

ROBINSON BRADSHAW & HINSON

ENCLOSURE MEMORANDUM



TO: Mr. Joe Ghiold
401 Oberlin Rd, Suite 150
Raleigh, NC 27605
1-919-508-8403

FROM: Christine N. Sigmon (704-377-8172)
North Carolina Certified Paralegal

DATE: November 3, 2010

RE: Cotton Mill Square Brownfields recorded plat

Enclosed please find the following for recording:

1. Copy of recorded plat (full size).

If you have any questions, please contact me at 704-377-8172.

Thank you,

Christine N. Sigmon, NCCP

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North Carolina Department of Environment and Natural Resources

Division of Waste Management

Beverly Eaves Perdue
Governor

Dexter R. Matthews
Director

Dee Freeman
Secretary

September 22, 2010



2010053570

GUILFORD CO, NC FEE \$58.00
NON-STANDARD DOC FEE

PRESENTED & RECORDED:

10-11-2010 04:10:37 PM

JEFF L. THIGPEN
REGISTER OF DEEDS
BY MARCELLE FOWLER
DEPUTY-SS

BK: R 7170

PG: 2988-2995

Mr. Jeff Thigpen
Guilford County Register of Deeds
P.O. Box 3427
Greensboro, NC 27402-3427

Subject: Amendment of Notice of Brownfields Property/Brownfields Agreement
Cotton Mill Sq. Site
801 Merritt Drive
Greensboro, Guilford County
Brownfields Project No. 04011-00-41

ROBINSON BRADSHAW & HINSON PA
101 N TRYON ST STE 1900
CHARLOTTE, NC 28202-9903



Dear Mr. Thigpen:

On March 26, 2002, 2002, a Notice of Brownfields Property (Notice) regarding the subject project was recorded in your office in **Book 5471, Page 1443** pursuant to the Brownfields Property Reuse Act (the Act), N.C.G.S. 130A-310.30, *et seq.* A Brownfields Agreement (Agreement) regarding the project constitutes Exhibit A to the Notice.

On August 5, 2010, the Property's current owner, Greensboro D/E/P LLC, requested changes to the Notice that include adding 2.392 adjoining acres to the Brownfields Property and changing the Notice's Land Use Restrictions. Those actions are acceptable to the N.C. Department of Environment and Natural Resources (DENR), for which I speak in this regard as the delegate of powers granted to DENR's Secretary under the Act.

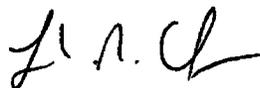
Thus, the delineation of the Brownfields Property is hereby amended in conformance with the attached plat and legal description, and the Land Use Restrictions (numbered/lettered as they are in the Agreement) are amended in conformance with the attached document setting them forth as amended.

Pursuant to N.C.G.S. 130A-310.35(e), please record this statement in the deed books and index it on the grantor index in the names of the owners of the land as shown in the Notice and on the grantee index in the name "Secretary of Environment and Natural Resources." Also pursuant to N.C.G.S. 130A-310.35(e), if practicable please make a marginal entry on the Notice showing the date of cancellation and the book and page where this statement is recorded, and sign the entry. If you would be so kind, please return to me a copy of this letter evidencing recordation.

Mr. Jeff Thigpen
September 22, 2010
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We appreciate your assistance in this matter. If you have questions or require additional information, please contact DENR official Joe Ghiold at (919) 508-8403 or joe.ghiold@ncdenr.gov.

Sincerely,



Linda M. Culpepper
Deputy Director
Division of Waste Management

Attachments

cc: Central Files

ec: Joe Ghiold, DENR Brownfields Project Manager
Robert R. Gelblum, Special Deputy Attorney General
Amos Dawson, Esq.
William W. Toole, ESq.

Legal Description

801 Merritt Drive
Greensboro, NC

BEING ALL OF TRACT 1, containing 3.484 Acres, TRACT 2, containing 8.929 Acres; and TRACT 3, containing 4.780 Acres, as shown on plat entitled "FINAL PLAT FOR COTTON MILL SQUARE" recorded in Plat Book 179, Page 39 in the Office of the Register of Deeds of Guilford County, North Carolina, containing 17.193 acres, more or less, also known as 801 Merritt Drive, Greensboro, NC., And being further described as -

TRACT 1

Beginning at an existing nail at the eastern margin of the right of way of Merritt Drive, 50 feet south of the centerline of the railroad track of the Norfolk Southern Railway. There from said point of beginning along the eastern right of way of Merritt Drive, S 08° 17' 19" W, 190.30 feet to a point in the northern right of way of Clifton Road; thence with the northern margin of the right of way of Clifton Road, along a curve to the left, having a radius of 20.00 feet, and a chord bearing and distance of S 37° 54' 11" E, 28.87 feet to a point; Thence continuing along said northern margin S 84° 05' 52" E, 102.35 feet to a point; Thence along a curve to the right having a radius of 525.00 feet, and a chord bearing and distance of S 82° 47' 11" E, 24.03 feet to a point; Thence S 81° 28' 30" E, 450.83 feet to a point; Thence along a curve to the left, having a radius of 100.00 feet and a chord bearing and distance of N 79° 12' 45" E, 66.14 feet to a point; Thence along a curve to the right, having a radius of 60.00' and a chord bearing and distance of S 68° 08' 07" E, 94.52 feet to a point on the western margin of BVP Spring Place LLC property as recorded in Deed Book 6876, Page 2536 at the Guilford County Register of Deeds; thence with the western property line of the said BVP Spring Place LLC property, N 08° 06' 05" E, 205.66 feet to the northwest corner of the said BVP Spring Place LLC property and being 50 feet south of the centerline of the railroad track of the Norfolk Southern Railway; thence with a line 50 feet south of the railroad centerline and parallel with said railroad, N 81° 32' 00" W, 751.65 feet to the point and place of beginning, containing 3.484 acres more or less.

TRACT 2

Beginning at a point in the eastern right of way of Merritt Drive, said point being the northeast intersection of the right of way of ways of Merritt Drive and Hewitt Street as shown on the final plat for Spring Place recorded in Plat Book 174, Page 16 at the Guilford County Register of Deeds; Thence from the above described point of beginning and with said northern margin of Hewitt Street S 38° 03' 35" E, 26.80 feet to a point; Thence continuing with the northern margin of Hewitt Street, S 81° 39' 36" E, 345.13 feet to a point; Thence along a curve to the left, having a radius of 550.00 feet, and a chord bearing and distance of N 89° 40' 44" E, 165.65 feet to a point, Thence along a curve to the left, having a radius of 100.00 feet, and a chord bearing and distance of N 58° 47' 01" E, 75.68 feet to a point; Thence along a curve to the right having a radius of 60.00 feet; and a chord bearing and distance of S 79° 59' 17" E, 107.36 feet to a point on the western line of the BVP Spring Place LLC property as recorded in Deed Book 6876, Page 2536 at the Guilford County Register of Deeds; thence with the western property line of the BVP Spring Place LLC Property the following three courses: N 08° 06' 05" E, 335.43 feet to an iron pipe; thence S 82° 38' 36" E, 52.24 feet to an iron pipe; thence N 08° 06' 05" E, 162.14 feet to a point in the southern right of way of Clifton Road; thence continuing with said southern margin

and along a curve to the right, having a radius of 60.00 feet, and a chord bearing and distance of S 84° 45' 42" W, 95.06 feet to a point; Thence with a curve to the left, having a radius of 100.00 feet, and a chord bearing and distance of N 62° 09' 45" W, 66.14 feet to a point; Thence N 81° 28' 30" W, 450.83 feet to a point; Thence along a curve to the left, having a radius of 475.00 feet, and a chord bearing and distance of N 82° 47' 11" W, 21.74 feet to a point; Thence N 84° 05' 52" W, 106.10 feet to a point; Thence along a curve to the left, having a radius of 20.00', and a chord bearing distance of S 52° 05' 49" W, 27.69 feet to a point on the eastern margin of the right of way of Merritt Drive; Thence along said eastern margin of Merritt Drive the following three courses: S 08° 17' 29" W, 300.15 feet to a point; Thence along a curve to the left having a radius of 2829.74 feet and a chord bearing and distance of S 06° 50' 06" W, 141.01 feet to a point; thence S 05° 23' 08" W, 85.26 feet to the point and place of beginning, containing 8.929 acres more or less.

TRACT 3

Beginning at a point in the eastern right of way of Merritt Drive, said point being the southeast intersection of the right of ways of Merritt Drive and Hewitt Street as shown on the final plat for Spring Place recorded in Plat Book 174, Page 16 at the Guilford County Register of Deeds; Thence from the above described point of beginning along the eastern right of way of Merritt Drive the following three courses" S 05° 14' 13" W, 64.17 feet to a point; Thence along a curve to the left having a radius of 723.90 feet and a chord bearing and distance of S 10° 06' 39" E, 383.25 feet to a point; Thence S 25° 27' 36" E, 9.21 feet to a point in the northern right of way of the Southern Railway; Thence with the northern right of way of the Southern Railway the following three courses: Along a curve to the right having a radius of 4396.37 feet and a chord bearing and distance of N 65° 22' 40" E, 241.29 feet to a point; Thence N 67-03-00 E 20.32 feet to a point; Thence along a curve to the right having a radius of 3,726.72 feet and a chord bearing and distance of N 70° 39' 17" E, 379.97 feet to a point, said point being the southwest corner of the BVP Spring Place LLC property as recorded in Deed Book 6876, Page 2536 at the Guilford County Register of Deeds; Thence with the western property line of the BVP Spring Place LLC property, N 08° 06' 05" E, 208.16 feet to a point, said point also being on the southern margin of right of way of Hewitt Street; Thence continuing with the southern right of way of Hewitt Street along a curve to the right, having a radius of 60.00 feet, arc length of 84.35 feet and a chord bearing and distance of S 72° 59' 50" W, 77.58 feet to a point; Thence along a curve to the left, having a radius of 100.00 feet, arc length of 60.11 feet and a chord bearing and distance of N 83° 56' 51" W, 59.21 feet to a point; Thence along a curve to the right, having a radius of 600.00 feet, arc length of 204.28 feet and a chord bearing and distance of S 88° 35' 10" W, 203.30 feet to a point; Thence N 81° 39' 36" W, 269.73 feet to a point on the southern margin of the right of way of Hewitt Street; Thence with said southern margin, N 81° 52' 27" W, 65.81 feet to a point; Thence continuing with the said southern margin, S 52° 09' 11" W, 29.10 feet to a point on the eastern margin of the right of way of Merritt Drive, the point and place of beginning, containing 4.784 acres more or less.

Additional/Revised Cotton Mill Square Land Use Restrictions, July 2010

v. During January of each year after the year in which the Notice referenced below in paragraph 12 is recorded, the owner of any part of the Property as of January 1st of that year shall submit a notarized Land Use Restrictions Update ("LURU") to DENR, and to the chief public health and environmental officials of Guilford County, certifying that, as of said January 1st, the Notice of Brownfields Property containing these land use restrictions remains recorded at the Guilford County Register of Deeds office and that the land use restrictions are being complied with, and stating:

A. the name, mailing address, telephone and facsimile numbers, and contact person's e-mail address of the owner submitting the LURU if said owner acquired any part of the Property during the previous calendar year; and

B. the transferee's name, mailing address, telephone and facsimile numbers, and contact person's e-mail address, if said owner transferred any part of the Property during the previous calendar year.

vi. Soil on the Property may not be disturbed at a depth greater than two (2) feet without a minimum of seven (7) business days advance written notice to DENR, unless DENR states otherwise in writing in advance. Soil at the Property may not be disturbed at a depth greater than two (2) feet unless and until DENR has approved in writing field screening techniques to be employed during such disturbance. Excavated soil that field screening and/or observation indicates may be contaminated with regulated substances above the applicable soil remediation goals ("SRGs") of DENR's Inactive Hazardous Sites Branch shall be stockpiled pending sampling and laboratory analysis. Any such stockpiles shall be covered so as to prevent water infiltration and run-off, and shall be sampled and analyzed in accordance with a plan

approved, in writing in advance, by DENR. Any soil that is shown by sampling results to exceed applicable SRGs shall be disposed of, otherwise treated in accordance with applicable law, or managed on site in accordance with a management plan approved in writing by DENR. A soil management plan approved in writing by DENR shall also include a sampling protocol for surficial soils to be implemented following the conclusion of construction-related soil disturbance but prior to non-construction worker occupation at the Property that confirms applicable SRGs are met in all those areas not covered by at least two feet of clean fill and/or capped by impervious surfaces or buildings placed on the property. If sampling determines that contamination is present in concentrations lower than the SRGs, or DENR otherwise concludes that returning the soil to the excavation from which it came would not render the Property unsuitable for the uses specified in subparagraph xi below and/or render public health and the environment less than fully protected, the soil may be so returned.

vii. No fill material may be placed on the Property unless DENR has been informed in writing of the source of said material and, if DENR so requires, unless DENR has been provided documentation satisfactory to DENR that the fill material does not contain regulated substances at concentrations above residential SRGs or naturally occurring background levels.

viii. No building may be constructed on the Property until DENR has been consulted regarding the proximity of the planned building to volatile contaminant plumes, as reflected in the most recent sampling results reasonably available to DENR. If DENR determines that the footprint of a building proposed to be constructed would fall within 100 feet of said plume, it may not be constructed until :

A. a vapor barrier and/or mechanical or passive vapor mitigation system approved in writing by DENR in advance is installed. Within 30 days following completion of installation, DENR shall be provided certification of proper installation under the seal of a professional engineer licensed in North Carolina, as well as photographs illustrating the installation and a brief narrative describing it; or

B. an assessment of the risk posed by soil gas to potential users of the building is prepared that demonstrates to DENR's written satisfaction that neither a vapor barrier nor mitigation system is required.

ix. No building on the Property may be constructed, nor any existing building altered, unless mechanical ventilation with outdoor air is provided in compliance with the most current version of the Mechanical Ventilation section of the Ventilation chapter of the North Carolina State Building Code ("Code") or another standard approved in writing in advance by DENR, unless compliance with this requirement is waived in writing by DENR in advance in regard to particular buildings or alterations. Within 30 days following completion of installation or modification of the subject ventilation, a professional engineer licensed in North Carolina shall provide DENR certification under seal that the ventilation system was installed or modified in accordance with its design specifications and complies with the Code.

x. Surface water at the Property may not be used for any purpose without the prior written approval of DENR.

xi. No use may be made of the Property other than for office, retail or residential purposes, or any mix thereof. Within the meaning of this restriction, the following definitions apply:

A. "Office" refers to the provision of business or professional services.

B. "Retail" refers to the sale of goods directly to the consumer.

C. "Residential" refers to use for a permanent dwelling of any single- or multi-unit building.

xii. Neither DENR nor any party conducting environmental assessment or remediation at the Property at the direction of, or pursuant to a permit, order or agreement issued or entered into by DENR, may be denied access to the Property for purposes of conducting such assessment or remediation, which is to be conducted using reasonable efforts to minimize interference with authorized uses of the Property.