DOCKET #: W3029

PROPOSED ZONING:
Site Plan Amendment

EXISTING ZONING:
MU-S (Two Phase)

PETITIONER:
Southeast Gateway Ventures LLC for property owned by Same

SCALE: 1" represents 400'

STAFF: Roberts

GMA: 2

ACRES: 17.82

NEAREST BLDG: 60' east

MAP(S): 630846, 630850
April 22, 2009

Southeast Gateway Ventures, LLC
c/o Johnathan A. (Drew) Gerstmyer
301 Brookstown Avenue, Suite 300
Winston-Salem, NC  27101

RE:   SITE PLAN AMENDMENT W-3029

Dear Mr. Gerstmyer:

    The attached report of the Planning Board to the City Council is sent to you at the request of the Council Members. You will be notified by the City Secretary’s Office of the date on which the Council will hear this petition.

Sincerely,

A. Paul Norby, FAICP
Director of Planning

pc:   City Secretary’s Office, P.O. Box 2511, Winston-Salem, NC  27102
      Leslie Kamtman, 29 Gloria Avenue, Winston-Salem, NC  27127
      Cornelia Barr, 355 Park Blvd, Winston-Salem, NC  27127
      William Watkins, 111 Cascade Avenue, Winston-Salem, NC  27127
      Josh Sutton, 625 Hunter St., Winston-Salem, NC  27101
**ACTION REQUEST FORM**

| DATE:    | April 22, 2009 |
| TO:      | The Honorable Mayor and City Council |
| FROM:    | A. Paul Norby, FAICP, Director of Planning |

**COUNCIL ACTION REQUEST:**

Request for Public Hearing on Site Plan Amendment of Southeast Gateway Ventures, LLC

**SUMMARY OF INFORMATION:**

Site Plan Amendment of Southeast Gateway Ventures, LLC for a MU-S [Residential Building, Single Family; Residential Building, Duplex; Residential Building, Twin Home; Residential Building, Multifamily; Residential Building, Townhouse; Residential Building, Urban; Combined Use; Fraternity or Sorority; Furniture and Home Furnishings Store; General Merchandise Store; Hardware Store; Motorcycle Dealer; Nursery, Lawn and Garden Supply Store, Retail; Restaurant (without drive-through service); Retail Store, Specialty or Miscellaneous; Shopping Center; Banking and Financial Services; Health Services, Miscellaneous; Medical or Dental Laboratory; Medical and Surgical Offices; Offices Miscellaneous; Professional Office; Services, Business A; Services, Business B; Services, Personal; Storage Services, Retail; Testing and Research Lab; Recreation Services Indoor; Recreation Facility, Public; Swimming Pool, Private; Child Care Institution; Child Day Care Center; Church or Religious Institution, Community; Church or Religious Institution, Neighborhood; College or University; Government Offices; Library, Public; Museum or Art Gallery; Nursing Care Institution; School, Private; School, Public; Stadium, Coliseum or Exhibition Building - TWO PHASE] zoned site: property is located on the west side of Broad Street, east of Shuman Street (Zoning Docket W-3029).

**PLANNING BOARD ACTION:**

**MOTION ON PETITION:** NO RECOMMENDATION (TIE VOTE - MOTION FOR DENIAL FAILED DUE TO 4-4 VOTE)

**FOR:** Wesley Curtis, Carol Eickmeyer, Darryl Little, Lynne Mitchell

**AGAINST:** Arnold King, Arthur King; Paul Mulligan, Brenda Smith

**SITE PLAN ACTION:** CONFORMS TO THE REQUIREMENTS OF THE UDO
AN ORDINANCE AMENDING THE WINSTON-SALEM CITY ZONING ORDINANCE AND THE OFFICIAL ZONING MAP OF THE CITY OF WINSTON-SALEM, N.C.

BE IT ORDAINED by the City Council of the City of Winston-Salem as follows:

Section 1. The Winston-Salem City Zoning Ordinance and the Official Zoning Map of the City of Winston-Salem, N.C. are hereby amended by granting a Site Plan Amendment for property zoned MU-S [Residential Building, Single Family; Residential Building, Duplex; Residential Building, Twin Home; Residential Building, Multifamily; Residential Building, Townhouse; Residential Building, Urban; Combined Use; Fraternity or Sorority; Furniture and Home Furnishings Store; General Merchandise Store; Hardware Store; Motorcycle Dealer; Nursery, Lawn and Garden Supply Store, Retail; Restaurant (without drive-through service); Retail Store, Specialty or Miscellaneous; Shopping Center; Banking and Financial Services; Health Services, Miscellaneous; Medical or Dental Laboratory; Medical and Surgical Offices; Offices Miscellaneous; Professional Office; Services, Business A; Services, Business B; Services, Personal; Storage Services, Retail; Testing and Research Lab; Recreation Services Indoor; Recreation Facility, Public; Swimming Pool, Private; Child Care Institution; Child Day Care Center; Church or Religious Institution, Community; Church or Religious Institution, Neighborhood; College or University; Government Offices; Library, Public; Museum or Art Gallery; Nursing Care Institution; School, Private; School, Public; Stadium, Coliseum or Exhibition Building - TWO PHASE - Site Plan Amendment] and described as follows:

PIN #’s 6835-10-5330 and 6835-10-6085
Section 2. This Ordinance is adopted after approval of the site plan entitled Southeast Gateway Ventures, LLC and identified as Attachment "A" of the Special Use District Permit issued by the City Council the ______ day of __________________, to Southeast Gateway Ventures, LLC.

Section 3. The City Council hereby directs the issuance of a Special Use District Permit pursuant to the Zoning Ordinance of the Unified Development Ordinances for a development to be known as Southeast Gateway Ventures, LLC. Said Special Use District Permit and site plan with associated documents are attached hereto and incorporated herein.

Section 4. This Ordinance shall be effective from and after its adoption.
The City Council of the City of Winston-Salem issues a Special Use District Permit for the site shown on the site plan map included in this zoning petition of Southeast Gateway Ventures, LLC, (Zoning Docket W-3029). The site shall be developed in accordance with the plan approved by the Board and bearing the inscription: "Attachment A, Special Use District Permit for MU-S [Residential Building, Single Family; Residential Building, Duplex; Residential Building, Twin Home; Residential Building, Multifamily; Residential Building, Townhouse; Residential Building, Urban; Combined Use; Fraternity or Sorority; Furniture and Home Furnishings Store; General Merchandise Store; Hardware Store; Motorcycle Dealer; Nursery, Lawn and Garden Supply Store, Retail; Restaurant (without drive-through service); Retail Store, Specialty or Miscellaneous; Shopping Center; Banking and Financial Services; Health Services, Miscellaneous; Medical or Dental Laboratory; Medical and Surgical Offices; Offices Miscellaneous; Professional Office; Services, Business A; Services, Business B; Services, Personal; Storage Services, Retail; Testing and Research Lab; Recreation Services Indoor; Recreation Facility, Public; Swimming Pool, Private; Child Care Institution; Child Day Care Center; Church or Religious Institution, Community; Church or Religious Institution, Neighborhood; College or University; Government Offices; Library, Public; Museum or Art Gallery; Nursing Care Institution; School, Private; School, Public; Stadium, Coliseum or Exhibition Building - TWO PHASE - Site Plan Amendment], approved by the Winston-Salem City Council the _____ day of _____________________, 20____" and signed, provided the property is developed in accordance with requirements of the MU-S zoning district of the Zoning Ordinance of the Unified Development Ordinances, the Erosion Control Ordinance, and other applicable laws, and the following additional conditions be met:
The following conditions are from the original W-2736 petition. Conditions applicable from this case to the current request and new conditions are shown in bold italics.

• PRIOR TO THE ISSUANCE OF GRADING PERMITS:
  a. A storm water management study shall be submitted to the Public Works Department of the City of Winston-Salem for review. If required, an engineered storm water management plan shall be submitted and approved by the Public Works Department.
  b. Developer shall obtain a driveway permit from WSDOT and NCDOT, if applicable.
  c. Upon approval of the Final Development Plan for Tract Two, the limits of clearing on the site shall be flagged in the field.
  d. In conjunction with the Flood Study being prepared by other parties for the City’s work along Salem Creek, the developer will, in coordination with the Floodplain Manager, provide additional cross sections that may be added to this study to include areas of the subject property which are a concern.
  e. Surveyor to stake the proposed stockpile area.
  f. Provide verification from DENR that soils in the stockpile area are approved for placement in a flood prone area.
  g. The limits of clearing on the site shall be flagged in the field.
  h. Developer shall flag and retain all trees of six inches in diameter or greater within the no-fill area north of Salem Creek.

• PRIOR TO THE SIGNING OF PLATS:
  a. All documents including covenants, restrictions, and homeowner’s association agreements shall be recorded in the office of the Register of Deeds.
  b. All required fire hydrants shall be installed or bonded in accordance with the Winston-Salem Fire Department.
  c. Developer shall install or financially guarantee large variety street trees as defined in UDO Section 3-4.10, within street yards, buffyards and motor vehicle parking areas where no conflict occurs with overhead utility lines.
  d. Easements for the greenway and fee simple dedication for the Strollway shall be recorded on a final plat.

• PRIOR TO THE ISSUANCE OF BUILDING PERMITS:
  a. Developer shall record a plat showing utility, access and greenway easements in the office of the Register of Deeds.
  b. Developer shall provide profile and cross section of the proposed sewer relocation along Main Street adjacent to the proposed YWCA.
  c. The final building elevations for the multifamily residential buildings shall be in substantial conformity with the elevations and narrative as provided in Exhibit A.

• PRIOR TO THE ISSUANCE OF OCCUPANCY PERMITS:
  a. All road improvements shall be completed before the issuance of occupancy permits.
  b. All Fire Hydrants shall be installed in accordance with the City of Winston-Salem Fire Department in logical phasing of the development.
c. The sidewalk along Salem Avenue shall be removed from the back of the curb and relocated to provide a 5 foot minimum planting strip between the sidewalk and the curbing in accordance with the specifications of the Public Works Department of the City of Winston-Salem.
d. No on-site lighting shall be taller than 18 feet. All on-site lighting will consist of cutoff type fixtures that prevent glare onto adjacent residential properties.
e. Upon approval of the Final Development Plan for Tract Two, the developer shall allow the City of Winston-Salem to access Washington Park from a new entrance on Broad Street. The entrance will be approved by the developer, with input from the Recreation and Parks Department.
f. Upon approval of the Final Development Plan for Tract Two, the developer shall ensure that an internal vehicular connection is provided between the various components of the site i.e. the proposed school and the residential/retail area.
g. Provide access for Winston-Salem Fire Department and Sanitation Department to the gated residential parking.

• OTHER REQUIREMENTS:
a. All uses and square footages shall match those indicated in the associated Traffic Impact Study. A Site Plan Amendment will be required for any changes not in keeping with those calculations and a new TIS may need to be submitted as part of the Site Plan Amendment process.
b. Phase II development may be approved after a site plan review by appropriate city and state officials (interdepartmental review), upon finding that the Phase II site plan meets all conditions of the Phase I approval, meets all requirements of the UDO, and is consistent with the intent of the attached illustrative master plan (Exhibit A) for Phase II development.
c. Developer shall be permitted a maximum of two freestanding signs along each of the following street frontages for Tract One: Broad Street, Salem Avenue and Main Street. Freestanding signage for Tract Two shall be limited to one sign along Broad Street. All signage shall be of a monument type with a six (6) foot maximum height and a 24 foot maximum area each.
d. Structures, trees, heavy plantings, cut, fill, or other significant disturbance will not be permitted within water and/or sewer easements.
CITY-COUNTY PLANNING BOARD  
STAFF REPORT

<table>
<thead>
<tr>
<th>Docket #</th>
<th>W-3029</th>
</tr>
</thead>
<tbody>
<tr>
<td>Staff</td>
<td>Gary Roberts Jr., AICP</td>
</tr>
<tr>
<td>Petitioner(s)</td>
<td>Southeast Gateway Ventures, LLC</td>
</tr>
<tr>
<td>Owner(s)</td>
<td>Same</td>
</tr>
<tr>
<td>Subject Property</td>
<td>PIN #'s 6835-10-5330 and 6835-10-6085,</td>
</tr>
<tr>
<td>Address</td>
<td>There is no address assigned for the subject property; however, it is located adjacent to and at the rear of 1200 Broad Street</td>
</tr>
<tr>
<td>Type of Request</td>
<td>Site Plan Amendment for property zoned MU-S</td>
</tr>
</tbody>
</table>
| Proposal | The petitioner is requesting a Site Plan Amendment to the existing MU-S Special Use Permit for the property. The list of permitted uses established for this MU-S TWO PHASE in 2004 included:  
  - Residential Building, Single Family; Residential Building, Duplex; Residential Building, Twin Home; Residential Building, Multifamily; Residential Building, Townhouse; Residential Building, Urban; Combined Use; Fraternity or Sorority; Furniture and Home Furnishings Store; General Merchandise Store; Hardware Store; Motorcycle Dealer; Nursery, Lawn and Garden Supply Store, Retail; Restaurant (without drive-through service); Retail Store, Specialty or Miscellaneous; Shopping Center; Banking and Financial Services; Health Services, Miscellaneous; Medical or Dental Laboratory; Medical and Surgical Offices; Offices Miscellaneous; Professional Office; Services, Business A; Services, Business B; Services, Personal; Storage Services, Retail; Testing and Research Lab; Recreation Services Indoor; Recreation Facility, Public; Swimming Pool, Private; Child Care Institution; Child Day Care Center; Church or Religious Institution, Community; Church or Religious Institution, Neighborhood; College or University; Government Offices; Library, Public; Museum or Art Gallery; Nursing Care Institution; School, Private; School, Public; Stadium, Coliseum or Exhibition Building |

Zoning District Purpose Statement | The MU-S District is intended to accommodate and positively integrate a balanced mixture of residential, commercial, and in some cases light industrial uses within the district and the surrounding area. Depending upon the existing land use context in which the MU-S district is proposed, at least three distinctly different use component areas are expected for any MU-S zoning proposal. Building mass, rhythm, scale, and transition, as well as a cohesive and connected pedestrian and vehicular network are intended to be key elements of the overall design concept. This district encourages innovation by offering flexibility in design and layout requirements to achieve a greater choice of living and working environments. The development design should also be
compatible with the natural terrain and surrounding uses, protect natural and/or historic resources, and provide useful open space. This district is only permitted through the special use district zoning process. This district is suitable in Growth Management Areas 1,2,3,4, and activity centers.

<table>
<thead>
<tr>
<th>Applicable Rezoning Consideration from Chapter B, Article VI, Section 6-2.1(S)</th>
<th>(S)(1) - Is the proposal consistent with the purpose statement(s) of the requested zoning district(s)?</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>The subject property was initially approved as a portion of a larger mixed use development, W-2736. Therefore, the proposal, as a part of the overall original approval, remains consistent with the language of the purpose statement regarding “greater choice in living and working environments.” The purpose statement also states that “The development design should also be compatible with the natural terrain and surrounding uses, protect natural and/or historic resources, and provide useful open space.” The proposal would result in significant removal of mature vegetation and grading on steep slopes as well as encroachment into the floodplain of Salem Creek. However, the illustrative, conceptual master plan for this portion of the site included in the 2004 rezoning also showed development on northeastern portion of this site for a school facility. Most of the proposed open space in the 2004 Master Plan is located on the opposite side of Salem Creek in an area which is substantially constrained by utility lines.</td>
</tr>
</tbody>
</table>

### GENERAL SITE INFORMATION

<table>
<thead>
<tr>
<th>Location</th>
<th>West side of Broad Street, east of Shuman Street</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jurisdiction</td>
<td>City of Winston-Salem</td>
</tr>
<tr>
<td>Ward(s)</td>
<td>South</td>
</tr>
<tr>
<td>Site Acreage</td>
<td>Approximately ± 17.82 acres</td>
</tr>
<tr>
<td>Current Land Use</td>
<td>The site is currently undeveloped with the exception of the Salem Creek Greenway which runs along the northern side of Salem Creek and multiple overhead utility lines located on the south side of Salem Creek.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Surrounding Property Zoning and Use</th>
<th>Direction</th>
<th>Zoning District</th>
<th>Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>North</td>
<td>RS-9</td>
<td>Undeveloped property and single family homes</td>
<td></td>
</tr>
<tr>
<td>East</td>
<td>LI, MU-S &amp; IP</td>
<td>Undeveloped property, small commercial uses and electrical utilities</td>
<td></td>
</tr>
<tr>
<td>South</td>
<td>IP &amp; RS-9</td>
<td>Single family homes and Washington Park</td>
<td></td>
</tr>
<tr>
<td>West</td>
<td>IP</td>
<td>Washington Park</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Applicable Rezoning Consideration from Chapter B, Article VI, Section 6-2.1(S)</th>
<th>(S)(2) - Is/are the use(s) permitted under the proposed classification/request compatible with uses permitted on other properties in the vicinity?</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>No new uses are being proposed, nor does the subject Site Plan Amendment include proposed buildings or uses.</td>
</tr>
</tbody>
</table>
### Physical Characteristics
Salem Creek and its associated floodplain impact a majority of the site. The portion of the site south of Salem Creek contains mostly grass vegetation. The portion of the site to the north of Salem Creek is traversed by the Salem Creek Greenway. Otherwise it is heavily wooded and has a steep to gentle slope downward to the south along the creek.

### Proximity to Water and Sewer
Public water and sewer are available to the site.

### Stormwater/Drainage
A stormwater study was required as part of the original approval. Future Final Development Plan requests may trigger additional stormwater control measures. The NC Department of Environment and Natural Resources has designated Salem Creek as an impaired urban stream.

### Watershed and Overlay Districts
The site is not within a water supply watershed.

### Analysis of General Site Information
The majority of the site is either within the floodplain of Salem Creek or on steep slopes. Significant amounts of tree canopy removal will be needed to accommodate the proposed cut and fill grading and earth moving activity.

### Generalized Recommended Conditions
**BRIEF DESCRIPTION OF CONDITION(S):**
- See previously adopted conditions below

### SITE ACCESS AND TRANSPORTATION INFORMATION

<table>
<thead>
<tr>
<th>Street Name</th>
<th>Classification</th>
<th>Frontage</th>
<th>ADT Count</th>
<th>Capacity/LOS D</th>
</tr>
</thead>
<tbody>
<tr>
<td>Broad Street</td>
<td>Minor Thoroughfare</td>
<td>225’</td>
<td>7,900</td>
<td>16,100</td>
</tr>
</tbody>
</table>

#### Proposed Access Point(s)
Broad Street via a private driveway that now provides access to the Family Services building.

#### Planned Road Improvements
A traffic signal is planned at the intersection of Broad Street and Salem Avenue.

#### Trip Generation - Existing/Proposed
- **Approved MU-S Site Plan (per TIS)**
  Multifamily, school, retail (included Family Services portion of site) = 1,963 Trips per Day
- **Proposed MU-S Site Plan**
  No anticipated trip generation associated with the proposed earth moving activity.

#### Sidewalks
Sidewalks exist along Broad Street and the Salem Creek Greenway traverses the central portion of the site.

#### Transit
Route 29 runs along Main Street ±1,200’ to the east.

#### Connectivity
The proposed development only has one vehicular access point.

#### Traffic Impact Study (TIS)
No TIS is required by the current request; however, a TIS was submitted in conjunction with an earlier request on the subject property, W-2958.

#### Analysis of Site Access and Transportation Information
The site has one public street access point through the Family Services site onto Broad Street at the intersection of Salem Avenue. Staff has requested the access drive to the western most portion of the site be shown.
<table>
<thead>
<tr>
<th>Generalized Recommended Conditions</th>
<th>BRIEF DESCRIPTION OF CONDITION(S):</th>
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<tr>
<td></td>
<td>• See previously adopted conditions below</td>
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### CONFORMITY TO PLANS AND PLANNING ISSUES

**Legacy GMA**
Growth Management Area 2, Urban Neighborhoods

**Relevant Legacy Recommendations**
- In assessing development projects it is important to consider the impact of proposed developments on the environmental resources on site, as well as the cumulative impacts beyond the development sites. (p. 89)
- Integrate natural areas (streams, wetlands, natural vegetation, etc.) into the site design of development projects and ensure that these areas are protected during construction. (p.89)
- GMA 2 is an area in which to encourage quality infill development, greater residential densities where appropriate, neighborhood retail, and community services. (p.30)
- *Infill and Redevelopment*: Manage growth by making more efficient use of land that has already been developed, encouraging reuse and infill and capitalizing on other development opportunities. Older urban and suburban neighborhoods should be reinforced as good places to live and do business. (p. 25)
- Infill development, like any land use issue, must balance the concerns of surrounding residents about the preservation of the character of their neighborhood with the needs of property owners and developers and the goals of the larger community. (p.40)

**Relevant Area Plan(s)**
*South Central Area Plan* (2003)

**Area Plan Recommendations**
- The mix, type, density and design of development should facilitate walking, bicycling and use of public transportation. (p.25)
- Prior to submitting a rezoning petition, petitioners are encouraged to consult with and obtain the support of neighborhood organizations. (p.26)

**Greenway Plan Information**
The existing Salem Creek Greenway traverses the middle of the site along the northern side of Salem Creek.

**Applicable Rezoning Consideration from Chapter B, Article VI, Section 6-2.1(S)**

(S)(3) - Have changing conditions substantially affected the area in the petition?

No

(S)(4) - Is the requested action in conformance with Legacy?

See comments below

**Analysis of Conformity to Plans and Planning Issues**
The subject property was originally rezoned MU-S as part of a larger mixed use development. This portion was zoned as a TWO PHASE area. An illustrative master plan was submitted with the condition that if any development request was consistent with the intent of said master plan, said development could be approved at the staff level. The plan depicted a 1 ½ story school on the northeastern side of the unopened southern
extension of Shuman Street. The area south of the Shuman Street right-of-way was largely shown as undeveloped with some walking trails and gazebos. Concurrently, the staff report for said original rezoning stated “The developer has agreed to preserve a significant portion of the heavily wooded area located on the northwestern side of the greenway and generally south of the Shuman Street right-of-way.” The current proposal is in the form of a Site Plan Amendment because it varies from said illustrative master plan.

The South Central Area Plan (SCAP) which was adopted in 2003 recommends the entire property remain as open space or parkland. The recommendations of Legacy are noted above. The MU-S rezoning of this site occurred in December 2004.

The subject request is to allow clearing and rough grading of the site for sales and marketing purposes. Some of this activity involves the partial relocation of a stockpile of soil. Due to the potentially contaminated nature of this soil, the petitioner will need to obtain verification from the NC Department of the Environment and Natural Resources (DENR) that relocation of said soils into a flood prone area is acceptable. The request retains some existing vegetation in the western corner of the site along the northern side of Salem Creek. However, staff recommends preservation of additional vegetation within the no-fill area adjacent to the Salem Creek Greenway. This tree buffer area is needed to minimize the impact of the tree removal and grading on the remainder of the site to the greenway. As noted in the Relevant Zoning Histories section below, staff supported W-2958 which included two four story residential buildings on this site. That proposal also involved significant grading and tree clearing. Assuming that DENR allows the relocating of the soil and a method for doing that which is acceptable, staff believes this request merits its support since it also involves grading and clearing, but leaves the area in open space.

It should be noted that when a Final Development Plan request is submitted in the future, additional conditions will be recommended.

<table>
<thead>
<tr>
<th>Generalized Recommended Conditions</th>
<th>BRIEF DESCRIPTION OF CONDITION(S):</th>
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<tbody>
<tr>
<td></td>
<td>• See previously adopted conditions below</td>
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<tr>
<td></td>
<td>• DENR approval of the relocation of potentially contaminated soil</td>
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<table>
<thead>
<tr>
<th>RELEVANT ZONING HISTORIES</th>
<th>Recommendation</th>
</tr>
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<tbody>
<tr>
<td>Case</td>
<td>Staff</td>
</tr>
<tr>
<td>W-2958 MU-S to Site Plan Amendment</td>
<td>Denied 10-1-07</td>
</tr>
<tr>
<td>Building</td>
<td>Square Footage</td>
</tr>
<tr>
<td>-----------------</td>
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<tr>
<td>W-2919</td>
<td></td>
</tr>
<tr>
<td>RS-9 and MU-S to MU-S</td>
<td>Withdrawn at 6-4-07 City Council meeting</td>
</tr>
<tr>
<td>W-2736</td>
<td></td>
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<tr>
<td>IP, HB, LI &amp; GI to MU-S TWO-PHASE</td>
<td>Approved 12-6-04</td>
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### SITE PLAN COMPLIANCE WITH UDO REQUIREMENTS

<table>
<thead>
<tr>
<th>Building Square Footage</th>
<th>Impervious Coverage</th>
<th>UDO Sections Relevant to Subject Request</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>• Chapter B, Article II, Section 2-1.5 (C) Mixed Use – Special Use District</td>
</tr>
</tbody>
</table>

#### Square Footage

<table>
<thead>
<tr>
<th>Maximum</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>NA</td>
<td>0%</td>
</tr>
</tbody>
</table>

### Analysis of Site Plan Compliance with UDO Requirements

The revised site plan meets the requirements of the UDO will be submitted.

### Generalized Recommended Conditions

**BRIEF DESCRIPTION OF CONDITION(S):**

- See previously adopted conditions below

### CONCLUSIONS TO ASSIST WITH RECOMMENDATION

<table>
<thead>
<tr>
<th>Positive Aspects of Proposal</th>
<th>Negative Aspects of Proposal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Request will prepare the site for future development.</td>
<td>Request would remove a significant amount of mature woods located within steep slopes and floodplains adjacent to a public greenway.</td>
</tr>
<tr>
<td></td>
<td>Request involves the relocation of potentially contaminated soils within a flood prone area.</td>
</tr>
</tbody>
</table>

### SITE-SPECIFIC RECOMMENDED CONDITIONS OF APPROVAL

The following proposed conditions are from interdepartmental review comments and are proposed in order to meet codes or established standards, or to reduce negative off-site impacts. The following conditions are from the original W-2736 petition. Conditions applicable from this case to the current request and new conditions are shown in **bold italics**.

- **PRIOR TO THE ISSUANCE OF GRADING PERMITS:**
  a. A storm water management study shall be submitted to the Public Works Department of the City of Winston-Salem for review. If required, an engineered storm water management plan shall be submitted and approved by the Public Works Department.
b. Developer shall obtain a driveway permit from WSDOT and NCDOT, if applicable.
c. Upon approval of the Final Development Plan for Tract Two, the limits of clearing on the site shall be flagged in the field.
d. In conjunction with the Flood Study being prepared by other parties for the City’s work along Salem Creek, the developer will, in coordination with the Floodplain Manager, provide additional cross sections that may be added to this study to include areas of the subject property which are a concern.
e. Surveyor to stake the proposed stockpile area.
f. Provide verification from DENR that soils in the stockpile area are approved for placement in a flood prone area.
g. The limits of clearing on the site shall be flagged in the field.
h. Developer shall flag and retain all trees of six inches in diameter or greater within the no-fill area north of Salem Creek.

• PRIOR TO THE SIGNING OF PLATS:
  a. All documents including covenants, restrictions, and homeowner’s association agreements shall be recorded in the office of the Register of Deeds.
  b. All required fire hydrants shall be installed or bonded in accordance with the Winston-Salem Fire Department.
  c. Developer shall install or financially guarantee large variety street trees as defined in UDO Section 3-4.10, within street yards, bufferyards and motor vehicle parking areas where no conflict occurs with overhead utility lines.
  d. Easements for the greenway and fee simple dedication for the Strollway shall be recorded on a final plat.

• PRIOR TO THE ISSUANCE OF BUILDING PERMITS:
  a. Developer shall record a plat showing utility, access and greenway easements in the office of the Register of Deeds.
  b. Developer shall provide profile and cross section of the proposed sewer relocation along Main Street adjacent to the proposed YWCA.
  c. The final building elevations for the multifamily residential buildings shall be in substantial conformity with the elevations and narrative as provided in Exhibit A.

• PRIOR TO THE ISSUANCE OF OCCUPANCY PERMITS:
  a. All road improvements shall be completed before the issuance of occupancy permits.
  b. All Fire Hydrants shall be installed in accordance with the City of Winston-Salem Fire Department in logical phasing of the development.
  c. The sidewalk along Salem Avenue shall be removed from the back of the curb and relocated to provide a 5 foot minimum planting strip between the sidewalk and the curbing in accordance with the specifications of the Public Works Department of the City of Winston-Salem.
  d. No on-site lighting shall be taller than 18 feet. All on-site lighting will consist of cutoff type fixtures that prevent glare onto adjacent residential properties.
e. Upon approval of the Final Development Plan for Tract Two, the developer shall allow the City of Winston-Salem to access Washington Park from a new entrance on Broad Street. The entrance will be approved by the developer, with input from the Recreation and Parks Department.

f. Upon approval of the Final Development Plan for Tract Two, the developer shall ensure that an internal vehicular connection is provided between the various components of the site i.e. the proposed school and the residential/retail area.

g. Provide access for Winston-Salem Fire Department and Sanitation Department to the gated residential parking.

• OTHER REQUIREMENTS:
  a. All uses and square footages shall match those indicated in the associated Traffic Impact Study. A Site Plan Amendment will be required for any changes not in keeping with those calculations and a new TIS may need to be submitted as part of the Site Plan Amendment process.
  b. Phase II development may be approved after a site plan review by appropriate city and state officials (interdepartmental review), upon finding that the Phase II site plan meets all conditions of the Phase I approval, meets all requirements of the UDO, and is consistent with the intent of the attached illustrative master plan (Exhibit A) for Phase II development.
  c. Developer shall be permitted a maximum of two freestanding signs along each of the following street frontages for Tract One: Broad Street, Salem Avenue and Main Street. Freestanding signage for Tract Two shall be limited to one sign along Broad Street. All signage shall be of a monument type with a six (6) foot maximum height and a 24 foot maximum area each.
  d. Structures, trees, heavy plantings, cut, fill, or other significant disturbance will not be permitted within water and/or sewer easements.

STAFF RECOMMENDATION: APPROVAL if the developer agrees to preserve trees within the no-fill area adjacent to greenway.

NOTE: These are staff comments only; final recommendations on projects are made by the City-County Planning Board, with final decisions being made by the appropriate Elected Body, who may approve, deny, table or request modification for any project. THE APPLICANT OR REPRESENTATIVE IS STRONGLY ENCOURAGED TO ATTEND THE PUBLIC HEARINGS WHERE THE CASE WILL BE CONSIDERED BY THE PLANNING BOARD AND THE ELECTED BODY.

Gary Roberts presented the staff report.

PUBLIC HEARING

FOR:

Drew Gerstmyer, East Coast Capital, 116 Greenway, Advance, NC 27006,
  • What we're trying to do is get a grading permit for a private piece of land that has already been approved for development.
• It's been back and forth with DENR from the beginning about how this stockpile is placed. We will continue to work with them.

AGAINST:

Leslie Kamtman, 29 Gloria Avenue, Winston-Salem, NC  27127

• The original rezoning document for this site in 2004 stated that the developer has agreed to preserve a significant portion of the heavily wooded area located on the northwestern side of the greenway and generally south of the Shuman Street right-of-way.
• This current proposal clearly varies drastically from the original rezoning agreement.
• Washington Park and West Salem residents have serious concerns and objections to this site plan amendment.
• We are appalled that this plan would result in the gross removal of a very significant amount of vegetation and mature woods in the floodplain of Salem Creek, adjacent to the public greenway, clearing almost all of that land to allow speculative grading and the spreading around of the dirt pile filled with construction debris and contaminants.
• It is certainly not compatible with the natural terrain nor does it protect natural resources.
• This plan is for the purpose of clearing, grubbing, and rough grading for sales and marketing purposes. That is very vague.
• This site is a brownfield site and as such subject to public review and evaluation.
• No stated buildings or uses are being proposed.
• All this clearing and grading would leave the area in open space, though not so attractive, but for how long? We have no idea what the ultimate intended use will be.
• How is the destruction of this land going to enhance the marketability? It could potentially restrict uses.
• Would lenders be willing to loan to a business to purchase land that is covered with contaminated soil?
• There appears to be a vast amount of space across the street prepared and readily available for development.
• Triad Academy had plans to build a small school on this site and that would have fit into the original zoning guidelines but the dirt pile got in the way. It is our understanding that Triad Academy backed out because after extensive study they determined that what it would take to remediate and build on that soil was cost prohibitive.
• We have not seen any documentation regarding the brownfield that moving the contaminated dirt across Broad Street was permissible or handled appropriately.
• This site plan amendment is a gross manipulation of the system. The developers are asking permission to do something before they have a clear plan or permission from DENR to do something appropriate about the contaminated dirt pile.
• The majority of this site is within the floodplain of Salem Creek. What about storm water management? Shouldn't that be studied before this plan is considered?
• This will negatively impact natural resources and water quality of Salem Creek.
• The original intent of the Southeast Gateway was to enhance our quality of life. This site plan amendment would have a negative impact on that.
• We urge you to oppose this travesty of a site plan amendment.
Cornelia Barr, 355 Park Blvd, Winston-Salem, NC 27127
- The selective grading proposed for this site goes against steps Winston-Salem and Forsyth County are taking to protect our environment and natural resources.
- The area under consideration is part of a small but complex ecosystem.
- The forested area also supports Winston-Salem's storm water guidelines and air quality.
- Winston-Salem is a green city. In planning, your stated goal is to set guidelines for open green spaces.
- We are concerned about the land owner's current management of the property regarding erosion and contamination.
- The dirt pile consists of moving from a high contaminated area to a low contaminated area.
- Preserving tracts of urban forest is essential to offset the impact of development on air quality.
- I would like to know what contaminants are in that stockpile and what measures are being taken to monitor it appropriately before the site plan amendment is approved.

William Watkins, 111 Cascade Avenue, Winston-Salem, NC 27127
- I am opposed to this application.
- The permitted uses allowed under MU-S zoning do not allow hazardous waste dump.
- The developer's intent is undeclared. Clearing and grading without a proposed use circumvents the intent of the MU-S zoning jurisdiction.
- Review of the brownfield agreement and inquiries to DENR indicate that hazardous materials may have been moved to this site without DENR approval or knowledge. This would be a violation of the brownfield agreement.
- It was observed that during the earth-moving operations that resulted in the hazardous waste pile which we see now, that contaminated soil from the site of the old YWCA was moved to this site along with construction debris and hazardous materials from other areas of the development.
- 90% of this area is in a flood-plain with frequent flooding.
- I am really surprised that Planning staff has given their blessing to this project. Maybe it's because they approved the last one and felt they should approve this one too, without regard to merit.

Josh Sutton, 625 Hunter St., Winston-Salem, NC 27101
- This proposal does not address the problem of long-term contaminated soil which will still need to be cleaned up.
- This proposal is clearly a speculative proposal rather than a specific plan to better the community.
- On the other hand, it is clear that many actions may be taken with adverse effects locally and to the surrounding communities that are impacted by Salem Creek's water supply.
- We urge the Planning Board to strongly consider the questions regarding this request.
- The main basis for this proposal is questionable.
- Will the partial clear-cutting of the natural habitat and the spreading of potentially contaminated soil and debris increase marketability or prevent other interested parties from considering another use that is in compliance with the brownfield agreement, area plans, and will benefit the community.
WORK SESSION

During discussion by the Planning Board, the following points were made:

1. Carol Eickmeyer: Do we have any way to protect the trees that are there now before they get approval from DENR to move the contaminated soil into a flood prone area? Do we have any way of keeping them from beginning clearing until approval from DENR is obtained? Note: The conditions of getting DENR approval and flagging trees to retain are both shown as conditions to be met before grading permits are issued.

2. Brenda Smith: Do we know what is in the soil? Gary Roberts: It is possibly contaminants from the Duke Power electricity station south of the creek and petroleum contaminants from the previous automotive uses on the north side of the creek. Brenda Smith: It seems that's a separate issue. If they have those items on site, they would have to be handled according to the rules for that.

3. In response to a question from Carol Eickmeyer about whether the soil is being tested, Drew Gerstmyer stated that the entire area is a brownfield site. It isn't a matter of moving brownfield soil from the east side of Broad Street to the west side that would be untouched. The entire 45 acres is already a brownfield site. What we're doing is balancing the soil within that site.

4. Carol Eickmeyer: Is there a possibility that you won't get permission from DENR to move that soil into a flood-prone area? Drew Gerstmyer: I don't think so.

5. Brenda Smith: The whole purpose of brownfield sites is to make them developable so it would be entirely unusual for DENR to deny the request at this point in the process.

6. Arnold King: As I recall, it's going to require some dirt to build the site up anyway, right? Drew Gerstmyer: Yes. Place Properties plan showed about 55,000 cubic yards coming in. This amount is well under that number.

7. Gary Roberts stated that according to Jeff Kopf in Inspections, his best determination is that the site is contaminated. He has about 97 documents he's reviewed. However, no one knows for absolute certain and that's why he recommended the condition.

8. Brenda Smith: Regarding brownfields, there's an assessment regarding what is there.

9. Drew Gerstmyer: The entire 45 acres is a brownfield site. We're looking at grading two and a half acres on 17 acres on the west of Broad site. It's not even close to significant grading. Lenders don't have a problem with it at all.
10. In response to a question from Arnold King, Paul Norby reminded the Board that this is a Site Plan Amendment which simply means that something was significantly inconsistent from the approved site plan on record. When this entire MU-S area for the Gateway was approved in 2004, it had a conceptual site plan in it. According to the ordinance for MU-S that has two-phase in it with a conceptual site plan it says that staff can approve a site plan that is substantially in conformance with the conceptual site plan. If it isn't, it has to be a site plan amendment. In this case, as the Inspections Director and I looked at that, what was shown in this portion of the site was an open space area that had substantial tree cover in it. There were some pocket clearings in there, but nothing that indicated there was substantial grading or filling or more substantial tree removal like what is shown on this proposed plan. What was being proposed here in our opinions was considerably beyond that and we felt that we did not have the administrative authority to approve it at the staff level. That was our answer. We discussed it with the petitioner several times, and actually consulted with the City Attorney on that question before we ended up with our final decision that his had to be approached as a Site Plan Amendment.

11. In response to a question about DENR approval prior to moving the contaminated dirt, Paul Norby responded that staff consulted with Jeff Kopf, the resident expert on this matter in Inspections, concerning those issues. He suggested the condition that we get a sign-off from DENR verifying all those requirements had been met and that it is approved by them. With that, we felt the Site Plan Amendment would establish that there would be more clearing and grading than the original plan but it could still be an open space area as originally contemplated in the plan.

12. Brenda Smith: Since they are clearing an area and don't know what it will be used for, how do we know these other conditions will be followed? A lot of these conditions apply to something that's not going to be done. Paul Norby responded that the list of conditions in the staff report is the original conditions which apply to the whole Southeast Gateway project with the exception of those in italics and bold type. The conditions in italics and bold type are the ones which are specifically applicable to this request.

13. Wesley Curtis: When you compare what you're doing now with what you were going to do before, you are doing more grading in what was to be an undisturbed area. The petitioner responded that the illustrative site plan shown today was not the most recent plan. We've been through the rezoning for the MU-S and there's no wording that this area should not be graded. It simply refers to a significant amount of trees on this site. Two and a half acres out of 17 meets that condition. We've never noted on a drawing that this area should be undisturbed. This area was always meant to be developed. Paul Norby noted that what was shown to the Board today is the conceptual site plan which was approved and stamped by the Council.
14. Lynne Mitchell: In addition to all these conditions, you have to go through the brownfields processes, right? The petitioner stated that was the case.

15. Wesley Curtis: Without knowing who the user is or what this will be, is it really worth the effort to do this now? The petitioner indicated that he does feel this is worth it. A lot of that decision is based on seeing what it would take for Place Properties to make it a viable site.

16. Brenda Smith: Unless they build what is on the original conceptual plan, the next step of development will have to come back before us, meaning there's still the opportunity to decide whether it's sticking to the amount of clear space? Arnold King: In all likelihood, this will have to come back before us again. It's unlikely that they will find a buyer who will need this exact footprint. They're going to spread the dirt out instead of having a big pile of it.

17. Carol Eickmeyer: The problem I have with this is that if no one wants it right now, we don't know how long it's going to be rough-graded or how long we'll be without trees. Why should we clear out all the vegetation if we don't know when we're going to be asked to approve something for the site?

18. Arnold King: We're not clearing all the vegetation. He's clearing two acres to put some dirt on.

19. Carol Eickmeyer: Two acres is pretty critical to adjoining neighbors because it changes what they see when they look out their back door.

20. The petitioner stated that it's tougher to meet with people and explain what could go there until it's straightened out.

21. Paul Mullican: Instead of having a big pile of dirt there, they're going to have a nice area and seed that and have nice grass. They aren't going to take much vegetation out and they'll have a nice looking area. It'll have a little curb appeal for someone to actually come in and do something with the property. Working with DENR is challenging. DENR moves awfully slow. I think this is a win-win. This will look a lot better for the neighborhood than a big pile of dirt.

22. Brenda Smith: If you were going to clear the whole site without knowing what you were going to do, that would not be acceptable. However a small part is okay.

23. Carol Eickmeyer: Please show us where the two acres are located. Staff showed on the projector the site plan for the entire site and explained the proposal.
24. Wesley Curtis: The issue for me is not contaminated dirt. I would like to have a good idea of what it is that's going there because it may not be that you have to grade this spot. If our goal is to save as much green space as we can, which I think is everyone's goal, even the developer, you may have a better shot at saving different areas once you know what you're going to do. The whole purpose of special use is so that everyone can see what it's going to be. I'm just not as comfortable approving this as I would be knowing what is going there. You may not have to grade this area for whatever use will go there. You may have a client who doesn't need this area cleared. You may be able to work out a scenario where everyone is happy.

25. Arthur King: I don't see the down side of allowing him to move the dirt.

26. Carol Eickmeyer: The place where he's moving the dirt to is wooded now. That's the down side. The woods go away.

27. The site will develop eventually.

28. Carol Eickmeyer: I understand that the whole area is a brownfield site. Does that mean that every square inch of that area is contaminated? Cornelia Barr stated that bores from the west side of the creek showed such contaminates as arsenic, but in much lower levels than bores from the east side of the creek. Carol Eickmeyer: It sounds like approving this request would move contaminants from an area with higher levels of contaminant to an area with lower levels of contaminants. Cornelia Barr: That's exactly the point. Dirt would be moved from an industrial area to an area which has been forested, hillside, used for hunting purposes, etc. since the Moravians moved here because it was not suitable for anything else.

29. Carol Eickmeyer: In looking at the site, it didn't look to me like the whole 17 acres was forested.

30. Arnold King: I can't imagine a petitioner moving dirt onto a site when a bank may refuse money to someone wanting to build on that site. I can't imagine why you would contaminate your own property like that to where you can't sell it.

31. Carol Eickmeyer: It's not just the property. It's the runoff and where the runoff goes. When you're in a floodplain, it's going to go downhill towards the creek.

32. Arnold King: Apparently DENR has told them it's okay to put the dirt here. They know more about it than I do.

33. Lynne Mitchell: After hearing everybody talking, I don't have as big an issue with the dirt because I think if the site gets developed, the dirt is going to get moved around anyway and they'll go the permitting process. My big issue is
whether you preserve it because over time this area may not be developed. I hear what's being said about preparing it for development, but why now instead of once the intended use is known.

34. Brenda Smith: It's already been approved for development. Moving dirt is under the jurisdiction of DENR and it's very, very strictly controlled.

35. Arnold King: I don't see why a man can't come in here and ask us about moving dirt on his own property.

MOTION: Carol Eickmeyer moved denial of the site plan amendment and certified that the site plan meets all code requirements and recommends staff conditions.
SECOND: Wesley Curtis
VOTE:
FOR: Wesley Curtis, Carol Eickmeyer, Darryl Little, Lynne Mitchell
AGAINST: Arnold King, Arthur King; Paul Mullican, Brenda Smith
EXCUSED: None

NOTE: MOTION FAILED DUE TO TIE VOTE

Written Comments submitted by Planning Board members:

Arnold King: The request is simply to clear a small portion of the site to make it more appealing for development. This proposal would enable the owner to move the large pile of dirt on the site and to prepare the site for development. Any development that occurs on this site is going to require a substantial amount of fill dirt being brought to the site. Spreading it over the site, as opposed to creating a huge pile of dirt, would seem preferable. There was a lot of discussion about hazardous waste. The dirt being moved onto the site is "contaminated" (as part of a brownfield site) - not necessarily hazardous - and the movement and placement of this soil is closely monitored by the North Carolina Department of Environment and Natural Resources (DENR). Petitioner is asking to clear less than 15% of the site. Request seems reasonable and I concur with Staff's recommendation for approval.

A. Paul Norby, FAICP
Director of Planning