

**Email correspondence from N. Zahler to Nathan Walz, from NYS DOH February 1, 2017**

Dear Nathan, I want to thank you again for serving as one of the Town of Ulysses' consultants in your role with the Bureau of Toxic Substance Assessment, Exposure Characterization and Response Section of the New York State Department of Health.

You have provided valuable information, experience and insight to the Town as we have been performing our due diligence activities in considering the acquisition of brownfield properties from Exxon Mobil for public use and community re-development.

I would appreciate it if you could provide your professional opinion on whether the three properties I have described to you can safely be re-developed for commercial and/or residential use, given the following use restrictions. Your position on the safe re-use may be very valuable reassurance to any future owner of the properties, in addition to the closing letter from DEC.

Obviously, none of us have perfect knowledge about the properties, but based on your review of the 2014 Soil Testing Results conducted and your knowledge of our potential plans for selling the old church to an owner who would preserve the exterior historically and re-purpose it for either a residence or business; the adjacent lot would be sold with the church to assure sufficient land for both a County Health Department-approved septic system and parking; and the open lot that may become either a park and ride lot or a site for affordable housing. The non-profit who may help with housing indicated they can build slab on grade and has experience with vapor barriers. We will not consider your professional opinion as a binding legal approval or endorsement.

Thank you for taking one more step on our behalf.

See Proposed Use Restrictions being required by Exxon Mobil. NOTE: The "Grantee" refers to the Town as the prospective buyer.

A. **Use Restrictions.** The following Use Restrictions (as defined below) are established and will permanently apply to the Property

1. **No Agricultural or Groundwater Use.** The Property may not be used for any agricultural uses. Groundwater in, on or under the surface of the Property may not be used by Grantee or authorized for use by Grantee for any purpose. The construction or installation of any water supply well by Grantee or authorized by Grantee, whether for drinking, irrigation or any other purpose, on the Property is prohibited. Notwithstanding the foregoing, private flower and vegetable gardens associated with residential use are permitted

2. **No Subsurface Use.** Excavation of the subsurface of the Property for development or construction of underground parking, basements or substructures is prohibited. Excavation of the subsurface of the Property for storage spaces or utility conduits where hydrocarbon vapors may accumulate is prohibited. This clause does not prohibit installation of a septic system or geothermal heating system or excavation to connect utilities, provided that such installation and excavation do not encourage accumulation of hydrocarbon vapors in a manner which may pose a risk to human health or safety.

B. **Engineering and Institutional Controls**. The Property is subject to the following engineering and institutional controls:

1. **Impervious Liners or Vapor Barriers**. Grantee agrees to use appropriately engineered impervious liners or vapor barriers designed, constructed and maintained to prevent the migration of hydrocarbon vapors or liquids, if any, from the soil to the interior of any structures constructed at or on the Property in areas where site conditions dictate that an environmental consultant or engineer, using practices consistent with the standard of care of consultants or engineers practicing under similar circumstances in similar locations, would suggest the use of such impervious liners or vapor barriers for protection of human health. Such barrier or liner must be installed by a licensed contractor experienced in the installation of such barriers or liners. In addition, Grantee must maintain the barrier or liner so that it remains as an effective barrier or liner. The barrier or liner must be of the appropriate strength and quality and at an appropriate level beneath ground level. Such installation must be performed in accordance with all applicable laws and in accordance with the highest industry standards to protect human health and safety.

2. **Slab on Grade**. Grantee agrees that all buildings constructed on the Property must be constructed slab on grade and must not have any living, working, storage or parking areas below grade.

### **Email reply from Nathan Walz, NYS DOH to N.Zahler February 2, 2017**

Nancy,

As you mentioned we don't know the exact current environmental state of the parcels in question due to the data being at least 12 years old. That being said, it can be assumed that since remedial measures were taken, and there was a clearly defined declining trend in concentration of all contaminants of concern that it would continue in that manner. To that end, based on review of available groundwater, and soil vapor data for parcels 1, 4 and 5; I believe the intended future use of these parcel is appropriate. Furthermore, the proposed use restrictions in the form of institutional and engineering controls will be protective of public health and will allow for redevelopment of the parcels as intended.

If you have any questions feel free to give me a call.

***Nathan M. Walz***

Public Health Specialist III,

Bureau of Toxic Substance Assessment,

Exposure Characterization and Response Section ,

New York State Department of Health,

Empire State Plaza, Corning Tower, Room 1772 , Albany, New York 12237,

Phone: [\(518\) 402-7810](tel:5184027810) [nathan.walz@health.ny.gov](mailto:nathan.walz@health.ny.gov)