

Brownfields Project #: 07005-03-60
Brownfields Property: Boulogny Site, 2320 North Davidson Street
Property Owner (In whole or part): NoDa @ 27th Street, LLC



LAND USE RESTRICTIONS (“LUR”) UPDATE

LUR 1: No use other than the following may be made of the Brownfields Property: mixed-use development with industrial, commercial, retail and residential uses.

In compliance Out of compliance

Remarks:

LUR 2: Surface water and underground water at the Brownfields 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 Brownfields Property without prior sampling and analysis of groundwater to the satisfaction of DENR or its successor in function in any areas proposed for such activities, and submittal of the analytical results to DENR or its successor in function. If such results disclose to DENR or its successor in function contamination in excess of North Carolina’s groundwater quality standards, the proposed activities may not occur without the approval of DENR or its successor in function on such conditions as DENR or its successor in function imposes, including at a minimum 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 Brownfields 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 Brownfields 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 Brownfields Property, including those listed in paragraph (2) of the Notice of Brownfields Property, may be used or stored at the Brownfields Property without the prior approval of DENR or its successor in function, except in de minimis amounts for cleaning and other routine housekeeping activities.

In compliance Out of compliance

Remarks:

~~LUR 6~~:LUR 7: ___ The Brownfields Property may not be used as a park or for sports of any kind, including, but not limited to, golf, football, soccer and baseball, without the approval of DENR or its successor in function.

In compliance Out of compliance ___

Remarks:

~~LUR 7~~:LUR 8: ___ The Brownfields Property may not be used for agriculture, grazing, timbering or timber production.

In compliance Out of compliance ___

Remarks:

~~LUR 8~~:LUR 9: ___ The Brownfields Property may not be used as a playground, or for child care centers or schools.

In compliance Out of compliance ___

Remarks:

~~LUR 9~~:LUR 10: ___ The Brownfields Property may not be used for kennels, private animal pens or horse-riding.

In compliance Out of compliance ___

Remarks:

~~LUR 10:~~LUR 11: As to all new residential construction and conversion of existing structures to residential use, each occupied space on the Brownfields Property shall be mechanically ventilated 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 in accordance with U.S. EPA guidance on radon-resistant construction techniques for new residential construction.

In compliance Out of compliance

Remarks:

~~LUR 11:~~LUR 12: No party conducting environmental assessment or remediation at the Property at the direction of, or pursuant to a permit or order issued by, DENR may be denied access to the Property for purposes of conducting such assessment or remediation.

In compliance Out of compliance

Remarks:

~~LUR 12:~~LUR 13: 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 to DENR or its successor in function certifying that this Notice remains recorded at the Mecklenburg County Register of Deeds office, and that the land use restrictions on the Brownfields Property are being complied with. In addition, no later than fourteen (14) days after every fifth anniversary of the effective date of the Agreement, the then current owner of any part of the Brownfields Property shall submit a survey of well receptors within 1,500 feet of the Brownfields Property to DENR or its successor in function. If the Brownfields Property comprises more than one parcel at any time when said survey is due, and the parcels have different owners, one owner may submit the survey for the other(s).

In compliance Out of compliance

Remarks:

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

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

Name typed or printed of party making certification:

In the case of owners that are entities:

Signature of individual signing: GREGORY GADLEY

Name typed or printed: GREGORY GADLEY

Title: MEMBER / MANAGER

In the case of all owners:

Date: 5-11-15

[use for LLCs]

[Insert Name of LLC]

By: Gregory J. Oakley
Name typed or printed:
Member/Manager

NORTH CAROLINA
Mecklenburg COUNTY

I, Arthur E Bloomwell, a Notary Public of the county and state aforesaid, certify that Gregory James Oakley personally came before me this day and acknowledged that he/she is a Member of NODA 027, LLC, a NC (state) limited liability company, and its Manager, and that by authority duly given and as the act of the company, the foregoing Land Use Restriction Update was signed in its name by him/her.

WITNESS my hand and official stamp or seal, this 11 day of MAY, 2015

Arthur E Bloomwell
Name typed or printed: Arthur E Bloomwell
Notary Public

My Commission expires: 03/22/2020

[Stamp/Seal]

ARTHUR E BLOOMWELL
Notary Public
Mecklenburg Co., North Carolina
My Commission Expires Mar. 22, 2020