Board of Health must determine whether, based on criteria established by G.L. c.111, § 150A and 310 CMR 16.22 (3), and the modification of previous Site Assignment Conditions that the proposed Minor Modification of the facility would “constitute a danger to the public health, safety or the environment”. G.L. c111, § 150A. If the proposed Modification of the facility does not constitute a danger to public health 310 CMR 16.40 (1) (b). The Board of Health may impose conditions to ensure that the facility will not present a threat to the public health, safety or environment. 310 CMR 16.20(12).

#### **VI. STATEMENT OF REASONS AND DETERMINATION OF FACT**

After considering the record of the hearing and subject to the conditions set forth herein, the Board hereby determines that the proposed Minor Modification of AKS Recycling, operating at 15-35 Cobbler Drive and 41 Blueberry Lane as depicted in the request for Minor Modification, will not constitute a danger to the public health, safety or the environment. See, G.L. c. 111, § 150A ½

## FINAL CONDITIONS

The Board hereby imposes the following conditions pursuant to 310 CMR 16.20(12). The Board has determined that these conditions are necessary to ensure that the facility will not present a threat to the public health, safety or the environment. These conditions include the original Site Assignment and the Modifications that occurred in 2006 and in 2008. They also include amendments or additional conditions from the present 2019 Minor Modification (in red):

1. This site assignment shall ~~only take~~ remain in effect ~~after~~ while the three parcels (Lot 1, 2 and 2B) identified on the new Plan of Land revised and amended Plan dated December 7, 2018 are owned by one party. If that owner is other than the applicant, the owner shall provide documentation satisfactory to the Board that it authorizes the proposed activity and shall be bound by the terms and conditions of this decision in the same manner and to the same extent as if it had been an applicant or when AKS filed its application on June 6, 2003.
2. This site assignment shall ~~only take~~ remain in effect when the property owner has entered into a Lease Agreement and Host Agreement with the City of Fitchburg to allow certain vehicular access and egress to the proposed solid waste transfer station, to allow certain access between Lots 2B and Lots 1 and 2, to allow the queuing of trucks off any public way and to allow for the

- storage of certain roll-off containers, all on land owned by the city.
3. AKS Recycling, Inc. shall prevent littering and /or the accumulation of debris on the site, any sidewalk public way, or adjacent property, including but not limited to maintaining adequate staff to insure compliance with this condition. AKS shall also provide services to maintain free of liter and debris, Airport Road from Benson Street to Crawford Street-end of Airport Rd. on a weekly, as needed, basis. AKS shall respond to requests from the Board of Health or its designees requesting an increase in cleaning these areas. AKS shall submit a monthly report of when it provides this service as well as any other maintenance services, including but not limited to dust control (water spraying), street sweeping and magnet sweeping.
  
  4. AKS Recycling, Inc. shall employ an exterminator or other such professional licensed in the Commonwealth of Massachusetts to inspect the entire site for vermin, including but not limited to birds, rats, rodents, and insects, at least once per month and if evidence of the same exists, to undertake appropriate actions to eliminate the vermin immediately. A copy of these reports shall be submitted to the Board on a monthly basis.
  
  5. AKS Recycling shall not store MSW outside the permanent structure(s) shown on the revised and amended Plan of Land dated December 7, 2018,

approved for MSW operations unless it is stored in fully covered roll-off containers. Under no circumstances shall bagged MSW be stored on site for more than 24 72 hours, regardless of the type of storage container or facility. All MSW shall be removed from the tip floor ~~by the end of every day~~ within 24 hours of receiving the MSW. No un-bagged bales of MSW shall be stored on site at any time. AKS shall establish a plan, in writing if necessary, that no bales remain on site for more than 72 hours.

6. AKS Recycling, Inc. shall not, for the purposes of storing recyclable materials, have more than sixty (60) roll-off containers on site at any given time.

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7. AKS Recycling, Inc. shall not store recyclable materials, and construction and demotion material on-site for more than thirty (30) consecutive days. This material shall be stored so that no nuisances are created, such as oversized piles. Any Construction and Demolition material may be stored longer with a written request to the Board of Health depicting a plan of storage and removal that shows no nuisances will be caused and approval by the Board of Health. The Director of the Board of Health has the right to reverse its approval and or immediate removal should an unforeseen nuisance condition arise from the plan.

8. The contents of any truck or vehicle using the facility to deliver or remove solid waste, including MSW and recyclables, shall be covered either by an opaque canvas tarpaulin or equivalent method to ensure that all material are covered.
  
9. At no time shall AKS cause a nuisance (as determined by the Director of Public Health or his designee) by trucks or cars queueing on Cobbler Drive or any other public road. AKS shall develop a plan, in writing if necessary, so that no vehicles are backed up awaiting entry which creates a nuisance or a violation of the Anti-Idling Laws and Regulations of Massachusetts.
  
10. This site assignment concerns three parcels, Lot 1, 2 and 2B. See revised and amended Plan of Land, dated December 7, 2018. The Board restricts waste handling, sorting, and separation storage of bagged MSW operations to the 3.1 acre parcel shown on the Plan of Land, dated December 7, 2018 as Lot 2B. If AKS Recycling, Inc. wishes to use the other parcels for waste handling, sorting, and separation operations or storage of bagged MSW, a modification of this site assignment shall be required prior to such operation commencing. The Recycling building is no longer restricted to recycling only and can now be used for storage of bagged MSW.
  
11. AKS Recycling, Inc. shall operate only between the hours of 5 am and 5 pm., Monday through Friday and Saturday 5 a.m. to 12 noon. No deliveries

shall be accepted outside these hours.

12. AKS Recycling Inc., shall install and operate an odor and dust suppression system within any on-site structure that will be used for the handling, sorting, and storage if necessary, and/or processing of MSW.
13. AKS Recycling, Inc., shall maintain the existing chain link fence and berm surrounding all of the site assigned parcels.
14. ———AKS Recycling, Inc. shall obtain the necessary permits to construct and operate and maintain an industrial holding tank for the collection of liquids from the sorting and separating operation or and shall secure a sewer connection permit for discharge permit from the Wastewater Department to the city sewer system, if necessary/ or required by the Waste Water Department.
15. Floor drains shall be installed in any handling or storage structure if necessary and shall be maintained and kept free and clear of debris.
16. Drainage from the exterior of the on-site structures and interior drainage shall be maintained so that each is in working order and maintained in accordance with all state and local rules and regulations and no runoff from within the on-site structures is allowed to flow into the exterior drainage facilities.

17. No diesel engine shall idle for more than 40 5 minutes while on-site or on any leased property adjacent thereto. AKS shall enforce the Anti-Idling Laws MGL Chapter 90 Section 16 A and or 310 CMR 7.11(1) (b) where applicable.
18. Health and Safety Plans shall be developed and issued to all employees. Said Plans shall be reviewed with the employees on an annual basis. The facility owner and manager shall maintain compliance with all Occupational Safety and Health Administration (OSHA) requirements for worker safety. Current plans shall be amended before operation to include the new baling, bagging and storage of bales operation.
19. Prior to operation, current plans shall be amended to include the new baling, bagging and storage of bales operation. Employees shall be trained on the safe operation of all equipment including processing and storage of bales on the AKS Recycling, Inc., in accordance with the new plans, facility prior to operation.
20. AKS Recycling Inc., shall keep the site, including all surface roadways, walkways, and parking areas in good conditions at all times and free of litter and other nuisance generating conditions.
21. AKS Recycling Inc., shall maintain the facility in full compliance with all applicable laws, regulations and rules.

22. The site assignment is further conditioned upon compliance with all requirements established by the Commonwealth of Massachusetts Department of Environmental Protection in its determination of technical completeness and issuance of ~~a positive determination of site suitability dated August 20, 2003.~~ of an Authorization to Construct and an Authorization to Operate.
23. This site assignment may not be further assigned to another party without the express prior written approval of the Board of Health after due notice and a public hearing.
24. The facility shall submit to the Board of Health, monthly summaries and other supporting documentation as the Board of Health, or its designee, may request, including but not limited to, as weight slips, computer records or other documentation showing the tonnage of incoming municipal solid waste, tonnage of in-coming source separated recyclables by type, tonnage of outgoing municipal solid waste, tonnage of outgoing source separated recyclables by type and other such tonnage information as may be requested by the Board of Health.
25. The Board of Health and its designee(s) shall have the right to perform unscheduled inspections of the facility during operational hours.
26. Prior to start of operations, AKS shall submit to the City of Fitchburg a

Performance Bond with surety licensed in Massachusetts in the amount of \$500,000 in a form satisfactory to the Board of Health.

27. All buildings used for the handling or storage of municipal solid waste or recyclables shall have fire suppression systems that meet the applicable Massachusetts Building Code and the requirements of the City of Fitchburg Fire Department.
28. The construction of any new solid waste handling areas and/or buildings shall maintain a 100 foot setback from the southerly property line. AKS shall not encroach beyond identified 75' setbacks from property line according to the Plan of Land dated December 7, 2018 nor shall they store material beyond identified property lines. Encroachment violations identified shall be corrected within 24 hours of an order from the City or shall result in immediate site assignment suspension and a hearing before the Board of Health. A written authorization to resume the Site Assignment shall be issued by the Board of Health, before operation resumes.
29. The Board of Health may modify, suspend or terminate this Site Assignment for failure to comply with the conditions described herein, and further, in its discretions, may take any other enforcement or remedial action available in law or equity.
30. AKS shall allow no more than ~~400~~ 500 tons of solid waste to enter the site

assigned facility per day. ~~Such 400 tons shall be comprised of no more than 350 tons per day of commingles MSW and recyclables, the remainder being source separated recyclables.~~

31. AKS Recycling shall prepare and submit an odor response plan detailing actions that will be taken in the event of an odor complaint. If any odors persist from the operation, the Director of the Board of Health, reserves the right to order an immediate cease and desist of operation (and to immediately remedy odors) until abated and until such time as AKS submits a feasibility study and engineered plan to abate odors and to prevent further odors.

## **CONCLUSION**

On the basis of the evidence in the record, including but not limited to the information contained in the application, the exhibits contained in the List of Exhibits (which are made part of the record of this proceeding), the testimony received at the public hearing, and the facts as set forth in the findings and conclusions above, and subject to the conditions imposed herein, the Board of Health finds that AKS Recycling Inc., has demonstrated that the proposed site at 15 Cobbler Drive and 41 and 63 Blueberry Lane, as depicted on the Plan of Land, dated December 7, 2018 which are part of the Site Assignment Exhibits, meets the criteria set forth in 310 CMR 16.40(3)(d) and 310 CMR 16.40(4) and that the requested site assignment does not constitute a danger to public health, safety or the environment. 15 Cobbler Drive as depicted in the

Plan of Land dated December 7, 2018, shall be considered site assigned as to receive up to 500 tons per day of Municipal Solid Waste and Construction and Demolition Material pursuant to 310 CMR 16.00 in accordance with the terms and conditions stated herein.

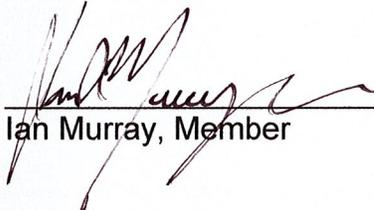
Any person aggrieved by the decision of the Board may, within 30 days of publication of this Notice of Decision, appeal under the provisions of G.L. c. 30A, Sec. 14.

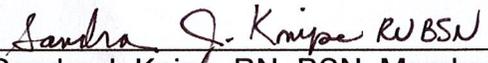
Dated this 2<sup>nd</sup> day of March, 2020.

City of Fitchburg

Board of Health:

  
Dr. John Bogdasarian, Chairman

  
Ian Murray, Member

  
Sandra J. Knipe, RN, BSN, Member

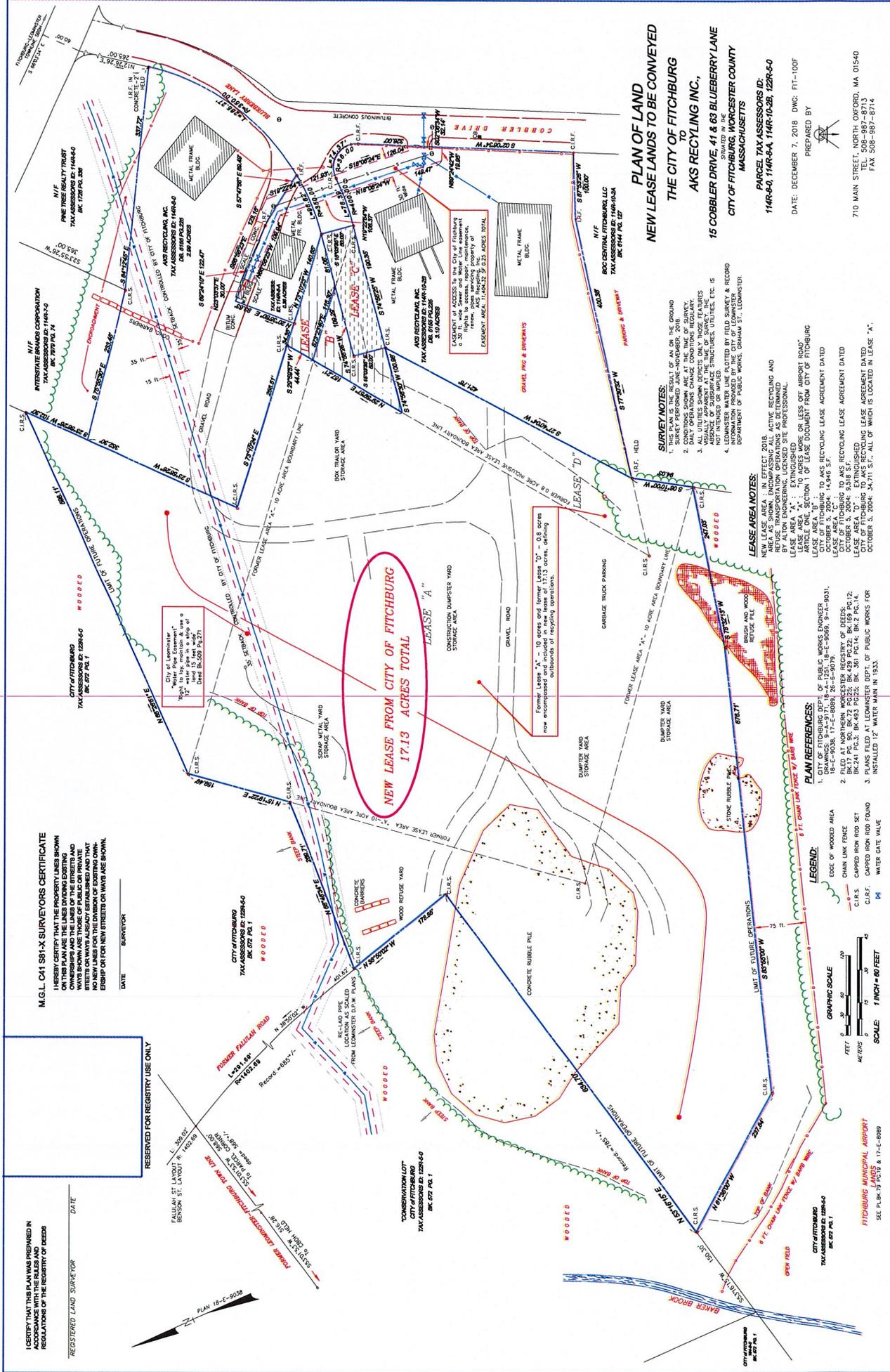


LOCATION THAT THIS PLAN WAS PREPARED IN  
 REGISTRATION OF THE REGISTRY OF DEEDS  
 REGISTERED LAND SURVEYOR DATE

M.G.L. CH 881-X SURVEYORS CERTIFICATE  
 I HEREBY CERTIFY THAT THE PROPERTY LINES SHOWN  
 ON THIS PLAN ARE THE LINES DIVIDING EXISTING  
 AND WAYS SHOWN ARE THOSE OF PUBLIC OR PRIVATE  
 RIGHTS OR WAYS ALREADY ESTABLISHED AND THAT  
 NO PART OF THE DIVISION OF EXISTING OWNERSHIP  
 OR OF NEW RIGHTS OR WAYS ARE SHOWN.

DATE SURVEYOR

RESERVED FOR REGISTRY USE ONLY



**PLAN OF LAND  
 NEW LEASE LANDS TO BE CONVEYED  
 TO THE CITY OF FITCHBURG  
 TO  
 AKS RECYCLING INC.,  
 15 COBBLER DRIVE, 41 & 63 BLUEBERRY LANE  
 CITY OF FITCHBURG, WORCESTER COUNTY  
 MASSACHUSETTS**

PARCEL TAX ASSESSORS ID:  
 114R-8-0, 114R-9-A, 114R-10-2B, 122R-5-0  
 DATE: DECEMBER 7, 2018 DMC: FIT-100F  
 PREPARED BY

710 MAIN STREET, NORTH WORCESTER, MA 01540  
 508-857-8713  
 FAX 508-857-8714

- SURVEY NOTES:**
- THIS PLAN IS THE RESULT OF AN ON THE GROUND SURVEY PERFORMED JUNE-NOVEMBER, 2018.
  - DAILY OPERATIONS CHANGE CONDITIONS REGULATORY.
  - ADULTS ONLY WORKING AREAS ONLY. THESE FEATURES ARE NOT TO BE USED FOR ANY OTHER PURPOSES.
  - LEASING WATER LINE PLOTTED BY FIELD SURVEY & RECORD DEPARTMENT OF PUBLIC WORKS, COMMONWEALTH OF MASSACHUSETTS.

- LEASE AREA NOTES:**
- NEW LEASE AREA EFFECT 2018  
 AREA AS SHOWN ENCOMPASSING ALL ACTIVE RECYCLING AND  
 BY ACTION ENGINEERING, LICENSED PROFESSIONAL ENGINEER  
 LEASE AREA "A": EXTINGUISHED  
 LEASE AREA "B": EXTINGUISHED  
 LEASE AREA "C": EXTINGUISHED  
 LEASE AREA "D": EXTINGUISHED

- PLAN REFERENCES:**
- 18-E-9038, 17-E-8989, 28-E-3079, 28-E-3089, 9-A-1031,  
 BK17 PC 90, BK72 PC23, BK23 PC2, BK159 PC12,  
 BK241 PC3, BK493 PC25, BK 361 PC14, BK2 PC14.
  - 3 PLANS FILED AT LEONARDER DEPT. OF PUBLIC WORKS FOR  
 INSTALLED 12" WATER MAIN IN 1933.

- LEGEND:**
- EDGE OF WOODED AREA
  - CHAIN LINK FENCE
  - C.I.R.S. CHIPPED IRON ROAD SET
  - C.I.R.S. CHIPPED IRON ROAD FOUND
  - WATER GATE VALVE



CITY OF FITCHBURG  
 TAX ASSESSORS ID: 122R-4-0  
 BK 027 PC 1

FITCHBURG MUNICIPAL AIRPORT  
 SEE PLB-79 PC18 & 17-E-8989

