

Brownfields Program
File Room Document Transmittal Sheet

23

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Date of Doc: 6/6/2006
Author of Doc: Amos Dawson

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WILMINGTON OFFICE

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adawson@maupintaylor.com

AMOS C. DAWSON, III

June 6, 2006

Ms. Shirley Liggins
N.C. Division of Waste Management
Brownfields Program
401 Oberlin Road
Suite 150
Raleigh, NC 27605

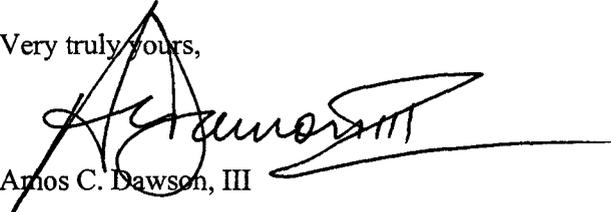
Re: Brownfields Agreement and Notice of Brownfields Property
St. Ives 220 Commercial, LLC
12415 Capital Blvd., Wake Forest, NC
Former Parker-Hannifin Facility
Our File No. 16530.003

Dear Ms. Liggins:

Pursuant to Rob Gelblum's May 30, 2006 instruction letter regarding the above-referenced transaction, enclosed please find a copy of the Notice of Brownfields Property recorded on June 2, 2006 in Book 1191, Pages 2634-2666 with the Wake County Register of Deeds along with a copy of the corresponding Brownfields Property Survey Plat recorded on June 2, 2006 at Book of Maps 2006, Page 1083, Wake County Register of Deeds.

Please give me a call if you have any questions. Thank you very much. With best wishes, I am

Very truly yours,


Amos C. Dawson, III

Enclosures

cc: Tony Duque (w/encls.)
Robert R. Gelblum, Esq. (w/encls.)
James M. Adams, Sr. (w/o encls.)
Ron R. Rogers, Esq. (w/o encls.)

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WAKE COUNTY, NC 492
LAURA M RIDDICK
REGISTER OF DEEDS
PRESENTED & RECORDED ON
06/02/2006 AT 13:37:09

BOOK:011991 PAGE:02634 - 02666

Property Owner: St. Ives 220 Commercial, LLC
Recorded in Book 1156, Page 363.
Associated plat recorded in Plat Book 2336, Page 1933
1034

After Recording
Return to:

Ronald R. Rogers
Maupin Taylor, P.A.
P.O. Drawer 19764
Raleigh, NC 27619-9764

NOTICE OF BROWNFIELDS PROPERTY

This documentary component of a Notice of Brownfields Property ("Notice"), as well as the plat component, have been filed this 2nd day of June, 2006 by St. Ives 220 Commercial, LLC (hereinafter "Prospective Developer").

The Notice concerns contaminated property.

A copy of this Notice certified by the North Carolina Department of Environment and Natural Resources (hereinafter "DENR") is required to be filed in the Register of Deeds' Office in the county or counties in which the land is located, pursuant to North Carolina General Statutes (hereinafter "NCGS"), Section (hereinafter "§") 130A-310.35(b).

This Notice is required by NCGS § 130A-310.35(a), in order to reduce or eliminate the danger to public health or the environment posed by environmental contamination at a property (hereinafter the "Brownfields Property") being addressed under the Brownfields Property Reuse Act of 1997, NCGS § 130A, Article 9, Part 5 (hereinafter the "Act").

Pursuant to NCGS § 130A-310.35(b), the Prospective Developer must file a certified copy of this Notice within 15 days of Prospective Developer's receipt of DENR's approval of the Notice or Prospective Developer's entry into the Brownfields Agreement required by the Act, whichever is later. Pursuant to NCGS § 130A-310.35(c), the copy of the Notice certified by DENR must be recorded in the grantor index under the names of the owners of the land and, if Prospective Developer is not the owner, also under Prospective Developer's name.

The Brownfields Property consists of approximately 33 acres of land and improvements located at 12415 Capitol Boulevard in Wake Forest, Wake County, North Carolina. The Brownfields Property was first developed in 1964 for the manufacture of a variety of pneumatic valves and cylinders, and was operated by Scovill Corporation, as the Schrader Bellows plant. Parker Hannifin Corporation ("Parker") purchased the manufacturing facility in 1986 and operated it until December 2001 when most manufacturing activities ceased. Parker leases the

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land under a long-term ground lease from the Town of Wake Forest Industrial Development Corporation, which is the owner of the Brownfields Property. Known soil and groundwater contamination at the Brownfields Property is being addressed by Parker under the Resource Conservation and Recovery Act ("RCRA") program, which is overseen by DENR's Hazardous Waste Section. Prospective Developer has committed itself to redevelopment of the Brownfields Property for no uses, without the prior consent of DENR, other than mixed commercial uses, including retail, flex space, warehousing, office, church and conference/convention/events center purposes.

The Brownfields Agreement between Prospective Developer and DENR is attached hereto as Exhibit A. It sets forth the uses that may be made of the Brownfields Property and the measures to be taken to protect public health and the environment, and is required by NCGS § 130A-310.32.

Attached hereto as Exhibit B is a reduction, to 8 1/2" x 11", of the survey plat required by NCGS § 130A-310.35(a). It is a plat of areas designated by DENR that has been prepared and certified by a professional land surveyor and that meets the requirements of NCGS § 47-30. That plat contains the following information required by NCGS § 130A-310.35(a):

(1) The location and dimensions of the areas of potential environmental concern with respect to permanently surveyed benchmarks.

(2) The type, location and quantity of regulated substances and contaminants known to exist on the Brownfields Property. The following table also sets forth the type and quantity of such substances:

a. Groundwater contaminants (in micrograms per liter, the equivalent of parts per billion), the standards for which are in Title 15A of the North Carolina Administrative Code, Subchapter 2L, Rule .0202:

| Groundwater Contaminant | Sample Location | Date of Max. Concentration Sampling | Maximum Concentration above Std. (µg/L) | Standard (µg/L) |
|-------------------------|---|-------------------------------------|---|-----------------|
| Cis-1,2-Dichloroethene | MW-6, MW-6DR, MW-11D | 7/10/03 | 770 (MW-6 & -11D) | 70 |
| Tetrachloroethene | MW-8, MW-8DR, MW-11, MW-9, MW-23 | 7/10/03 | 18 (MW-8) | 0.7 |
| Trichloroethene | POC-1A, POC-1B, POC-2B, MW-3, MW-6, MW-6D | 7/10-11/03 | 5,300 (POC-2B) | 2.8 |

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b. Soil contaminants (in milligrams per kilogram, the equivalent of parts per million), the standards for which are derived using the Guidelines of the Inactive Hazardous Sites Branch of DENR's Superfund Section:

| Soil Contaminant | Sample Location | Depth | Date of Max. Concentration Sampling | Maximum Concentration above Std. (mg/kg) | Standard (mg/kg) |
|------------------------|-----------------|-------|-------------------------------------|--|------------------|
| Arsenic | 35-20a | 0-6" | 6/27/02 | 4.71 | 4.4 |
| Chromium | 35-20a | 0-6" | 6/27/02 | 143 | 30 |
| Cyanide | 35-12 | 0-6" | 6/26/02 | 4.5 | 2.2 |
| Cis-1,2-Dichloroethene | SWMU-31 | 14' | 10/14/02 | 19 | 8.6 |
| Tetrachloroethene | SWMU-31 | 14' | 10/14/02 | 3.7 | 1.5 |
| Trichloroethene | SWMU-31 | 12" | 10/14/02 | 160 | 0.053 |
| Vinyl chloride | 35-13a | 0-6" | 5/26/02 | 0.086 | 0.079 |

Attached hereto as Exhibit C is a legal description of the Brownfields Property that would be sufficient as a description of the property in an instrument of conveyance.

LAND USE RESTRICTIONS

NCGS 130A-310.35(a) also requires that the Notice identify any restrictions on the current and future use of the Brownfields Property that are necessary or useful to maintain the level of protection appropriate for the designated current or future use of the Brownfields Property and that are designated in the Brownfields Agreement. The restrictions shall remain in force in perpetuity unless canceled by the Secretary of DENR (or its successor in function), or his/her designee, after the hazards have been eliminated, pursuant to NCGS § 130A-310.35(e). All references to DENR shall be understood to include any successor in function. The restrictions are hereby imposed on the Brownfields Property, and are as follows:

- 1. No use may be made of the Brownfields Property other than for mixed commercial uses, including retail, flex space, warehousing, office, church and conference/convention/events center purposes.**
- 2. Surface water and groundwater at the Brownfields Property may not be used for any purpose without the approval of DENR or its successor in function.**
- 3. No activities that encounter, expose, remove or use groundwater (for example, installation of water supply wells, fountains, ponds, lakes or swimming pools, or construction or excavation activities that encounter or expose groundwater) may occur on the Brownfields Property without prior sampling and analysis of groundwater to the satisfaction of DENR or its successor in function in any areas proposed for such activities, and submittal of the analytical results to DENR or its successor in function. If such results**

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disclose to DENR or its successor in function contamination in excess of North Carolina's groundwater quality standards, the proposed activities may not occur without the approval of DENR or its successor in function on such conditions as DENR or its successor in function imposes, including at a minimum compliance with plans and procedures, approved pursuant to applicable law, to protect public health and the environment during the proposed activities.

4. Soil underlying existing paved or other man-made impervious surfaces and buildings at the Brownfields Property, as reflected on the plat component of this Notice, may not be exposed without prior sampling and analysis of such soil to the satisfaction of DENR or its successor in function, and submittal of the analytical results to DENR or its successor in function. A party proposing exposure of soil underlying paved surfaces and buildings may request that DENR or its successor in function make a determination that previous sampling results are sufficient. If the sampling results disclose contamination that DENR or its successor in function determines is capable of making the Brownfields Property unsuitable for the uses specified in Land Use Restriction 1, above, the soil may not be exposed without the approval of DENR or its successor in function on such conditions as DENR or its successor in function imposes. Such conditions shall include, at a minimum, compliance with plans and procedures designed to protect public health and the environment during the activities that would expose such soil and approved pursuant to applicable law. If DENR determines the exposed soil contains contamination capable of making the Brownfields Property unsuitable for the uses specified in Land Use Restriction 1, above, then as much soil as DENR requires shall be removed and disposed in accordance with applicable law, and any other actions DENR reasonably requires to make the Brownfields Property suitable for the uses specified in this Agreement shall be taken. Alternatively, if DENR determines that such soil contamination is not capable of making the Brownfields Property unsuitable for the uses specified in Land Use Restriction 1 above if left in place, DENR may require the soil contamination to be capped, with perpetual maintenance of the cap to the satisfaction of DENR, or treated to DENR's satisfaction.

5. No mining may be conducted on or under the Brownfields Property, including, without limitation, extraction of coal, oil, gas or any other minerals or non-mineral substances.

6. In order to address potential vapor intrusion, no basements may be constructed on the Brownfields Property unless they are, as determined by DENR or its successor in function, vented in accordance with applicable building codes, and any structures placed on the Brownfields Property must be constructed or retrofitted in a manner that will prevent or mitigate, to DENR's written satisfaction, unacceptable indoor air quality.

7. None of the contaminants known to be present in the environmental media at the Brownfields Property, including those listed in paragraph 7 of Exhibit A hereto, may be used or stored at the Brownfields Property without the prior approval of DENR or its successor in function, except in *de minimis* amounts for cleaning and other routine housekeeping activities.

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8. The Brownfields Property may not be used as a park or for sports of any kind, including, but not limited to, golf, football, soccer and baseball, without the approval of DENR or its successor in function. For purposes of this section, outdoor and indoor common open space areas associated with mixed commercial uses shall not be considered parks.

9. Neither day care facilities nor schools, whether associated with another institution or not, nor playgrounds are permitted on the Brownfields Property without the approval of DENR or its successor in function.

10. No party conducting environmental assessment or remediation at the Brownfields Property at the direction of, or pursuant to a permit or order issued by, DENR, may be denied access to the Brownfields Property for purposes of conducting such assessment or remediation.

11. During January of each year after Exhibit A hereto becomes effective, the then current owner of any part of the Brownfields Property shall submit a notarized Land Use Restrictions Update to DENR or its successor in function certifying that this Notice containing these land use restrictions remains recorded at the Wake County Register of Deeds office, and that the land use restrictions are being complied with.

For purposes of the land use restrictions set forth above, "DENR" shall mean the DENR official and address referenced in paragraph 32.a. of Exhibit A hereto.

ENFORCEMENT

The above land use restrictions shall be enforceable without regard to lack of privity of estate or contract, lack of benefit to particular land, or lack of any property interest in particular land. The land use restrictions shall be enforced by any owner of the Brownfields Property. The land use restrictions may also be enforced by DENR through the remedies provided in NCGS 130A, Article 1, Part 2 or by means of a civil action; by any unit of local government having jurisdiction over any part of the Brownfields Property; and by any person eligible for liability protection under the Brownfields Property Reuse Act who will lose liability protection if the restrictions are violated. Any attempt to cancel any or all of this Notice without the approval of the Secretary of DENR (or its successor in function), or his/her delegate, shall be subject to enforcement by DENR to the full extent of the law. Failure by any party required or authorized to enforce any of the above restrictions shall in no event be deemed a waiver of the right to do so thereafter as to the same violation or as to one occurring prior or subsequent thereto.

FUTURE SALES, LEASES, CONVEYANCES AND TRANSFERS

When any portion of the Brownfields Property is sold, leased, conveyed or transferred, pursuant to NCGS § 130A-310.35(d) the deed or other instrument of transfer shall contain in the description section, in no smaller type than that used in the body of the deed or instrument, a statement that the Brownfields Property has been classified and, if appropriate, cleaned up as a brownfields property under the Brownfields Property Reuse Act.

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IN WITNESS WHEREOF, Prospective Developer has caused this instrument to be duly executed this 1st day of June, 2006.

ST. IVES 220 COMMERCIAL, LLC

By: James M. Adams, Sr.
James M. Adams, Sr.
Manager

NORTH CAROLINA
Wake COUNTY

I, Mary L. Galecki, a Notary Public of the Franklin county and state aforesaid, certify that James M. Adams, Sr. personally came before me this day and acknowledged that he/~~she~~ is a Member/Manager of St. Ives 220 Commercial, LLC, a North Carolina limited liability company, and its Manager, and that by authority duly given and as the act of the company, the foregoing Notice of Brownfields Property was signed in its name by him/~~her~~.

WITNESS my hand and official stamp or seal, this 1st day of June, 2006.

MARY L. GALECKI
NOTARY PUBLIC
FRANKLIN COUNTY, NC
My Commission Expires 12-15-2010

Mary L. Galecki
Name typed or printed: Mary L. Galecki
Notary Public

My Commission expires: 12-15-2010

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APPROVAL AND CERTIFICATION OF NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

The foregoing Notice of Brownfields Property is hereby approved and certified.

North Carolina Department of Environment and Natural Resources

By: L. M. Culpepper
Linda M. Culpepper
Deputy Director, Division of Waste Management

May 30, 2006
Date

CERTIFICATION OF REGISTER OF DEEDS

The foregoing documentary component of the Notice of Brownfields Property, and the associated plat, are certified to be duly recorded at the date and time, and in the Books and Pages, shown on the first page hereof.

Register of Deeds for Wake County

By: P. Anne Redd
Name typed or printed: P. Anne Redd
Deputy/Assistant Register of Deeds

6/2/06
Date

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“EXHIBIT A” TO THE NOTICE OF BROWNFIELDS PROPERTY

NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

IN THE MATTER OF: St. Ives 220 Commercial, LLC

| | | |
|---|---|---------------------------------|
| UNDER THE AUTHORITY OF THE |) | BROWNFIELDS AGREEMENT re: |
| BROWNFIELDS PROPERTY REUSE ACT |) | Former Parker Hannifin Facility |
| OF 1997, N.C.G.S. § 130A-310.30, <u>et seq.</u> |) | 12415 Capitol Boulevard |
| BF Project Number: 07029-03-92 |) | Wake Forest, Wake County |

I. INTRODUCTION

This Brownfields Agreement (“Agreement”) is entered into by the North Carolina Department of Environment and Natural Resources (“DENR”) and St. Ives 220 Commercial, LLC (collectively the "Parties") pursuant to the Brownfields Property Reuse Act of 1997, N.C.G.S. § 130A-310.30, et seq. (the “Act”).

St. Ives 220 Commercial, LLC, a North Carolina limited liability company whose business address is 818 South White Street, Wake Forest, North Carolina 27587, desires to purchase approximately 33 acres of land and improvements located at 12415 Capitol Boulevard in Wake Forest, Wake County, North Carolina, which it intends to redevelop for mixed commercial uses, including retail, flex space, warehousing, office, church and conference/convention/events center use. A map showing the location of the property which is the subject of this Agreement appears on the plat attached as Exhibit B to the Notice of Brownfields Property referenced below in paragraph 19.

The Parties agree to undertake all actions required by the terms and conditions of this Agreement. The purpose of this Agreement is to settle and resolve, subject to reservations and limitations contained in Section VIII (Certification), Section IX (DENR’s Covenant Not to Sue and Reservation of Rights) and Section X (Prospective Developer’s Covenant Not to Sue), the potential liability of St. Ives 220 Commercial, LLC for contaminants at the property which is the subject of this Agreement.

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The Parties agree that St. Ives 220 Commercial, LLC's entry into this Agreement, and the actions undertaken by St. Ives 220 Commercial, LLC in accordance with the Agreement, do not constitute an admission of any liability by St. Ives 220 Commercial, LLC.

The resolution of this potential liability, in exchange for the benefit St. Ives 220 Commercial, LLC shall provide to DENR, is in the public interest.

II. DEFINITIONS

Unless otherwise expressly provided herein, terms used in this Agreement which are defined in the Act or elsewhere in N.C.G.S. 130A, Article 9 shall have the meaning assigned to them in those statutory provisions, including any amendments thereto.

1. "Property" shall mean the Brownfields Property which is the subject of this Agreement, and which is depicted in Exhibit B to the Notice of Brownfields Property referenced below in paragraph 19, and described in Exhibit C thereto.

2. "Prospective Developer" shall mean St. Ives 220 Commercial, LLC.

III. STATEMENT OF FACTS

3. Prospective Developer is a North Carolina limited liability company whose business address is 818 South White Street, Wake Forest, North Carolina 27587. Prospective Developer desires to purchase the Property, which comprises approximately 33 acres and is located at 12415 Capitol Boulevard, Wake Forest, Wake County, North Carolina. Prospective Developer has committed itself to redevelopment of the Property for no uses, without the prior consent of DENR, other than mixed commercial uses, including retail, flex space, warehousing, office, church and conference/convention/events center use.

4. The Property is bordered to the north by undeveloped land zoned for mixed use retail and owned by St. Ives Commercial Properties, LLC; to the northwest by St. Ives Estates, a

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partially developed residential subdivision owned by St. Ives, LLC; on the southeast by Capitol Boulevard and land in retail and commercial use; and on the south by undeveloped land owned by St. Ives Commercial Properties, LLC.

5. The reports, assessments, investigations, evaluations, applications, workplans, and laboratory data regarding the Property and on file with the DENR's Hazardous Waste Section are referred to hereinafter as the "Environmental Reports."

6. For purposes of this Agreement, DENR relies on the following information, derived from the Environmental Reports and from representations made by Prospective Developer, as to prior use of and activities conducted on the Property, and as to the Property's environmental regulatory history and obligations under the current environmental regulatory framework in place at the Property:

a. The facility was constructed in 1964 for the manufacture of a variety of pneumatic valves and cylinders, and was operated by Scovill Corporation ("Scovill"), as the Schrader Bellows plant.

b. Parker Hannifin Corporation ("Parker") purchased the manufacturing facility in 1986 and operated it until December 2001 when most manufacturing activities ceased. Parker leases the land under a long-term ground lease from the Town of Wake Forest Industrial Development Corporation, which is the owner of the Property.

c. From 1964 through 1986, Parker and its predecessors on the Property treated wastewater generated by metal finishing and plating operations via a system that consisted of batch treatment tanks, two sand filter beds and a clarifier. Parker and its predecessors also used chlorinated solvents, primarily trichloroethene ("TCE"), in their manufacturing processes to clean machined parts.

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d. In 1980, Scovill filed an application for a Part A permit under the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6901, *et seq.*, that notified the State of North Carolina's Division of Health Services ("DHS") and the United States Environmental Protection Agency ("EPA") that hazardous wastes were generated and stored at the site. The EPA Facility ID number for the Property is NCD 002 591 014.

e. Following their closure by Scovill in 1986 under a 1985 Consent Order entered into with DHS, the sand filter beds were deemed land disposal units under RCRA, and DHS requested a RCRA Part B Post-Closure permit application. The Consent Order also required the implementation of a groundwater monitoring program around the sand filter beds. Parker submitted the RCRA Part B Post-Closure Permit Application in June 1987. The final permit was issued in August 1991. Parker submitted a RCRA Part B Renewal Permit Application in August 2001, revision I in August 2002 and revision II in May 2003; DENR's Hazardous Waste Section has published a draft renewal permit for public review and comment.

f. TCE groundwater contamination was discovered during the initial groundwater monitoring activities in the vicinity of the above-referenced sand filter beds. At the direction and under the oversight of the Hazardous Waste Section, Parker has conducted multiple phases of groundwater assessment, involving the installation of forty-two (42) groundwater monitoring wells, and has implemented and currently operates an interim groundwater pump-and-treat remediation system at the Property with three (3) groundwater recovery wells. Annual groundwater monitoring and semi-annual remediation system evaluations are required under the existing RCRA Part B permit, and will be required under said permit as renewed.

g. As required for RCRA post-closure facilities, a Preliminary Assessment ("PA") and a Visual Site Inspection ("VSI") were conducted at the Property, as a result of which a total

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of thirty-eight (38) Solid Waste Management Units (“SWMUs”) and Areas of Concern (“AOCs”) have been identified at the Property. Significant work has been performed by Parker toward the achievement of “no further action” status regarding many of these SWMUs and AOCs; that has involved sampling, soil excavation, tank removal and dismantling of process equipment. In addition, Parker has installed and operates a soil vapor extraction (“SVE”) system to treat contaminated soil at four SWMUs.

h. The RCRA Part B permit as renewed requires Parker to further investigate and address soil and groundwater contamination at all the Property’s SWMUs and AOCs that have not achieved “no further action” status. According to said permit as it will be renewed, the eight SWMUs and four AOCs listed below require additional assessment and possible corrective action:

- SWMU 8-Oil/Water Separator
- SWMU 11-Filter Press Room
- SWMU 15-Waste Treatment Area
- SWMU 16-Sand Filter Beds (Regulated Unit)
- SWMU 24-Storage Tank Farm
- SWMU 31-Hazardous Waste/Product Drum Storage Area
- SWMU 32-Former Drum Storage Area
- SWMU 33-Former Underground Waste Oil Tank
- AOC 35-Plant Floor, Floor Trenches, and Floor Drains
- AOC 36-Caustics Storage Building Spills
- AOC 37-Acid Storage Building Spills
- AOC 38-North Corner Parking Lot

i. The RCRA Part B permit also requires Parker to remediate the TCE plume until concentrations of contaminants detected in groundwater samples collected from the four Point of Compliance wells do not exceed the North Carolina groundwater standards found in Subchapter 2L of Title 15A of the North Carolina Administrative Code. Among other requirements to be imposed on Parker by DENR’s Hazardous Waste Section will be requirements that Parker complete a RCRA Facility Investigation that includes delineation of the

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extent of TCE contamination of groundwater, evaluate the potential for vapor intrusion, and take appropriate measures to address any indoor air levels of contaminants, including without limitation those listed in paragraph 7 below, deemed unacceptable to the Hazardous Waste Section. Parker will be required to provide financial assurances satisfactory to the Hazardous Waste Section for post-closure care and corrective action (as defined in 40 CFR 264.101) at the facility.

j. The RCRA Part B permit also provides that compliance with the applicable terms and conditions of this Agreement insures that the permit will not be issued or transferred to Prospective Developer or future owners, and that corrective action activities conducted by the permittee to fulfill the requirements of the permit shall not be deemed in violation of this Agreement or of its land use restrictions.

7. The most recent environmental sampling at the Property reported in the Environmental Reports occurred on July 10-11, 2003. The following tables set forth, for contaminants present at the Property that pose a threat to public health or the environment, the maximum concentration at any sample location during the most recent sampling event, and an applicable standard:

a. Groundwater contaminants (in micrograms per liter, the equivalent of parts per billion), the following standards for which are in Title 15A of the North Carolina Administrative Code, Subchapter 2L, Rule .0202:

| Groundwater Contaminant | Sample Location | Date of Max. Concentration Sampling | Maximum Concentration above Std. (µg/L) | Standard (µg/L) |
|-------------------------|----------------------|-------------------------------------|---|-----------------|
| Cis-1,2-Dichloroethene | MW-6, MW-6DR, MW-11D | 7/10/03 | 770 (MW-6 & -11D) | 70 |
| Tetrachloroethene | MW-8, MW-8DR, | 7/10/03 | 18 (MW-8) | 0.7 |

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| | | | | |
|-----------------|---|------------|--------------------|-----|
| | MW-11, MW-9, MW-23 | | | |
| Trichloroethene | POC-1A, POC-1B, POC-2B, MW-3, MW-6, MW-6D | 7/10-11/03 | 5,300 (POC- 2B) | 2.8 |

b. Soil contaminants (in milligrams per kilogram, the equivalent of parts per million), the following standards for which are derived using the Guidelines of the Inactive Hazardous Sites Branch of DENR's Superfund Section:

| Soil Contaminant | Sample Location | Depth | Date of Max. Concentration Sampling | Maximum Concentration above Std. (mg/kg) | Standard (mg/kg) |
|------------------------|-----------------|-------|-------------------------------------|--|------------------|
| Arsenic | 35-20a | 0-6" | 6/27/02 | 4.71 | 4.4 |
| Chromium | 35-20a | 0-6" | 6/27/02 | 143 | 30 |
| Cyanide | 35-12 | 0-6" | 6/26/02 | 4.5 | 2.2 |
| Cis-1,2-Dichloroethene | SWMU-31 | 14' | 10/14/02 | 19 | 8.6 |
| Tetrachloroethene | SWMU-31 | 14' | 10/14/02 | 3.7 | 1.5 |
| Trichloroethene | SWMU-31 | 12" | 10/14/02 | 160 | 0.053 |
| Vinyl chloride | 35-13a | 0-6" | 5/26/02 | 0.086 | 0.079 |

8. For purposes of this Agreement DENR relies on Prospective Developer's representations that Prospective Developer's involvement with the Property has been limited to preparing and submitting to DENR a Brownfields Letter of Intent dated October 27, 2003, reviewing some of the Environmental Reports, and entering into negotiations with Parker regarding the terms of a purchase contract for the Property.

9. Prospective Developer has provided DENR with information, or sworn certifications regarding that information on which DENR relies for purposes of this Agreement, sufficient to demonstrate that:

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a. Prospective Developer and any parent, subsidiary, or other affiliate has substantially complied with federal and state laws, regulations and rules for protection of the environment, and with the other agreements and requirements cited at N.C.G.S. § 130A-310.32(a)(1);

b. as a result of the implementation of this Agreement, the Property will be suitable for the uses specified in the Agreement while fully protecting public health and the environment;

c. Prospective Developer's reuse of the Property will produce a public benefit commensurate with the liability protection provided Prospective Developer hereunder;

d. Prospective Developer has or can obtain the financial, managerial and technical means to fully implement this Agreement and assure the safe use of the Property; and

e. Prospective Developer has complied with all applicable procedural requirements.

10. Prospective Developer has paid the \$2,000 fee to seek a brownfields agreement required by N.C.G.S. § 130A-310.39(a)(1). Pursuant to N.C.G.S. § 130A-310.39(a)(2), the procedure upon which Prospective Developer and DENR have agreed for payment of the full cost to DENR and the North Carolina Department of Justice ("DOJ") of all activities related to this Agreement is that Prospective Developer shall pay any amount by which DOJ's hours, multiplied by \$36.24, exceed the \$2,000 fee referenced above in this paragraph. (DENR has incurred no costs.)

IV. BENEFIT TO COMMUNITY

11. The redevelopment of the Property proposed herein would provide the following public benefits:

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- a. a return to productive use of the Property;
- b. the creation of an estimated 50 to 100 jobs;
- c. increased tax revenue for affected jurisdictions;
- d. additional retail shopping opportunities and office/flex/warehousing space for the area; and
- e. additional office space, and possibly a convention/conference/events center for the Town of Wake Forest.

V. WORK TO BE PERFORMED

12. Subject to imposition of and compliance with the land use restrictions cited below in paragraph 13, and except as may be required pursuant to Section IX of this Agreement (Reservation of Rights and DENR's Covenant Not to Sue and Reservation of Rights), and assuming compliance with requirements imposed on Parker by the RCRA Part B permit for the Property (including, without limitation, the requirement that Parker provide sufficient financial assurance, in relation to existing contamination at the Property, and that all assessment, remediation and monitoring required by the permit will be completed), and/or other requirements concerning the Property validly imposed on Parker by DENR's Hazardous Waste Section, Prospective Developer shall not be required to conduct active remediation at the Property to make it suitable for the uses specified in this Agreement.

13. By way of the Notice of Brownfields Property referenced below in paragraph 19, Prospective Developer shall impose the following land use restrictions under the Act, running with the land, to make the Property safe for the uses specified in this Agreement while fully protecting public health and the environment. Corrective action conducted by Parker pursuant to

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the RCRA Part B permit shall not be deemed in violation of this Agreement or of the following land use restrictions.

a. No use may be made of the Property other than for mixed commercial uses, including retail, flex space, warehousing, office, church and conference/convention/events center purposes.

b. Surface water and groundwater at the Property may not be used for any purpose without the approval of DENR or its successor in function.

c. No activities that encounter, expose, remove or use groundwater (for example, installation of water supply wells, fountains, ponds, lakes or swimming pools, or construction or excavation activities that encounter or expose groundwater) may occur on the Property without prior sampling and analysis of groundwater to the satisfaction of DENR or its successor in function in any areas proposed for such activities, and submittal of the analytical results to DENR or its successor in function. If such results disclose to DENR or its successor in function contamination in excess of North Carolina's groundwater quality standards, the proposed activities may not occur without the approval of DENR or its successor in function on such conditions as DENR or its successor in function imposes, including at a minimum compliance with plans and procedures, approved pursuant to applicable law, to protect public health and the environment during the proposed activities.

d. Soil underlying existing paved or other man-made impervious surfaces and buildings at the Property, as reflected on the plat component of the Notice referenced below in paragraph 19, may not be exposed without prior sampling and analysis of such soil to the satisfaction of DENR or its successor in function, and submittal of the analytical results to DENR or its successor in function. A party proposing exposure of soil underlying paved

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surfaces and buildings may request that DENR or its successor in function make a determination that previous sampling results are sufficient. If the sampling results disclose contamination that DENR or its successor in function determines is capable of making the Property unsuitable for the uses specified in Land Use Restriction a. above, the soil may not be exposed without the approval of DENR or its successor in function on such conditions as DENR or its successor in function imposes. Such conditions shall include, at a minimum, compliance with plans and procedures designed to protect public health and the environment during the activities that would expose such soil and approved pursuant to applicable law. If DENR determines the exposed soil contains contamination capable of making the Property unsuitable for the uses specified in Land Use Restriction a. above, then as much soil as DENR requires shall be removed and disposed in accordance with applicable law, and any other actions DENR reasonably requires to make the Property suitable for the uses specified in this Agreement shall be taken. Alternatively, if DENR determines that such soil contamination is not capable of making the Property unsuitable for the uses specified in Land Use Restriction a. above if left in place, DENR may require the soil contamination to be capped, with perpetual maintenance of the cap to the satisfaction of DENR, or treated to DENR's satisfaction.

e. No mining may be conducted on or under the Property, including, without limitation, extraction of coal, oil, gas or any other minerals or non-mineral substances.

f. In order to address potential vapor intrusion, no basements may be constructed on the Property unless they are, as determined by DENR or its successor in function, vented in accordance with applicable building codes, and any structures placed on the Property must be constructed or retrofitted in a manner that will prevent or mitigate, to DENR's written satisfaction, unacceptable indoor air quality.

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g. None of the contaminants known to be present in the environmental media at the Property, including those listed in paragraph 7 of this Agreement, may be used or stored at the Property without the prior approval of DENR or its successor in function, except in *de minimis* amounts for cleaning and other routine housekeeping activities.

h. The Property may not be used as a park or for sports of any kind, including, but not limited to, golf, football, soccer and baseball, without the approval of DENR or its successor in function. For purposes of this section, outdoor and indoor common open space areas associated with mixed commercial uses shall not be considered parks.

i. Neither day care facilities nor schools, whether associated with another institution or not, nor playgrounds are permitted on the Property without the approval of DENR or its successor in function.

j. No party conducting environmental assessment or remediation at the Property at the direction of, or pursuant to a permit or order issued by, DENR, may be denied access to the Property for purposes of conducting such assessment or remediation.

k. During January of each year after this Agreement becomes effective, the then current owner of any part of the Property shall submit a notarized Land Use Restrictions Update to DENR or its successor in function certifying that the Notice of Brownfields Property containing these land use restrictions remains recorded at the Wake County Register of Deeds office, and that the land use restrictions are being complied with.

14. Within thirty (30) days after DENR notifies Prospective Developer that Parker has fulfilled its obligations under the RCRA Part B permit, Prospective Developer shall notify DENR that it is ready to effect the abandonment, in accordance with Subchapter 2C of Title 15A of the North Carolina Administrative Code, of any groundwater monitoring wells, injection

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wells, recovery wells, piezometers and other man-made points of groundwater access at the Property that remain to be abandoned. Unless DENR notifies Prospective Developer within ten (10) days of receiving such notification to refrain from such abandonment, Prospective Developer shall carry out or cause the carrying out of said abandonment and shall, within thirty (30) days after concluding such abandonment, provide DENR a report setting forth the procedures and results.

15. The desired result of the above-referenced land use restrictions and well abandonment activities is to make the Property suitable for the uses specified in the Agreement while fully protecting public health and the environment.

16. The guidelines, including parameters, principles and policies within which the desired results are to be accomplished are the Guidelines of the Inactive Hazardous Sites Branch of DENR's Superfund Section, as embodied in their most current version.

17. The consequences of achieving or not achieving the desired results will be that the Property is or is not suitable for the uses specified in the Agreement while fully protecting public health and the environment.

VI. ACCESS/NOTICE TO SUCCESSORS IN INTEREST

18. Prospective Developer has effected recordation, at Book 11494, Pages 2729-2774 in the Wake County Register of Deeds' office, of easements providing access to Parker, and its successors and assigns, to certain parcels adjoining the Property, in connection with measures addressing contamination. DENR, its authorized officers, employees and representatives shall have an irrevocable right of access at all reasonable times to such parcels for the purposes of performing or overseeing response actions at the Property under applicable law. DENR agrees to provide reasonable notice to the Prospective Developer of the timing of response actions to be

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undertaken at the Property. DENR agrees to provide reasonable notice to the Prospective Developer of the timing of any response actions it undertakes at the Property or the referenced adjoining parcels. Notwithstanding any provision of this Agreement, DENR retains all of its authorities and rights, including enforcement authorities related thereto, under the Act and any other applicable statute or regulation, including any amendments thereto.

19. DENR has approved, pursuant to N.C.G.S. § 130A-310.35, a Notice of Brownfields Property for the Property containing, inter alia, the land use restrictions set forth in Section V (Work to Be Performed) of this Agreement and a survey plat of the Property. Pursuant to N.C.G.S. § 130A-310.35(b), within 15 days of the effective date of this Agreement Prospective Developer shall file the Notice of Brownfields Property in the Wake County, North Carolina register of deeds' office. Within three days thereafter, Prospective Developer shall furnish DENR a copy of the documentary component of the Notice containing a certification by the register of deeds as to the Book and Page numbers where both the documentary and plat components of the Notice are recorded, and a copy of the plat with notations indicating its recordation.

20. This Agreement shall be attached as Exhibit A to the Notice of Brownfields Property. Subsequent to recordation of said Notice, any deed or other instrument conveying an interest in the Property shall contain the following notice: "The property which is the subject of this instrument is subject to the Brownfields Agreement attached as Exhibit A to the Notice of Brownfields Property recorded in the Wake County land records, Book ____, Page ____." A copy of any such instrument shall be sent to the persons listed in Section XV (Notices and Submissions), though financial figures related to the conveyance may be redacted.

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21. The Prospective Developer shall ensure that assignees, successors in interest, lessees and sublessees of the Property shall provide the same access and cooperation. The Prospective Developer shall ensure that a copy of this Agreement is provided to any current lessee or sublessee on the Property as of the effective date of this Agreement and shall ensure that any subsequent leases, subleases, assignments or transfers of the Property or an interest in the Property are consistent with this Section, Section V (Work to be Performed) and Section XI (Parties Bound/Transfer of Covenant) of this Agreement.

VII. DUE CARE/COOPERATION

22. The Prospective Developer shall exercise due care at the Property with respect to regulated substances and shall comply with all applicable local, State, and federal laws and regulations. The Prospective Developer agrees to cooperate fully with any remediation of, and corrective action at, the Property by DENR and further agrees not to interfere with any such remediation or corrective action. DENR agrees, consistent with its responsibilities under applicable law, to use reasonable efforts to minimize any interference with the Prospective Developer's operations by any such remediation. In the event the Prospective Developer becomes aware of any action or occurrence which causes or threatens a release of contaminants at or from the Property, the Prospective Developer shall immediately take all appropriate action to prevent, abate, or minimize such release or threat of release, and shall, in addition to complying with any applicable notification requirements under N.C.G.S. 130A-310.1 and 143-215.84, and Section 103 of CERCLA, 42 U.S.C. § 9603, or any other law, immediately notify DENR of such release or threatened release.

VIII. CERTIFICATION

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23. By entering into this agreement, the Prospective Developer certifies that, without DENR approval, it will make no use of the Property other than that committed to in the Brownfields Letter of Intent dated October 27, 2003, as amended, by which it applied for this Agreement. That use is mixed commercial use, including retail, flex space, warehousing, office, church and conference/convention/events center uses. Prospective Developer also certifies that to the best of its knowledge and belief it has fully and accurately disclosed to DENR all information known to Prospective Developer and all information in the possession or control of its officers, directors, employees, contractors and agents which relates in any way to any regulated substances at the Property and to its qualification for this Agreement, including the requirement that it not have caused or contributed to the contamination at the Property.

IX. DENR'S COVENANT NOT TO SUE AND RESERVATION OF RIGHTS

24. Unless one of the following applies, Prospective Developer shall not be liable to DENR, and DENR covenants not to sue Prospective Developer, for remediation of the Property except as specified in this Agreement:

- a. The Prospective Developer fails to comply with this Agreement.
- b. The activities conducted on the Property by or under the control or direction of the Prospective Developer increase the risk of harm to public health or the environment, in which case Prospective Developer shall be liable for remediation of areas of contaminants identified in this Agreement, to the extent necessary to eliminate such risk of harm to public health or the environment.
- c. A land use restriction set out in the Notice of Brownfields Property required under N.C.G.S. 130A-310.35 is violated while the Prospective Developer owns the Property, in

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which case the Prospective Developer shall be liable for remediation of the Property to unrestricted use standards as provided in N.C.G.S. 130A-310.33(c).

d. The Prospective Developer knowingly or recklessly provided false information that formed a basis for this Agreement or knowingly or recklessly offers false information to demonstrate compliance with this Agreement or fails to disclose relevant information about contamination at the Property.

e. New information indicates the existence of previously unreported contaminants or an area of previously unreported contamination on or associated with the Property that has not been remediated to current standards, unless this Agreement is amended to include any previously unreported contaminants and any additional areas of contamination. If this Agreement sets maximum concentrations for contaminants, and new information indicates the existence of previously unreported areas of these contaminants, further remediation shall be required only if the areas of previously unreported contaminants raise the risk of the contamination to public health or the environment to a level less protective of public health and the environment than that required by this Agreement.

f. The level of risk to public health or the environment from contaminants is unacceptable at or in the vicinity of the Property due to changes in exposure conditions, including (i) a change in land use that increases the probability of exposure to contaminants at or in the vicinity of the Property or (ii) the failure of remediation to mitigate risks to the extent required to make the Property fully protective of public health and the environment as planned in this Agreement.

g. The Department obtains new information about a contaminant associated with the Property or exposures at or around the Property that raises the risk to public health or the

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environment associated with the Property beyond an acceptable range and in a manner or to a degree not anticipated in this Agreement.

h. The Prospective Developer fails to file a timely and proper Notice of Brownfields Property under N.C.G.S. 130A-310.35.

25. Except as may be provided herein, DENR reserves its rights against Prospective Developer as to liabilities beyond the scope of the Act, including those regarding petroleum underground storage tanks pursuant to Part 2A, Article 21A of Chapter 143 of the General Statutes.

X. PROSPECTIVE DEVELOPER'S COVENANT NOT TO SUE

26. In consideration of DENR's Covenant Not To Sue in Section IX of this Agreement and in recognition of the absolute State immunity provided in N.C.G.S. § 130A-310.37(b), the Prospective Developer hereby covenants not to sue and not to assert any claims or causes of action against DENR, its authorized officers, employees, or representatives with respect to any action implementing the Act, including negotiating, entering, monitoring or enforcing this Agreement or the above-referenced Notice of Brownfields Property.

XI. PARTIES BOUND & TRANSFER/ASSIGNMENT NOTICE

27. This Agreement shall apply to and be binding upon DENR, and on the Prospective Developer, its officers, directors, employees, and agents. Each Party's signatory to this Agreement represents that she or he is fully authorized to enter into the terms and conditions of this Agreement and to legally bind the Party for whom she or he signs.

28. No later than fourteen (14) days prior to any transfer or assignment by Prospective Developer of any interest in the Property, Prospective Developer shall provide in writing to DENR the transferee or assignee's name, mailing address, telephone and facsimile numbers, and

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e-mail address. Provided, however, that, with respect to tenants leasing any portion of the Property, Prospective Developer may provide the required information each January as part of the Land Use Restriction Update referenced in paragraph 13.k. above.

XII. DISCLAIMER

29. This Agreement in no way constitutes a finding by DENR as to the risks to public health and the environment which may be posed by regulated substances at the Property, a representation by DENR that the Property is fit for any particular purpose, nor a waiver of Prospective Developer's duty to seek applicable permits or of the provisions of N.C.G.S. § 130A-310.37.

XIII. DOCUMENT RETENTION

30. Though financial data may be redacted, Prospective Developer agrees to retain and make available to DENR all records and documents related to Prospective Developer's improvements to, maintenance of, and operations on the Property, including all records and documents related to activities undertaken pursuant to Section V (Work to be Performed) and other environmental matters. At the end of six years, the Prospective Developer shall notify DENR of the location of such documents and shall provide DENR with an opportunity to copy any documents at the expense of DENR. DENR shall maintain confidentiality as to any records and documents regarding which Prospective Developer submits a legitimate claim of confidentiality.

XIV. PAYMENT OF ENFORCEMENT COSTS

31. If the Prospective Developer fails without reasonable justification to comply with the terms of this Agreement, including, but not limited to, the provisions of Section V (Work to be

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Performed), it shall be liable for all litigation and other enforcement costs incurred by DENR to enforce this Agreement or otherwise obtain compliance.

XV. NOTICES AND SUBMISSIONS

32. Unless otherwise required by DENR or a Party notifies the other Party in writing of a change in contact information, all notices and submissions pursuant to this Agreement shall be sent by prepaid first class U.S. mail, as follows:

a. for DENR:

Mr. Tony Duque
N.C. Division of Waste Management
Brownfields Program
401 Oberlin Road, Suite 150
Raleigh, NC 27605

b. for Prospective Developer:

Mr. James M. Adams, Sr.
St. Ives 220 Commercial, LLC
818 South White Street
Wake Forest, NC 27587

Notices and submissions sent by prepaid first class U.S. mail shall be effective on the third day following postmarking. Notices and submissions sent by hand or by other means affording written evidence of date of receipt shall be effective on such date.

XVI. EFFECTIVE DATE

33. This Agreement shall become effective on the date the Prospective Developer signs it, after receiving it, signed, from DENR. Prospective Developer shall sign the Agreement within seven (7) days following such receipt.

XVII. TERMINATION OF CERTAIN PROVISIONS

34. If any Party believes that any or all of the obligations under Section V (Work To Be Performed) or Section VI (Access/Notice to Successors in Interest) of this Agreement are no

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longer necessary to ensure compliance with the requirements of the Agreement, that Party may request in writing that the other Party agree to terminate the provision(s) establishing such obligations; provided, however, that the provision(s) in question shall continue in force unless and until the Party requesting such termination receives written agreement from the other Party to terminate such provision(s).

XVIII. CONTRIBUTION PROTECTION

35. With regard to claims for contribution against Prospective Developer in relation to the subject matter of this Agreement, Prospective Developer is entitled to protection from such claims to the extent provided by N.C.G.S. § 130A-310.37(a)(5)-(6). The subject matter of this Agreement is all investigation, corrective action and remediation taken or to be taken and response costs incurred or to be incurred by DENR or any other person in relation to the Property.

36. The Prospective Developer agrees that, with respect to any suit or claim for contribution brought by it in relation to the subject matter of this Agreement, it will notify DENR in writing no later than 60 days prior to the initiation of such suit or claim.

37. The Prospective Developer also agrees that, with respect to any suit or claim for contribution brought against it in relation to the subject matter of this Agreement, it will notify DENR in writing within 10 days of service of the complaint on it.

XIX. PUBLIC COMMENT

38. This Agreement shall be subject to a public comment period of at least sixty days starting the day after publication of the approved summary of the Notice of Intent to Redevelop a Brownfields Property required by N.C.G.S. § 130A-310.34 in the North Carolina Register, or the day after publication of the same in a newspaper of general circulation serving the area in which

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the Property is located, whichever occurs later. After expiration of that period, or following a public meeting if DENR holds one pursuant to N.C.G.S. § 130A-310.34(c), DENR may modify or withdraw its consent to this Agreement if comments received disclose facts or considerations which indicate that this Agreement is inappropriate, improper or inadequate.

IT IS SO AGREED:

NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

By:

L. M. Culpepper May 30, 2006
Linda M. Culpepper

Date

Deputy Director, Division of Waste Management

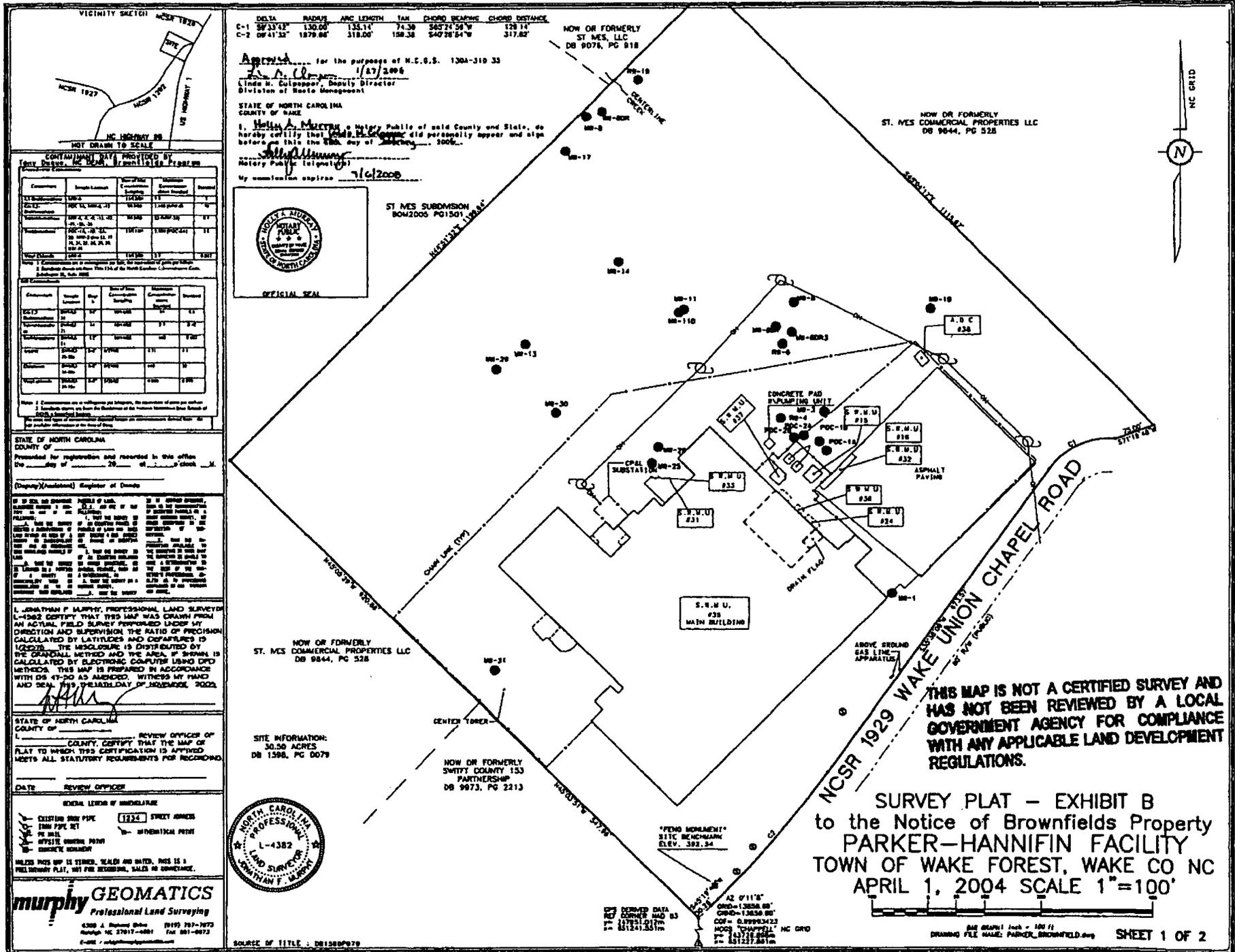
IT IS SO AGREED:

ST. IVES 220 COMMERCIAL, LLC

By:

James M. Adams, Sr. June 1, 2006
James M. Adams, Sr.
Manager, St. Ives 220 Commercial, LLC

Date



LAND USE RESTRICTIONS

LAND USE RESTRICTIONS

The following Land Use Restrictions are hereby imposed on the Brownfields Property that is the subject of this survey plat, and shall remain in force in perpetuity unless canceled by the Secretary of the North Carolina Department of Environment and Natural Resources (DENR) (or its successor in function), or his/her designee, after the hazards have been eliminated, pursuant to NCGS § 133A-310.35(e):

1. No use may be made of the Brownfields Property other than for mixed commercial uses, including retail, flex space, warehousing, office, church and conference/convention/events center purposes.
2. Surface water and groundwater at the Brownfields Property may not be used for any purpose without the approval of DENR or its successor in function.
3. No activities that encounter, expose, remove or use groundwater (for example, installation of water supply wells, fountains, ponds, lakes or swimming pools, or construction or excavation activities that encounter or expose groundwater) may occur on the Brownfields Property without prior sampling and analysis of groundwater to the satisfaction of DENR or its successor in function in any areas proposed for such activities, and submittal of the analytical results to DENR or its successor in function. If such results disclose to DENR or its successor in function contamination in excess of North Carolina's groundwater quality standards, the proposed activities may not occur without the approval of DENR or its successor in function on such conditions as DENR or its successor in function imposes, including at a minimum compliance with plans and procedures, approved pursuant to applicable law, to protect public health and the environment during the proposed activities.
4. Soil underlying existing paved or other man-made impervious surfaces and buildings at the Brownfields Property, as reflected on this survey plat, may not be exposed without prior sampling and analysis of such soil to the satisfaction of DENR or its successor in function, and submittal of the analytical results to DENR or its successor in function. A party proposing exposure of soil underlying paved surfaces and buildings may request that DENR or its successor in function make a determination that previous sampling results are sufficient. If the sampling results disclose contamination that DENR or its successor in function determines is capable of making the Brownfields Property unsuitable for the uses specified in Land Use Restriction 1 above, the soil may not be exposed without the approval of DENR or its successor in function on such conditions as

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DENR or its successor in function imposes. Such conditions shall include, at a minimum, compliance with plans and procedures designed to protect public health and the environment during the activities that would expose such soil and approved pursuant to applicable law. If DENR determines the exposed soil contains contamination capable of making the Brownfields Property unsuitable for the uses specified in Land Use Restriction 1 above, then as much soil as DENR requires shall be removed and disposed in accordance with applicable law, and any other actions DENR reasonably requires to make the Brownfields Property suitable for the uses specified in Land Use Restriction 1 above shall be taken. Alternatively, if DENR determines that such soil contamination is not capable of making the Brownfields Property unsuitable for the uses specified in Land Use Restriction 1 above if left in place, DENR may require the soil contamination to be capped, with perpetual maintenance of the cap to the satisfaction of DENR, or treated to DENR's satisfaction.

5. No mining may be conducted on or under the Brownfields Property, including, without limitation, extraction of coal, oil, gas or any other minerals or non-mineral substances.
6. In order to address potential vapor intrusion, no basements may be constructed on the Brownfields Property unless they are, as determined by DENR or its successor in function, vented in accordance with applicable building codes, and any structures placed on the Property must be constructed or retrofitted in a manner that will prevent or mitigate, to DENR's written satisfaction, unacceptable indoor air quality.
7. None of the contaminants known to be present in the environmental media at the Brownfields Property, including those listed in paragraph 7 of Exhibit A to the documentary component of the Notice of Brownfields Property, to which a reduction of this survey plat is Exhibit B, may be used or stored at the Brownfields Property without the prior approval of DENR or its successor in function, except in *de minimis* amounts for cleaning and other routine housekeeping activities.
8. The Brownfields Property may not be used as a park or for sports of any kind, including, but not limited to, golf, football, soccer and baseball, without the approval of DENR or its successor in function. For purposes of this Land Use Restriction 8, outdoor and indoor common open space areas associated with mixed commercial uses shall not be considered parks.

9. Neither day care facilities nor schools, whether associated with another institution or not, nor playgrounds are permitted on the Brownfields Property without the approval of DENR or its successor in function.

10. No party conducting environmental assessment or remediation at the Brownfields Property at the direction of, or pursuant to a permit or order issued by, DENR, may be denied access to the Brownfields Property for purposes of conducting such assessment or remediation.

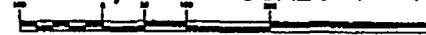
11. During January of each year after Exhibit A to the documentary component of the Notice of Brownfields Property, to which a reduction of this survey plat is Exhibit B, becomes effective, the then current owner of any part of the Brownfields Property shall submit a notarized Land Use Restrictions Update to DENR or its successor in function certifying that the Notice of Brownfields Property containing these Land Use Restrictions remains recorded at the Wake County Register of Deeds office, and that the Land Use Restrictions are being complied with.

UNLESS THIS MAP IS SIGNED, SEALED AND DATED, THIS IS A PRELIMINARY PLAT, NOT FOR RECORDING, SALES OR CONVEYANCE.

murphy GEOMATICS
Professional Land Surveying

3200 J. Shuman Drive (S10) 261-7873
Raleigh, NC 27617-4801 FAX 261-1673

SURVEY PLAT - EXHIBIT B
to the Notice of Brownfields Property
PARKER-HANNIFIN FACILITY
TOWN OF WAKE FOREST, WAKE CO NC
APRIL 1, 2004 SCALE 1"=100'



DATE PLOTTED: 10/26/04
DRAWING FILE NAME: PARKER_BROWNFIELD.dwg

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“Exhibit C” to the Notice of Brownfields Property**Legal Description**

BEGINNING at an existing iron pipe in the western edge of Wake Union Chapel Road, said iron pipe having N.C. Grid Coordinates NAD “83” Y = 247951.012 m and X = 651241.551 m; thence leaving said right of way and running with the eastern line of that certain parcel of land now or formerly owned by Swift County 153 Partnership N 45° 03’ 51” W 547.96 feet to an existing iron pipe in the southeastern corner of that certain parcel of land now or formerly owned by St. Ives Commercial Properties, LLC; runs thence N 45° 05’ 29” W 620.88 feet with the eastern line of the aforementioned parcel of land now or formerly owned by St. Ives Commercial Properties, LLC to an existing iron pipe in the southern line of that certain parcel now or formerly owned by St. Ives, LLC; runs thence N 44° 51’ 32” E 1199.94 feet with the southern line of the aforementioned parcel of land now or formerly owned by St. Ives, LLC to an existing iron pipe in the western line of that certain parcel of land now or formerly owned by St. Ives Commercial Properties, LLC; runs thence with the western line of the immediately aforementioned parcel now or formerly owned by St. Ives Commercial Properties, LLC S 45° 04’ 17” E 1115.67 feet to an existing iron pipe; runs thence S 71° 19’ 48” W 75.0 feet to an existing iron pipe in the western edge of the right of way of Wake Union Chapel Road; runs thence with the western edge of the right of way of Wake Union Chapel Road the following four courses and distances: (i) on a curve having a radius of 130.00 feet as turns to the LEFT an arc length of 135.14 feet, said curve having a chord bearing of S 65° 24’ 59” W and a chord distance of 129.14 feet to a point; (ii) thence S 35° 38’ 08” W 673.57 feet to a point on a curve; (iii) thence with said curve having a radius of 1879.86 feet as it turns to RIGHT an arc length of 318.00 feet, said curve having chord bearing of S 40° 28’ 54” W and a chord distance of 317.82 feet to a point; and (iv) thence S 45° 19’ 40” W 30.26 feet to be the POINT AND PLACE of BEGINNING. Said described tract being shown on that certain survey entitled “Survey Plat – Exhibit B to the Notice of Brownfields Property Parker-Hannifin Facility” dated April 1, 2004, by Jonathan F. Murphy, Registered Land Surveyor.

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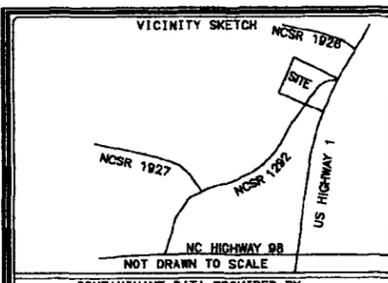
**Yellow probate sheet is a vital part of your recorded document.
Please retain with original document and submit for rerecording.**



**Wake County Register of Deeds
Laura M. Riddick
Register of Deeds**

This Customer Group
_____ # of Time Stamps Needed

This Document
_____ New Time Stamp
33 # of Pages



CONTAMINANT DATA PROVIDED BY Tony Dugas, NC DENR, Brownfields Program

| Contaminant | Sample Location | Date of Max. Concentration Sampling | Maximum Concentration above Standard | Standard |
|--------------------|---|-------------------------------------|--------------------------------------|----------|
| 1,1-Dichloroethane | MW-6 | 1/17/2004 | 74 | 7 |
| Chloroform | POC-1A, MW-4, -13 | 3/15/03 | 1,100 (MPLW-4) | 70 |
| Tetrachloroethene | MW-6, -8, -11, -13, -15, -25, -30 | 3/15/03 | 23 (MW-3) | 0.7 |
| Trichloroethene | POC-1A, 1B, 2A, 2B, MW-2 and 13, 17, 18, 24, 25, 26, 29, 30, 31A-19 | 1/11/04 | 5,800 (POC-2A) | 2.8 |
| Vinyl Chloride | MW-6 | 1/17/2004 | 2.7 | 0.015 |

Notes: 1. Concentrations are in micrograms per liter, the equivalent of parts per billion.
2. Standards shown are from Title 15A of the North Carolina Administrative Code, Subchapter 21, Rule 0202.

| Contaminant | Sample Location | Date of Max. Concentration Sampling | Maximum Concentration above Standard | Standard |
|-------------------|-----------------|-------------------------------------|--------------------------------------|----------|
| Chloroform | SWMU-31 | 10/14/02 | 19 | 6.6 |
| Tetrachloroethene | SWMU-31 | 10/14/02 | 3.7 | 0.48 |
| Trichloroethene | SWMU-31 | 10/14/02 | 166 | 0.033 |
| Arsenic | SWMU-35-20a | 6/21/02 | 4.71 | 4.4 |
| Chromium | SWMU-35-20a | 6/21/02 | 141 | 30 |
| Vinyl chloride | SWMU-35-13a | 6/21/02 | 0.266 | 0.079 |

STATE OF NORTH CAROLINA
COUNTY OF WAKE
Presented for registration and recorded in this office the _____ day of _____, 20____ at _____ o'clock _____ M.

(Deputy/Assistant) Register of Deeds

BY MY SEAL AND SIGNATURE, I, _____, CLERK OF THE REGISTER OF DEEDS, DO HEREBY CERTIFY THAT THIS MAP WAS DRAWN FROM AN ACTUAL FIELD SURVEY PERFORMED UNDER MY DIRECTION AND SUPERVISION THE RATIO OF PRECISION CALCULATED BY LATITUDES AND DEPARTURES IS 1/220275. THE METEOROLOGICAL RECORD IS DISTRIBUTED BY THE CRANDALL METHOD AND THE AREA, IF SHOWN, IS CALCULATED BY ELECTRONIC COMPUTER USING CPD METHODS. THIS MAP IS PREPARED IN ACCORDANCE WITH GS 47-30 AS AMENDED. WITNESS MY HAND AND SEAL THIS _____ DAY OF _____, 2002.

I, JONATHAN F. MURPHY, PROFESSIONAL LAND SURVEYOR L-4382 CERTIFY THAT THIS MAP WAS DRAWN FROM AN ACTUAL FIELD SURVEY PERFORMED UNDER MY DIRECTION AND SUPERVISION THE RATIO OF PRECISION CALCULATED BY LATITUDES AND DEPARTURES IS 1/220275. THE METEOROLOGICAL RECORD IS DISTRIBUTED BY THE CRANDALL METHOD AND THE AREA, IF SHOWN, IS CALCULATED BY ELECTRONIC COMPUTER USING CPD METHODS. THIS MAP IS PREPARED IN ACCORDANCE WITH GS 47-30 AS AMENDED. WITNESS MY HAND AND SEAL THIS _____ DAY OF _____, 2002.

STATE OF NORTH CAROLINA
COUNTY OF WAKE
I, _____, REVIEW OFFICER OF _____ COUNTY, CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.

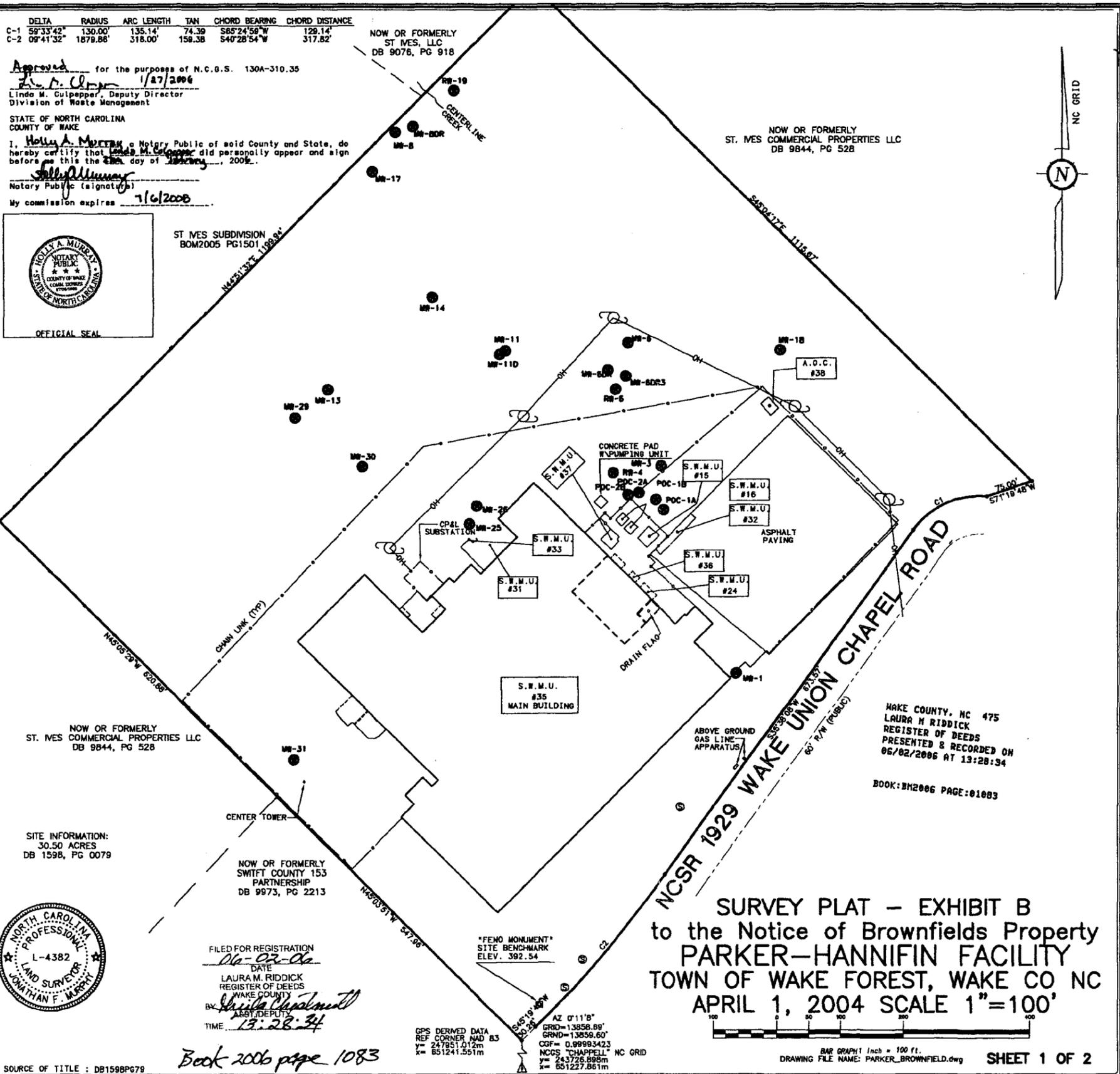
DATE _____ REVIEW OFFICER _____

GENERAL LEGEND OF NOMENCLATURE

- EXISTING IRON PIPE
- IRON PIPE SET
- FW WALL
- OFFSITE CONTROL POINT
- CONCRETE MONUMENT
- 1234 STREET ADDRESS
- MATHEMATICAL POINT

UNLESS THIS MAP IS SIGNED, SEALED AND DATED, THIS IS A PRELIMINARY PLAT, NOT FOR RECORDING, SALES OR CONVEYANCE.

murphy GEOMATICS
Professional Land Surveying
6308 J. Richard Drive (919) 787-7873
Raleigh, NC 27617-4801 FAX 861-8575
E-MAIL: rfm@murphygeomatics.com



LAND USE RESTRICTIONS

LAND USE RESTRICTIONS

The following Land Use Restrictions are hereby imposed on the Brownfields Property that is the subject of this survey plat, and shall remain in force in perpetuity unless canceled by the Secretary of the North Carolina Department of Environment and Natural Resources (DENR) (or its successor in function), or his/her designee, after the hazards have been eliminated, pursuant to NCGS § 130A-310.35(e):

1. No use may be made of the Brownfields Property other than for mixed commercial uses, including retail, flex space, warehousing, office, church and conference/convention/events center purposes.
2. Surface water and groundwater at the Brownfields Property may not be used for any purpose without the approval of DENR or its successor in function.
3. No activities that encounter, expose, remove or use groundwater (for example, installation of water supply wells, fountains, ponds, lakes or swimming pools, or construction or excavation activities that encounter or expose groundwater) may occur on the Brownfields Property without prior sampling and analysis of groundwater to the satisfaction of DENR or its successor in function in any areas proposed for such activities, and submittal of the analytical results to DENR or its successor in function. If such results disclose to DENR or its successor in function contamination in excess of North Carolina's groundwater quality standards, the proposed activities may not occur without the approval of DENR or its successor in function on such conditions as DENR or its successor in function imposes, including at a minimum compliance with plans and procedures, approved pursuant to applicable law, to protect public health and the environment during the proposed activities.
4. Soil underlying existing paved or other man-made impervious surfaces and buildings at the Brownfields Property, as reflected on this survey plat, may not be exposed without prior sampling and analysis of such soil to the satisfaction of DENR or its successor in function, and submittal of the analytical results to DENR or its successor in function. A party proposing exposure of soil underlying paved surfaces and buildings may request that DENR or its successor in function make a determination that previous sampling results are sufficient. If the sampling results disclose contamination that DENR or its successor in function determines is capable of making the Brownfields Property unsuitable for the uses specified in Land Use Restriction 1 above, the soil may not be exposed without the approval of DENR or its successor in function on such conditions as

LUR no. 4 continued

DENR or its successor in function imposes. Such conditions shall include, at a minimum, compliance with plans and procedures designed to protect public health and the environment during the activities that would expose such soil and approved pursuant to applicable law. If DENR determines the exposed soil contains contamination capable of making the Brownfields Property unsuitable for the uses specified in Land Use Restriction 1 above, then as much soil as DENR requires shall be removed and disposed in accordance with applicable law, and any other actions DENR reasonably requires to make the Brownfields Property suitable for the uses specified in Land Use Restriction 1 above shall be taken. Alternatively, if DENR determines that such soil contamination is not capable of making the Brownfields Property unsuitable for the uses specified in Land Use Restriction 1 above if left in place, DENR may require the soil contamination to be capped, with perpetual maintenance of the cap to the satisfaction of DENR, or treated to DENR's satisfaction.

5. No mining may be conducted on or under the Brownfields Property, including, without limitation, extraction of coal, oil, gas or any other minerals or non-mineral substances.
6. In order to address potential vapor intrusion, no basements may be constructed on the Brownfields Property unless they are, as determined by DENR or its successor in function, vented in accordance with applicable building codes, and any structures placed on the Property must be constructed or retrofitted in a manner that will prevent or mitigate, to DENR's written satisfaction, unacceptable indoor air quality.
7. None of the contaminants known to be present in the environmental media at the Brownfields Property, including those listed in paragraph 7 of Exhibit A to the documentary component of the Notice of Brownfields Property, to which a reduction of this survey plat is Exhibit B, may be used or stored at the Brownfields Property without the prior approval of DENR or its successor in function, except in *de minimis* amounts for cleaning and other routine housekeeping activities.
8. The Brownfields Property may not be used as a park or for sports of any kind, including, but not limited to, golf, football, soccer and baseball, without the approval of DENR or its successor in function. For purposes of this Land Use Restriction 8., outdoor and indoor common open space areas associated with mixed commercial uses shall not be considered parks.

9. Neither day care facilities nor schools, whether associated with another institution or not, nor playgrounds are permitted on the Brownfields Property without the approval of DENR or its successor in function.

10. No party conducting environmental assessment or remediation at the Brownfields Property at the direction of, or pursuant to a permit or order issued by, DENR, may be denied access to the Brownfields Property for purposes of conducting such assessment or remediation.

11. During January of each year after Exhibit A to the documentary component of the Notice of Brownfields Property, to which a reduction of this survey plat is Exhibit B, becomes effective, the then current owner of any part of the Brownfields Property shall submit a notarized Land Use Restrictions Update to DENR or its successor in function certifying that the Notice of Brownfields Property containing these Land Use Restrictions remains recorded at the Wake County Register of Deeds office, and that the Land Use Restrictions are being complied with.

WAKE COUNTY, NC 481
LAURA M RIDDICK
REGISTER OF DEEDS
PRESENTED & RECORDED ON
06/02/2006 AT 13:28:34

BOOK: BM2006 PAGE: 01084

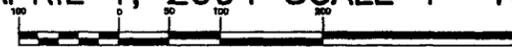
FILED FOR REGISTRATION
06-02-06
DATE
LAURA M. RIDDICK
REGISTER OF DEEDS
WAKE COUNTY
BY: *Michelle Chestnut*
TIME: 13:28:34

UNLESS THIS MAP IS SIGNED, SEALED AND DATED, THIS IS A PRELIMINARY PLAT, NOT FOR RECORDING, SALES OR CONVEYANCE.

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Book 2006 page 1084

SURVEY PLAT - EXHIBIT B
to the Notice of Brownfields Property
PARKER-HANNIFIN FACILITY
TOWN OF WAKE FOREST, WAKE CO NC
APRIL 1, 2004 SCALE 1"=100'



BAR GRAPH 1 Inch = 100 ft.
DRAWING FILE NAME: PARKER_BROWNFIELD.dwg

SHEET 2 OF 2