



October 8, 2018

Maurice Jones
Town Manager
Town of Chapel Hill
405 Martin Luther King Jr Blvd.
Chapel Hill, NC 27514

RE: Response to August 1, 2018 Letter from Nicholas Torrey and Julie McClintock

Mr. Jones:

This letter is provided in response to the August 1, 2018 correspondence from Nicholas Torrey and Julie McClintock, of the Friends of Bolin Creek, regarding environmental meetings conducted by Town Staff and consultants on June 25 and 26, 2018 (“June 2018 meetings”). Please note that Steve Hart, P.G., of Hart & Hickman, PC assisted with preparation of this letter. Responses to specific items within each section of the letter are provided below.

Background

The letter includes certain background information concerning the 828 MLK, Jr. Blvd. property; however, some of the background information omits certain explanatory information that is important to understanding site conditions. Specific examples are provided below in italics below followed by our response.

“Manganese concentrations in Bolin Creek are elevated downstream of the site”

Response - This statement fails to recognize the discussion during the June 2018 meetings and the existing environmental reports that indicate concentrations of manganese are below EPA surface water screening criteria.

“Coal ash and pollutants from the site, including arsenic and chromium, have eroded onto both sides of the public greenway”

Response - This statement fails to mention that the North Carolina Department of Environmental Quality (DEQ) has determined that the coal ash and pollutants along the greenway do not pose a significant risk to users of the greenway.

“NCDEQ (among other requests), instructed the Town of Chapel Hill on October 2017 to develop and implement a remedial action plan to evaluate multiple remedial options for the site.”

Response - In October 2017, in response to the Town’s submittal of the Phase II Remedial Investigation Report, the NCDEQ Inactive Hazardous Sites Branch (IHSB), which the Town had been voluntarily working with to that point, indicated that a Remedial Action Plan (RAP) is warranted for the site. The IHSB requested that the Town develop and implement a RAP pursuant to a voluntary Administrative Agreement (AA) with NCDEQ. Because such a AA is voluntary, the Town began discussions with the NCDEQ IHSB and NCDEQ Brownfields Program about potential regulatory options to further address the site. The Town has been in contact with the NCDEQ and is in the process of evaluating application of the Brownfields Program to address contamination associated on the site while allowing for reuse and redevelopment. The June 2018 meetings were part of that process where the Town reached out to the public to discuss cleanup alternatives, regulatory programs, and obtain public opinion on possible reuse options for the site. NCDEQ has not instructed the Town to develop or implement a RAP for the site.

Discussion on Present Situation

The following are opinions or comments provided in the Present Situation section of the August 1, 2018 letter. The opinions or comments of the letter writers are provided in italics and followed by our response.

Opinion – “The Town staff prioritized its preferred brownfields approach without asking the public or the Town Council to comment on a range of options, while at the same time denying them information on what other options were available.”

Response – The June presentations provided information on both programs that are available to the Town for remediation of the site. These two programs are the IHSB Voluntary Cleanup Program and the Brownfields Program. During the presentation, the public was provided options for addressing coal combustion products (CCPs) and impacted soil on the property. At that time the public was informed that the consultant for the Town was preparing an evaluation of remedial alternatives and associated costs and that this information would be shared with the public and Council at a later date.

Opinion – The Town needs information of all the options to make an informed decision about how to address the environmental conditions on the property and follow NCDEQ instructions.

Response - As provided in the June 2018 meetings, a Remedial Alternatives evaluation report dated August 20, 2018 was completed for the site by Hart & Hickman, PC. The results of Hart & Hickman’s evaluation were provided to the public in a meeting conducted on August 27, 2018. The Town has been conducting all environmental activities associated with the site on a voluntary basis. There is no current notice of violation or regulatory requirement for the Town to address the contamination associated with the site. The Town continues to work on a voluntary basis to address documented contaminants associated with the site and has kept NCDEQ informed throughout the process.

Opinion – The facts for the site were misrepresented to the public and the discussion of information on the site provided to the public in June 2018 did not reflect actual conditions or minimized risks to the public.

Response - The public was provided a summary of environmental conditions on the property based on previous environmental reports. The discussion of the contamination on the site was consistent with the current environmental reports and was not minimized or misrepresented. At no time was the consultant for the Town evasive with respect to responsibility for cleanup or ignoring the contamination on the property.

The letter questions the use of an analogy to describe the units of measurement of environmental conditions. The analogy was provided in response to a resident that inquired as to the units of measurements and screening levels provided in the environmental reports. The consultant provided an analogy as to what a part per million and a part per billion would represent in a manner that would allow a person to visualize the levels at which the contaminants are being measured. The analogy was scientifically correct and was not intended to minimize the contaminant levels on the site.

In addition to the above comments, there were specific references to concentrations of contaminants relative to applicable standards provided within the August 1 letter. These comments have been previously provided in memos from the Southern Environmental Law Center and were addressed in letters provided by H&H dated April 6, 2018, and April 21, 2016.

Discussion of Recommendations

The letter provided certain recommendations with respect to a Remedial Action Plan. However, these recommendations did not appear to consider information provided during the June 2018 meetings. Specifically, the public was informed during the June 2018 meetings that Hart & Hickman, PC was preparing an evaluation of remedial alternatives and associated costs that would be shared with the public. The August 20, 2018 report from Hart & Hickman provided that information. The information was provided to the public during the August 27, 2018 meeting and addresses the majority of the recommendations provided in the letter.

A comment regarding the depth of CCP on the site was provided within the recommendations section of the report. This comment was provided previously by the Southern Environmental Law Center and addressed in the above referenced Hart & Hickman, PC letters. In addition, there were comments with regards to fair market value of the property that Town staff may address.

Please contact me if you have any questions.

A handwritten signature in blue ink that reads "David Goldman". The signature is written in a cursive, flowing style.

David Goldman, P.G.

cc: Steve Hart, P.G., Hart & Hickman, PC