2012

Brownfields Project #: 08009-04-34
Brownfields Property: Gateway @ Old Salem, S. Main St. & S. Marshall St. & W. Salem Ave. & Stafford St. & S. Broad St.
Property Owner (In whole or part): _____

OCT 2013
Brownfields

LAND USE RESTRICTIONS ("LUR") UPDATE

LUR 1: No use other than the following may be made of the Brownfields Property: mixed-use development consisting of commercial, residential, institutional, recreational and open space uses, with associated impervious or hard pervious surface parking areas. The following definitions apply herein in connection with the foregoing uses:

a. Commercial: an occupation, employment, or enterprise carried on for profit by the owner, lessee or licensee.
b. Residential: use for a permanent dwelling of any single family, detached, duplex, triplex, quadraplex, attached or multifamily dwelling; any manufactured home; any mobile home; any group home; any boarding house or any dormitory.
c. Institutional: the use of land, buildings or structures for public, non-profit or quasi-public use, such as a church, library, school, hospital or government-owned or operated building, for a public purpose.
d. Recreational:
    i. Outdoor: public or private tennis courts, ball fields, ball courts, places for public gatherings or similar uses not enclosed in buildings.
    ii. Indoor: public or private health or exercise clubs, tennis or other racquet courts, swimming pools, YMCAs, YWCAs, places for public gatherings or similar uses which constitute principal uses and are enclosed in buildings and operated on a commercial or membership basis.
e. Open space: an area of open space within a development site designed and intended for the use and enjoyment of residents of the development or for the general public, or a greenway/strollway, defined as a linear open space along a natural or constructed corridor, which may be used for pedestrian or bicycle passage.
f. Impervious: prevents the absorption of surface water into the soil.
g. Hard Pervious: allows absorption of surface water into the soil, but has a hard surface formed or cast in place that protects land users from exposure to potential contaminants in the soil. Pervious concrete and pervious tennis court materials are two examples of hard pervious surfaces.

In compliance X Out of compliance ____

Remarks: _____

LUR 2: Surveying pins on the Brownfields Property may not be disturbed.

In compliance _X_ Out of compliance ____

Remarks: _____

LUR 3: Surface water and underground water at the Brownfields Property may not be used for water supply wells, fountains, ponds, lakes, swimming pools or any other purpose without the approval of the Department of Environment and Natural Resources ("DENR"). On the parcels depicted on Sheet One of the plat component of this Notice, groundwater may not be encountered, exposed or removed (e.g., in connection with construction, excavation or landscaping) without prior analysis of relevant groundwater to the satisfaction of DENR. If such results disclose to DENR contamination in excess of North Carolina's groundwater quality standards, the proposed activities may not occur without the approval of DENR on such conditions as DENR imposes, including at a minimum compliance with plans and procedures to protect public health and the environment during the proposed activities.

In compliance _X_ Out of compliance ____

Remarks: _____

LUR 4: Various Restrictions Pertaining to Soil:

a. In the portions of the Brownfields Property depicted on Sheet One of the plat component of the Notice of Brownfields Property ("Notice"), and all portions depicted on Sheet Three except those east of "C/L STREAM BED" and north of Salem Creek, soil may not be moved for use in cut and fill operations, or further than 300 feet for any reason, without the approval of DENR on such conditions as DENR imposes. Any soil in those portions of the Brownfields Property that is moved 300 feet or less for reasons other than use in cut and fill operations must be capped by an impervious or hard pervious surface or otherwise dealt

with to the satisfaction of DENR. Soil in the portions of the Brownfields Property depicted on Sheet Two of the plat component of the Notice, and on Lots 101, 102 and 103 of Block 583 (see Sheet Three of plat), may be used for cut and fill operations conducted solely within those areas. If soil anywhere on the Brownfields Property bears any stain or odor, DENR must be contacted within two (2) business days, and measures must be taken pursuant to a plan previously approved by DENR.

b. Any soil proposed to be removed from the Brownfields Property must be characterized to the written satisfaction of DENR. If DENR determines that such soil is contaminated in excess of legally applicable soil standards, the soil may not be removed without the approval of DENR on such conditions as DENR imposes. However, if DENR determines such soil would likely contaminate groundwater even if capped, or may pose an imminent threat to public health or the environment if exposed, as much soil as DENR requires shall be removed and disposed of in accordance with applicable law, and any other actions that DENR requires to make the Brownfields Property suitable for the uses specified in the Brownfields Agreement ("Agreement") while fully protecting public health and the environment shall be taken. As to any soil removed from the Brownfields Property, information satisfactory to DENR regarding the transportation and disposition of such soil must be supplied in a letter report to DENR within ninety (90) days following removal.

c. Further, after initial landscaping of the parcels depicted on Sheet One of the plat component of this Notice is completed, as determined by DENR, soil, landscaping and contours on those parcels may not be disturbed without the approval of DENR, except in connection with mowing, fertilizing, pruning and replacement of above-ground landscaping features.

d. No in-ground swimming pools may be constructed at the Brownfields Property without advance written approval from DENR of a plan for disposition of the soil excavated.

In compliance X Out of compliance ____

Remarks: _____

LUR 5: The checklist/log created by Prospective Developer (see paragraph 21

of the Agreement) shall be used in inspecting the impervious and hard pervious surfaces at the Brownfields Property and the areas on which clean fill has been placed. The inspections shall occur during the last week of March and the last week of September every year. The checklist/log shall record, at a minimum, the date, reason for and nature of any repairs performed on the areas inspected.

In compliance X Out of compliance ____

Remarks: _____

LUR 6: 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.

In compliance X Out of compliance ____

Remarks: _____

LUR 7: On the portions of the Brownfields Property depicted on Sheet One of the plat component of this Notice, no basements may be constructed unless they are, as determined by DENR, vented in conformance with applicable building codes.

In compliance X Out of compliance ____

Remarks: _____

LUR 8: None of the contaminants known to be present in the environmental media at the Brownfields Property, including those listed in paragraph 11 of the Agreement, may be used or stored at the Brownfields Property without the prior approval of DENR, except in *de minimis* amounts for cleaning and other routine housekeeping activities.

In compliance X Out of compliance ____

Remarks: _____

LUR 9: Benches, picnic tables, areas for outdoor recreational and sports activities, and other gathering places in areas of the Brownfields Property lacking an impervious or hard pervious surface may not be sited (and areas for recreational and sports activities may only be sited in areas lacking impervious or hard pervious surfaces if the proposed site is depicted on Sheet Three of the plat component of the Notice) unless and until the areas proposed for them are delineated with permanent surveying pins, and:

a. to the extent DENR requires, fill that DENR is satisfied is clean is placed on top of these areas, or

b. surficial soil is characterized to the written satisfaction of DENR and, if DENR deems it necessary based on the characterization, and to DENR's written satisfaction, fill that DENR is satisfied is clean is placed on top of these areas, soil is removed, or both. Following delineation of the subject areas with permanent surveying pins, the locations where these items may be sited and these activities engaged in may not be altered in any way without the prior approval of DENR.

In compliance X Out of compliance ____

Remarks: _____

LUR 10: The Brownfields Property may not be used for agriculture, grazing, timbering or timber production.

In compliance X Out of compliance ____

Remarks: _____

LUR 11: No playground, child care center or school with an outdoor play area may be used unless and until:

a. DENR is apprised in writing of areas proposed to be left uncovered by impervious or hard pervious surfaces;

b. as much clean fill, as determined in writing by DENR, is placed on top of these areas as DENR requires in writing, or surficial soil is characterized to DENR's written satisfaction and, if DENR deems it necessary based on the characterization, an impervious or hard pervious surface is installed or soil removed to the extent required in writing by DENR; and

c. the areas left uncovered by impervious or hard pervious surfaces are delineated by installing permanent surveying pins, after which the locations may not be altered in any way without the prior approval of DENR.

In compliance _X_ Out of compliance ____

Remarks: _____

LUR 12: The Brownfields Property may not be used for kennels, private animal pens or horse-riding. Unless otherwise prohibited, pets may reside indoors, but may not be housed outside.

In compliance _X_ Out of compliance ____

Remarks: _____

LUR 13: No ground floor of any building at the Brownfields Property that has been renovated or newly constructed may be occupied unless mechanical ventilation with outdoor air has first been installed in conformance with the most current version of Standard 62 of the American Society of Heating, Refrigerating and Air-Conditioning Engineers or with the most current U.S. EPA guidance on radon-resistant techniques for new residential construction. Occupied space above the ground floor need not conform to the foregoing standard or guidance, but must comply with legal ventilation requirements, including those contained in the Forsyth County building code.

In compliance _X_ Out of compliance ____

Remarks: _____

LUR 14: Greenway and strollway paths on the Brownfields Property shall be constructed of an impervious or hard pervious material.

In compliance _X_ Out of compliance ____

Remarks: _____

LUR 15: All impervious and hard pervious surfaces at the Brownfields Property shall be maintained in good repair by the owners of affected portions of the Brownfields Property, whether or not another party has made a commitment to perform any part of said maintenance.

In compliance _X_ Out of compliance ____

Remarks: _____

LUR 16: During January of each year after the Agreement becomes effective, the then current owner of any part of the Brownfields Property shall submit a notarized Land Use Restrictions Update ("LURU") to DENR certifying that the Notice of Brownfields Property containing these land use restrictions remains recorded at the Forsyth County Register of Deeds office, that the land use restrictions are being complied with, and that the areas required to be inspected by Land Use Restriction 5 above are in good repair. The LURU shall be accompanied by the checklist/log referenced in paragraph 21 of the Agreement. Alternatively, the obligations of this subparagraph may be discharged on behalf of some or all owners by a party that satisfies DENR it is validly acting as agent for said owners, and that accepts responsibility for compliance with this subparagraph pursuant to a notarized instrument satisfactory to DENR.

In compliance _X_ Out of compliance ____

Remarks: _____

Notarized signing and submittal of this Land Use Restrictions Update constitutes certification that the Notice remains recorded at the Forsyth County Register of Deeds office and that the Land Use Restrictions are being complied with.

This Land Use Restrictions Update is certified by Christy Respress, owner of at least part of the Brownfields Property.

Name typed or printed of party making certification: Christy Respress

In the case of owners that are entities:

Signature of individual signing: Christy Respress
Name typed or printed: Christy Respress
Title: CEO

In the case of all owners:

Date: 2/10/12

[Insert notary block from among the following that is pertinent to type of party submitting LURU: corporation, LLC, partnership or individual.]
[use for corporations]

~~[Name of Prospective Developer]~~

By: K - M Sims
Name typed or printed: Kristine M. Sims
Title typed or printed: Board Secretary

ATTEST:

Kristine M. Sims
Name typed or printed:
Secretary, [Name of Prospective Developer]

NORTH CAROLINA
Buncombe COUNTY

I, Catherine Rice Hopper, a Notary Public of the county and state aforesaid, certify that Kristine M. Sims personally came before me this day and acknowledged that he/she is the Secretary of YWCA Board of Directors, a **[state of incorporation]** corporation, and that by authority duly given and as the act of the corporation, the foregoing Notice of Brownfields Property was signed in its name by its CEO and attested by him/her as its Secretary.

WITNESS my hand and official stamp or seal, this 21st day of February, 2012

Cattie Rice Hopper
Name:
Notary Public

My Commission expires: 6-22-2013

Catherine Rice Hopper
Notary Public
Buncombe County
North Carolina
My Commission Expires 6/22/2013

[Notary Stamp/Seal]

EXHIBIT C

YOUNG WOMENS' CHRISTIAN ASSOCIATION OF WINSTON-SALEM AND FORSYTH COUNTY, INC.
REPORT PURSUANT TO LAND USE RESTRICTIONS 5 AND 16 OF THE NOTICE OF BROWNFIELDS PROPERTY
BROWNFIELDS PROJECT NO. 08009-04-34
GATEWAY AT OLD SALEM

The Young Womens' Christian Association of Winston-Salem and Forsyth County, Inc. ("YWCA") hereby gives notice to the North Carolina Department of Environment and Natural Resources ("DENR") that, as to the property it owns within the Gateway at Old Salem, Brownfields Project No. 09009-04-34 ("Property") it has inspected all relevant areas. The following areas were inspected:

1. All ground or below-grade levels of buildings and structures.

2. All parking areas.

3. All sidewalks or other areas with hard or impervious surfaces.

4. All areas of surface soil and landscaping.

Upon inspection, the YWCA found no cracks, erosion or other areas in need of repair.

Should the YWCA find any areas in need of repair upon regular inspection or otherwise, it shall record the date the crack, erosion or other issue was discovered, and the date, reason for and nature of any repairs performed on the areas inspected, and such record shall be submitted to DENR no later than with the YWCA's next Land Use Restriction Update.

This 29 day of January, 2013

Young Women's Christian Association of Winston-Salem and Forsyth County, Inc.

By: Joe Martin
Name:
Title: V.P. Facilities

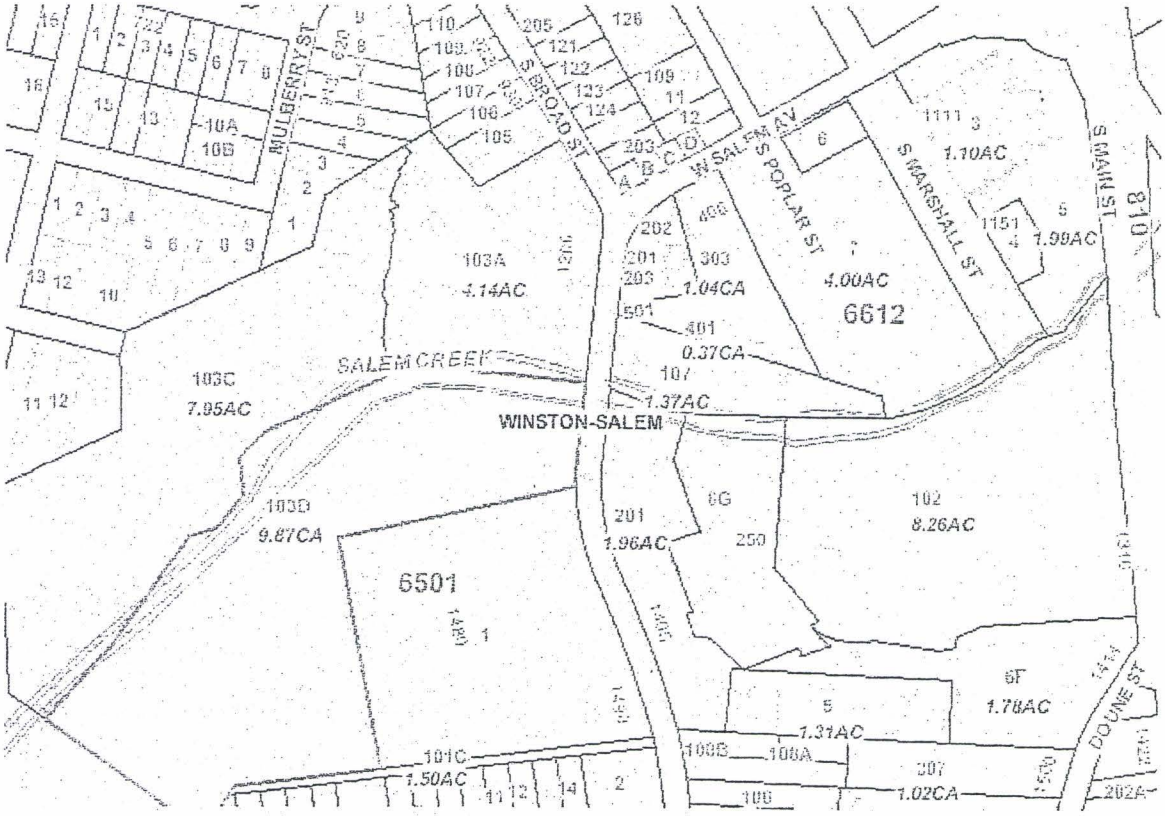
#407818v1

EXHIBIT A

BEGINNING at the point of intersection of the centerline of Salem Creek (as presently located) with t western right-of-way line of Main Street, said point being located South 36 deg. 31' 20" East 5,284.98 f from NCGS Monument 'Broad' (having grid coordinates of N=854,774.68 and E=1,630,152.98, with combined scale factor of 0.99994), running thence from said Point of Beginning with the western right-o way line of Main Street the following four (4) courses and distances: (1) South 03 deg. 25' 50" East 169. feet to a point; (2) along the arc of a curve to the left having a radius of 3,330.05 feet, an arc length of 228. feet and a chord bearing and distance of South 05 deg. 23' 40" East 228.13 feet to a point; (3) South 07 d 21' 30" East 294.38 feet to a point; and (4) South 01 deg. 30' 20" West 27.29 feet to a point; thence leavi said right-of-way line with the following ten (10) new lines; (1) South 85 deg. 27' 20" West 313.52 feet to point; (2) South 66 deg. 38' 30" West 56.55 feet to a point; (3) South 03 deg. 03' 50" West 20.24 feet to point; (4) along the arc of a curve to the right having a radius of 100.60 feet, an arc length of 51.70 feet and chord bearing and distance of South 83 deg. 23' 50" West 51.13 feet to a point; (5) North 81 deg. 52' 5 West 118.59 feet to a point; (6) along the arc of a curve to the right having a radius of 168.51 feet, an a length of 119.68 feet and a chord bearing and distance of North 81 deg. 32' 10" West 117.17 feet to a poi (7) North 41 deg. 11' 30" West 12.39 feet; (8) North 48 deg. 48' 30" East 18.0 feet; (9) North 41 deg. 1 30" West 136.73 feet to a point; and (10) North 03 deg. 17' 50" East 303.96 feet to a point in the centerli of Salem Creek; thence with the meanders of the creek the following nine (9) chord bearings and distanc with the centerline of Salem Creek: (1) North 89 deg. 41' 20" East 193.80 feet to a point; (2) North 81 de 14' 30" East 38.76 feet to a point; (3) North 74 deg. 54' 00" East 53.62 feet to a point; (4) North 65 deg. 4 40" East 57.95 feet to a point; (5) North 61 deg. 57' 00" East 60.40 feet to a point; (6) North 52 deg. 11' 3 East 69.37 feet to a point; (7) North 50 deg. 31' 40" East 71.39 feet to a point; (8) North 69 deg. 36' 50" E 55.85 feet to a point; and (9) North 37 deg. 26' 10" East 136.66 feet to the point and place of BEGINNIN containing 8.255 acres, more or less, as shown on a survey plat entitled Southeast Gateway Ventures, LL prepared by Michael E. Gizinski, Professional Land Surveyor, L-1540, dated June, 2004 and revised April 2005, and being Lots 1, 2-A, a portion of lot 2-B and a portion of Lot 3 of Tax Block 2414.

MINOR SUBDIVISION
APPROVAL
Aaron Kuse 4/13/05
For Director, City-County Planning Board date

EXHIBIT B



103A – Family Services Inc. 4.13 Acres
102 – Young Women's Christian Association of Winston-Salem and Forsyth County Inc. 8.26 Acres
6d,101, 103C, 103D 104, 6F, 3, 4, 5, 6, 7 of block 6612 Southeast Gateway Ventures, LLC
201 – Gateway on Broad LLC 1.85 Acres
6G – Stough Development Corporation (wintermans)