



**GRUBB PROPERTIES**

*People who care. Places that matter.*

VIA FED EX

February 25, 2014



Mr. David Peacock  
Brownfields Compliance Coordinator  
NC Department of Environment and Natural Resources  
1646 Mail Service Center  
Raleigh, NC 27699-1646

Subject: Annual Land Use Restrictions Update

Dear Mr. Peacock:

Enclosed are executed LURUs for the Brownfields projects listed below.

East Park – Boyer	Project #06018-02-60
East Park – Kossove	Project #05012-01-60
East Park – Joal	Project #05011-01-60
East Park – Craver	Project #07019-03-60

If you need any additional information, please let us know. I can be reached at 704-405-5167 and Diana Miller can be reached at 704-405-1639. Thank you for your assistance.

Sincerely,

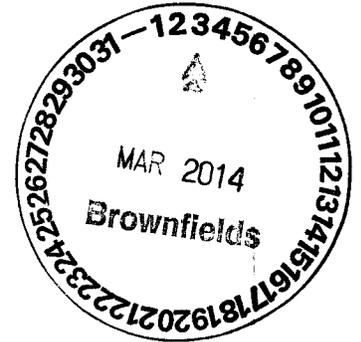
Susan D'Ambra  
Executive Assistant  
Commercial Real Estate

Enclosures

**Charlotte** | Cary | Lexington

4500 Cameron Valley Parkway, Suite 350, Charlotte, NC 28211 | 704.372.5616 phone | 704.372.9882 fax | [grubbproperties.com](http://grubbproperties.com)

**Brownfields Project #: 06018-02-60**  
**Brownfields Property: East Park - Boyer**  
**Property Owner (In whole or part): James C. and Cecelia W. Boyer**



**LAND USE RESTRICTIONS ("LUR") UPDATE**

LUR 1: No uses other than commercial, residential, recreational and common open space may occur at the Property.

- A. Commercial use is herein defined as an occupation, employment or enterprise that is carried on for profit by the owner, lessee or licensee.
- B. Residential use is herein defined as a permanent dwelling, any single family, detached, duplex, triplex, quadraplex, attached or multifamily dwelling, manufactured home, mobile home, group home, boarding house or dormitory.
- C. Recreational use may include:
  - i. indoor recreation, defined as public or private health or exercise clubs, tennis or other racquet courts, swimming pools, YMCAs, YWCAs or similar uses which constitute principal uses and are enclosed in buildings and operated on a commercial or membership basis.
  - ii. outdoor recreation, defined as public or private golf courses, swimming pools, tennis courts, ball fields, ball courts and similar uses which are not enclosed in buildings and are operated on a commercial or membership basis, or are available for use by tenants and/or owners of rental, condominium or other residential units at the Property.
- D. common open space is herein defined as 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.

In compliance  X  Out of compliance      

Remarks: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

LUR 2: Surface water and underground water at the Property may not be used for any purpose without the approval of the Department of Environment and Natural Resources ("DENR") or its successor in function.

In compliance  Out of compliance

Remarks: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

LUR 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 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 legal approval of plans and procedures to protect public health and the environment during the proposed activities.

In compliance  Out of compliance

Remarks: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

LUR 4: 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.

In compliance  Out of compliance

Remarks: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

LUR 5: No basements may be constructed on the Property unless they are, as determined by DENR or its successor in function, vented in conformance with applicable building codes.

In compliance  Out of compliance

Remarks: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

LUR 6: None of the contaminants known to be present in the environmental media at the Property, including those listed in paragraph 7 of the Brownfields Agreement (“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.

In compliance  Out of compliance

Remarks: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

LUR 7: The Property may not be used for agriculture, grazing, timbering or timber production.

In compliance  Out of compliance

Remarks: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

LUR 8: The Property may not be used as a playground, or for child care centers or schools without the prior consent of DENR or its successor in function.

In compliance  Out of compliance

Remarks: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

LUR 9: The Property may not be used for kennels, private animal pens or horse-riding.

In compliance  Out of compliance

Remarks: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

LUR 10: For all new residential construction and conversion of existing structures to residential use at the Property, one of the following must occur:

- A. prior sampling and analysis of soil-gas samples to the satisfaction of DENR or its successor in function; or
- B. mechanical ventilation of each occupied space with outdoor air in conformance with the most current version of Standard 62 of the American Society of Heating, Refrigerating and Air-Conditioning Engineers or with U.S. EPA guidance on radon-resistant construction techniques for new residential construction.

In compliance  Out of compliance

Remarks: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

LUR 11: During January of each year after this Notice is recorded, 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 Mecklenburg County Register of Deeds office, and that the land use restrictions are being complied with.

In compliance  Out of compliance

Remarks: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

Date: 2-23-14

By: Cecelia W Boyer  
Cecelia W. Boyer

Date: 2-23-14

By: James C Boyer  
James C. Boyer

NORTH CAROLINA  
MECKLENBURG COUNTY

I, R. SCOTT MCCUTCHEEN, a Notary Public of the county and state aforesaid, certify that Cecelia W. Boyer and James C. B Boyer personally came before me this day, demonstrated their identities, and signed the foregoing certification.

WITNESS my hand and official stamp or seal, this 23<sup>rd</sup> day of February, 2014

R. Scott McCutchen  
Name typed or printed:  
Notary Public

My Commission expires: 6-30-14

[Stamp/Seal]

