

LAND USE RESTRICTIONS

NCCS § 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.

- 1. No use may be made of the Property other than for High-Density Residential, Office, Retail, and associated automobile Parking. For purposes of this restriction, the following definitions apply:
A. "High Density Residential" shall mean permanent dwellings where residential units are attached to each other with common walls, such as condominium, apartments, group homes, dormitories or boarding houses, and any property outside the dwelling structures is usable by all residents and not privately owned as part of a particular unit, and shall include related amenities, such as pools, clubhouses, courtyards, common areas, recreation areas and parking garages;
B. "Office" refers to the provision of business or professional services.
C. "Retail" refers to an activity the principal use or purpose of which is the sale of goods, products, or merchandise directly to the consumer.
D. "Parking" refers to the temporary accommodation of motor vehicles in an area designed for same.

2. Unless compliance with this Land Use Restriction is waived in writing in advance by DENR in relation to particular buildings, demolition of buildings on the Property depicted on the plat component of this Notice of Brownfields Property must occur in accordance with applicable legal requirements, including without limitation those related to lead and asbestos abatement that are administered by the Health Hazards Control Unit within the Division of Public Health of the North Carolina Department of Health and Human Services.

3. Physical redevelopment of the Property may not occur other than in accord, as determined by DENR, with an Environmental Management Plan approved in writing by DENR in advance (and revised to DENR's written satisfaction prior to each subsequent redevelopment phase) that is consistent with all the other land use restrictions and describes redevelopment activities at the Property, the timing of redevelopment phases, and addresses health, safety and environmental issues that may arise from use of the Property during construction or redevelopment in any other form, including without limitation:

- A. soil and water management issues, including without limitation those resulting from contamination identified in the Environmental Reports;
B. potential sources of the contamination referenced in paragraph 7 of the attached Exhibit A;
C. surface soil sampling for any soil areas that are planned to be exposed after the planned development, and subsurface soil sampling as required by DENR;
D. contingency plans for addressing newly discovered potential sources of environmental contamination (e.g., tanks, drums, septic drain fields); and
E. plans for the proper characterization of, and, as necessary, disposal of soils excavated during redevelopment.

4. Groundwater at the Property may not be used for any purpose without the prior written approval of DENR.

5. After conclusion of the redevelopment period referenced in paragraph 3 above, as determined by DENR, no activity that disturbs soil or groundwater on the Property may occur unless and until DENR states in writing, in advance of the proposed activity, that said activity may occur if carried out along with any measures DENR deems necessary to ensure the Property will be suitable for the uses specified in paragraph 1. above while fully protecting public health and the environment. Notwithstanding the above, the Prospective developer may conduct landscaping activities including mowing and pruning of above-ground vegetation, landscape plantings that do not exceed 24 inches in depth, and for emergency repair of underground infrastructure, provided that DENR shall be given written notice (if only by email) of any such emergency repair no later than the next business day, and that any related assessment and remedial measures required by DENR shall be taken.

6. No building may be constructed on the Property until either the activities outlined in paragraph 6.A or 6.B. of this Notice occur. Existing buildings, defined as those depicted on the plat component of this Notice of Brownfields Property, must also comply with either paragraphs 6.A. or 6.B. of this Notice. For existing buildings compliance with the referenced paragraph 6.A. will occur through DENR's written approval of written reports and/or plans received by DENR within 120 days after signing this Agreement. Compliance with the referenced 6.B. for existing buildings will occur within 90 days of DENR's written approval of the reports and/or plans referenced above, if necessary as determined by DENR, as follows:

- A. DENR determines in writing, based on submittals from the building's proponent, that the building's users, and public health and the environment, would not be at risk from the Property's volatile contaminant plume; or
B. Vapor mitigation measures are installed or implemented to the satisfaction of a professional engineer licensed in North Carolina, as evidenced by said engineer's seal on a report that includes photographs and a description of the Installation and performance of said measures. All vapor mitigation measures shall be installed or implemented in accordance with a plan approved in writing by DENR in advance, including methodology(ies) for demonstrating performance of said measures.

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

8. The Property may not be used for agriculture or grazing, without the prior written approval of DENR.

9. 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 prior written approval of DENR.

10. The Property may not be used as a playground, or for child care centers or schools, without the prior written approval of DENR.

11. The owner of any portion of the Property where any existing, or subsequently installed, DENR-approved monitoring well is damaged shall be responsible for repair of any such wells to DENR's written satisfaction and within a time period acceptable to DENR, unless compliance with this Land Use Restriction is waived in writing by DENR in advance.

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

13. During January of each year after the year in which this Notice is recorded, the owner of any part of the Property as of January 1st of that year shall submit a notarized Land Use Restrictions Update ("LURU") to DENR, and to the chief public health and environmental officials of Forsyth County, certifying that, as of said January 1st, the Notice of Brownfields Property containing these land use restrictions remains recorded at the Forsyth County Register of Deeds office and certifying that the land use restrictions are being complied with. A joint LURU may be submitted for multiple owners by a duly constituted board or association, or another entity approved in advance by DENR. In addition to said certification of land use restriction compliance, the LURU shall provide the following information:

- A. The name, mailing address, telephone and facsimile numbers, and contact person's e-mail address of the owner submitting the LURU if said owner acquired any part of the Property during the previous calendar year;
B. The transferees name, mailing address, telephone and facsimile numbers, and contact person's e-mail address, if said owner transferred any part of the Property during the previous calendar year;
C. Whether any vapor barrier and/or mitigation systems installed pursuant to subparagraph 14.f.ii. of the attached Exhibit A are performing as designed (demonstrated through sampling), and whether the uses of the ground floors of any buildings containing such vapor barrier and/or mitigation systems have changed, and, if so, how.
D. A joint LURU submitted for multiple owners by a duly constituted board or association shall include the name, mailing address, telephone and facsimile numbers, and contact person's e-mail address of the entity submitting the joint LURU as well as for each of the owners on whose behalf the joint LURU is submitted;
E. LURU's submitted for rental units shall include the rent roll and enough of each lease entered into during the previous calendar year to demonstrate compliance with lessee notification requirements in paragraphs 20 and 21 of the attached Exhibit A.

14. Any deed or other instrument conveying an interest in the Property executed by an owner of any 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 Forsyth County land records, Book _____, Page _____. A copy of any such instrument shall be sent to the persons listed in Section XVI (Notices and Submissions) of the attached Exhibit A, though financial figures related to the conveyance may be redacted. In connection with residential and commercial leases of the Property, if standard form leases are used in every instance, copies of them may be sent in lieu of copies of actual leases if they are sent at least 30 days before their first use and the first use of any materially revised versions of them.

For purposes of the land use restrictions set forth above, the DENR point of contact shall be the DENR official referenced in paragraph 35.a of Exhibit A hereto, at the address stated therein.

North Carolina - Forsyth County
I hereby certify that this is a true and accurate copy of a record which appears in the office of the Register of Deeds of Forsyth County, N.C.
This 16 day of October, 2015
C. NORMAN HOLLEMAN, Register of Deeds
Oliver Dabbs Deputy - Assistant

Filed for registration at 10:18 o'clock A.M.
October 5, 2015
Recorded in plat book 64, page 12
C. NORMAN HOLLEMAN, Register of Deeds
Filing fee \$21.00 paid
By Oliver Dabbs Deputy - Assistant

-GRID TIE-

I, DAVID J. SGROI, PLS, certify that this map was drawn under my supervision from an actual GPS (or GNSS) survey made under my supervision and the following information was used to perform the survey
Class of survey: Class A
Positional accuracy: .10' (RTK DERIVED)
Type of GPS (or GNSS) field procedure: VRS (GRID TIE ONLY)
Date(s) of survey -AUG 26, 2014
Datum/Epoch - NAD 83 - NAD 2011
Published/fixed control: N/A - VRS
Geoid model: GEOID 12A
Combined grid factor - CSF - 0.9999443
Units - FEET

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PLANNING DEPARTMENT/REVIEW OFFICER
FINAL SUBDIVISION PLAT APPROVAL

This is to certify that this plat meets the recording requirements of the Unified Development Ordinance Subdivision Regulations for Winston-Salem/ Forsyth County.

I, David E Reed, Review Officer of Forsyth County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

Approved David E Reed, Review Officer
This the 5th Day of October, 2015
Forsyth County, North Carolina

-SURVEYOR-

I, DAVID J. SGROI, certify that this plat was drawn under my supervision from (an actual survey made under my supervision) (deed description recorded in Book 3061, Page 2799, etc.); that the error of closure is 1: 15,000; as calculated by latitudes and departures, that the boundaries not surveyed are shown as broken lines plotted from information found in Book _____ Page _____; that this plat was prepared in accordance with G. S. 47-30 as amended. Witness my original signature, registration number and Seal this 10 day of Sept, A.D. 2015.

David J. Sgroi, Surveyor
Registration Number L-3681



The Undersigned Hereby Acknowledge that I am (we are) the owners of the property shown and described hereon and that I (we) hereby adopt this plan and subdivision with my (our) free consent and upon approval by the City-County Planning Board of Winston-Salem and Forsyth County authorize that this plat be recorded in the office of the Register of Deeds of Forsyth County.

Signature of Owner

Signature of Owner

CERTIFICATE OF PURPOSE OF PLAT

NOTE: THIS SURVEY IS OF THE FOLLOWING CATEGORY AS DESCRIBED IN G.S. 47-30(f)(1):
(d) That the survey is of another category, such as the recombination of existing parcels, a court-ordered survey, or other exception to the definition of subdivision.

L-3681
Registration Number
Surveyor

JUNE 25, 2015 PAGE 2 OF 3
SURVEY PLAT - EXHIBIT B TO THE NOTICE OF BROWNFIELDS PROPERTY
FOURTH STREET VENTURES LLC
PIN 6825-96-0280
955 BROOKSTOWN AVE
CITY OF WINSTON -SALEM
WINSTON TOWNSHIP
FORSYTH COUNTY, NC

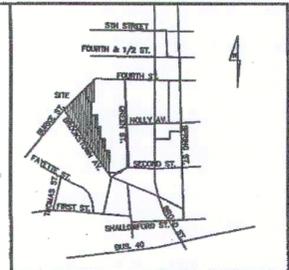
NOTES:

- 1. SITE IS SUBJECT TO ALL EASEMENTS, R/W AND AGREEMENTS OF RECORD PRIOR TO THE DATE OF THE SURVEY.
2. ALL DISTANCES ARE HORIZONTAL GROUND, UNLESS OTHERWISE NOTED
3. ALL BEARINGS ARE GRID BEARINGS.
4. AREA COMPUTED BY COORDINATE GEOMETRY.
5. THE AREAS AND TYPES OF CONTAMINATION DEPICTED HEREON ARE APPROXIMATIONS DERIVED FROM THE BEST AVAILABLE INFORMATION AT THE TIME OF FILING.
6. PURPOSE OF THIS MAP IS TO SHOW ENVIRONMENTAL INFORMATION BASED ON AN OUTSIDE CONSULTANT. SGROI LAND SURVEYING NOT RESPONSIBLE FOR THE GENERATION OF THE PROVIDED ENVIRONMENTAL DATA ON THIS PLAT.
7. SURVEYOR CERTIFICATIONS ON TWO WILL SERVE FOR PAGES 1-3.



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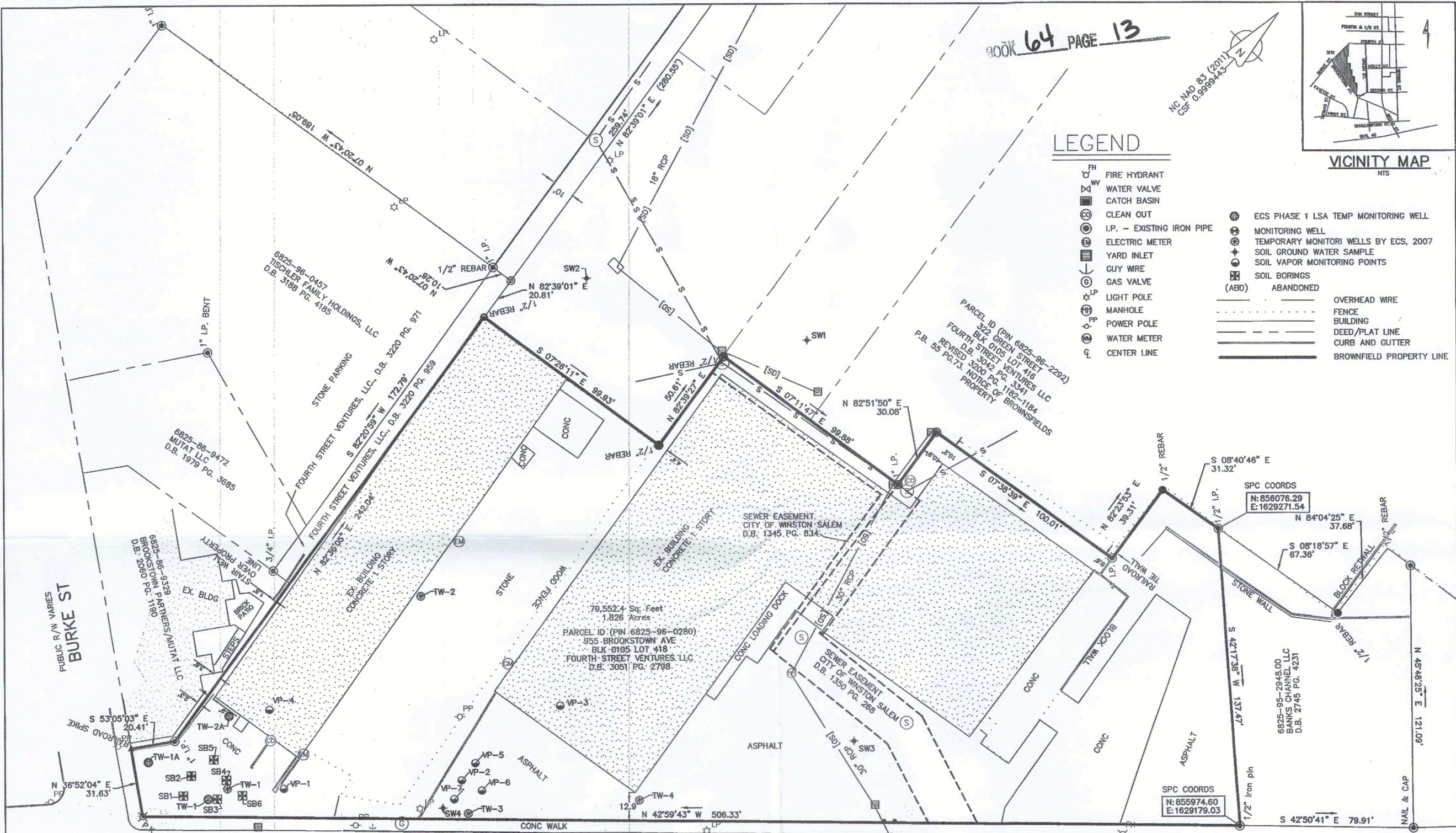
NC MAD 83 (2011)
CSF 0.9899443



VICINITY MAP
NTS

LEGEND

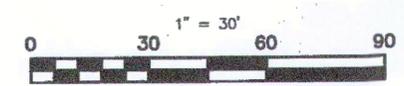
- FH FIRE HYDRANT
- WV WATER VALVE
- CB CATCH BASIN
- CO CLEAN OUT
- I.P. - EXISTING IRON PIPE
- EM ELECTRIC METER
- YI YARD INLET
- GW GUY WIRE
- GV GAS VALVE
- LP LIGHT POLE
- PP POWER POLE
- WM WATER METER
- CL CENTER LINE
- EW ECS PHASE 1 LSA TEMP MONITORING WELL
- MW MONITORING WELL
- TMW TEMPORARY MONITRI WELLS BY ECS, 2007
- SGS SOIL GROUND WATER SAMPLE
- SVMV SOIL VAPOR MONITORING POINTS
- SB SOIL BORINGS
- ABD ABANDONED
- OW OVERHEAD WIRE
- F FENCE
- B BUILDING
- D PL DEED/PLAT LINE
- C C CURB AND GUTTER
- BP BROWNFIELD PROPERTY LINE



Approved _____ for the purposes of N.C.G.S. - 130A-310.35

Michael E. Scott 9/25/15

MICHAEL E. SCOTT, Deputy Director
Division of Waste Management
N.C. Department of Environment and Natural Resources
State of North Carolina
County of Wake



JUNE 25, 2015 PAGE 2 OF 3

**SURVEY PLAT - EXHIBIT B TO THE
NOTICE OF BROWNFIELDS PROPERTY**

FOURTH STREET VENTURES LLC
PIN 6825-96-0280
955 BROOKSTOWN AVE

CITY OF WINSTON - SALEM
WINSTON TOWNSHIP
FORSYTH COUNTY, NC

#2015048
Phone 336-885-1366

P.O. Box 6277
High Point, NC 27262

BOOK 64 PAGE 14

Soil contaminants in milligrams per kilogram (the equivalent of parts per million), the screening levels for which are derived from the Preliminary Residential and Preliminary Industrial Health-Based Remediation Goals of the Inactive Hazardous Sites Branch of DENR's Superfund Section (March 2015 version):

Soil Contaminant	Sample Location	Depth (Feet)	Date of Sampling	Concentration Exceeding Screening Level (mg/kg)	Residential Screening Level ¹ (mg/kg)	Industrial Screening Level ¹ (mg/kg)
Ethylbenzene	SB-1	8 to 10	02/25/2015	20.8	5.8	25
	SB-2	3 to 5	02/25/2015	7.87	5.8	25
	SB-3	23 to 25	02/25/2015	21.1	5.8	25
Naphthalene	SB-1	15 to 17	02/25/2015	23.7	3.8	17
	SB-2	15 to 17	02/25/2015	20.0	3.8	17
	SB-3	23 to 25	02/25/2015	27.7	3.8	17
	SB-4	23 to 25	02/25/2015	10.7	3.8	17
	SB-5	15 to 17	02/25/2015	7.95	3.8	17
1,2,4-TMB ²	SB-1	15 to 17	02/25/2015	56.1	12	48
	SB-2	15 to 17	02/25/2015	33.5	12	48
	SB-3	23 to 25	02/25/2015	71.5	12	48
	SB-4	23 to 25	02/25/2015	22.3	12	48
	SB-5	15 to 17	02/25/2015	16.6	12	48

¹Screening levels displayed for non-carcinogens are for hazard quotient equal to 0.2. Screening levels displayed for carcinogens are for a 1.0E-6 lifetime incremental cancer risk target.
²1,2,4-TMB = 1,2,4-Trimethylbenzene

Groundwater contaminants in micrograms per liter (the equivalent of parts per billion), the standards for which are contained in Title 15A of the North Carolina Administrative Code, Subchapter 2L, Rule .0202(2L), (April 1, 2013 version); or the 2L Groundwater Interim Maximum Allowable Concentration (IMACs, April 1, 2013 version):

Groundwater Contaminant	Sample Location	Date of Sampling	Concentration Exceeding Standard (µg/L)	Standard (µg/L)
Tetrachloroethene	TW-1A	8/29/2008	2.7	0.7
	TW-1	3/9/2007	2.35	0.7
	TW-2	3/9/2007	39.5	0.7
	TW-3	3/9/2007	128	0.7
	TW-4	3/9/2007	49.9	0.7
	SW-4	2/27/2015	25.8	0.7
	SB-6	2/25/2015	3.55	0.7

Groundwater contaminants with potential for vapor intrusion (VI) in micrograms per liter (the equivalent of parts per billion), the vapor intrusion screening levels for which are derived from the Residential and Non-Residential Vapor Intrusion Screening Levels of the DENR's Division of Waste Management (January 2014 version):

Groundwater Contaminant With Potential for Vapor Intrusion (VI)	Sample Location	Date of Sampling	Concentration Exceeding Screening Level (µg/L)	Residential VI Screening Level ¹ (µg/L)	Non-Residential VI Screening Level ¹ (µg/L)
Tetrachloroethene	TW-2	3/9/2007	39.5	11.5	278
	TW-3	3/9/2007	128	11.5	278
	TW-4	3/9/2007	49.9	11.5	278
	SW-4	2/27/2015	25.8	11.5	278

¹Screening levels displayed for non-carcinogens are for a hazard quotient equal to 0.2. Screening levels displayed for carcinogens are for a 1.0E-5 lifetime incremental cancer risk.
²EDB = Ethylene Dibromide
³1,2,4-TMB = 1,2,4-Trimethylbenzene

Soil vapor (SG-2) and sub-slab soil vapor (SSV-1) sampling reported concentrations above the Division of Waste Management Residential and Non-Residential Vapor Intrusion Screening Levels (June 2014):

Soil Vapor and Sub-Slab and Soil Vapor Compounds and Depth of Collection	Date of Sampling	Concentration Exceeding Screening Level (µg/m ³)	Residential VI Sub-Slab/Soil Vapor Screening Level ¹ (µg/m ³)	Non-Residential VI Sub/Slab Screening Level ² (µg/m ³)
PCE - VP-2 - 8 ft	03/09/2015	27,000	278	3,500
PCE - VP-5 - 8 ft	05/04/2015	28,000	278	3,500
PCE - VP-6 - 8 ft	03/19/2015	18,000	278	3,500
PCE - VP-7 - 8 ft	03/20/2015	18,000	278	3,500



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