BOIL Twice Inc. ™

FEB 2013
Brownfields

2/7/13

BOIL Twice, Inc
420 West 4th Street
Winston-Salem, NC 27101
#202-H

Attention:
NC DENR
DIV.Of Waste Management - Brownfields Program

To Whom It May Concern:

Enclosed you will find the current copy of our LUR for property: 1414 Doune Street, Winston-Salem, NC 27127. We recently purchased this property on 12/28/12. With that being said...please review contents and advise if there are any corrections to be made.

Thank you in advance for your patience and time.

Thank you,

Beth H. Massie

Beth H. Massie
Accounting & Collaboration
BOIL Twice, Inc.
420 West 4th Street
#202 H
Winston-Salem, NC 27101
Phone:336-529-4043
Fax:336-722-4882

Brownfields Project #: 08009-04-34 1414 Doune Street Partial Portion
Brownfields Property: Gateway at Old Salem, S. Main St. & S. Marshall St. & W. Salem Ave. & Stafford St. & S. Broad St.
Property Owner (In whole or part): Harold L. Boyle II

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.

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In compliance ✓ Out of compliance ____

Remarks: _____

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

In compliance ✓ 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 the Notice of Brownfields Property ("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 ✓ 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, 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 ✓ 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 ✓ 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 ✓ 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 ✓ 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 ✓ 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 ✓ Out of compliance ____

Remarks: _____

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

In compliance ✓ 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 ✓ 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 ✓ 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 ✓ 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 ✓ 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 ✓ 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 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 ✓ 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 Harold L. Boyle II, owner of at least part of the Brownfields Property.

Name typed or printed of party making certification: Harold L. Boyle II

<u>In the case of owners that are entities:</u>

Name typed or printed:

NORTH CAROLINA
FORSYTH COUNTY

I, ROBIN S FLETCHER, a Notary Public of the county and state aforesaid, certify that Harold L. Boyle II personally came before me this day, demonstrated her/his identity, and signed the foregoing Land Use Restriction Update.

WITNESS my hand and official stamp or seal, this 7th day of February, 2013.

ROBIN S. FLETCHER
Name typed or printed: ~~Harold L. Boyle II~~
Notary Public

My Commission expires: 10/04/2016

Official Seal
Notary Public, North Carolina
Forsyth County
ROBIN S. FLETCHER
My commission expires 10/4 20 16

[Stamp/Seal]