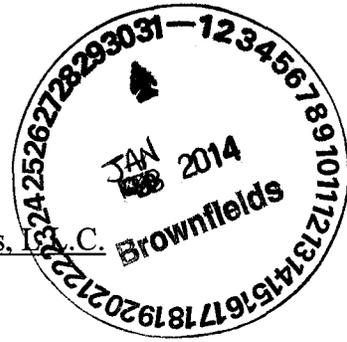


**Brownfields Project #:** 08013-04-44  
**Brownfields Property:** Dayco Facility, 2150 South Main Street  
**Property Owner (In whole or part):** Waynesville Commons Retail Associates, LLC



**LAND USE RESTRICTIONS (“LUR”) UPDATE**

LUR 1: No use, including residential use, may be made of the Brownfields Property other than as the location of commercial/retail establishments, defined as buildings, properties or activities, including in this case restaurants and a gas station, the principal use or purpose of which is the sale of goods, products, services or merchandise directly to consumers.

In compliance   X   Out of compliance       

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

LUR 2: Unless compliance with this Land Use Restriction is waived in writing by the Department of Environment and Natural Resources (“DENR”) in advance in regard to particular buildings, no building on the Brownfields Property may be used until mechanical ventilation with outdoor air is provided in compliance with the most current version of the Mechanical Ventilation section of the Ventilation chapter of the North Carolina State Building Code (“Code”), or another standard approved in writing in advance by DENR. Compliance with the Code shall entail the following, depending upon whether a building sought to be used is existing (subparagraph i.) or new (subparagraph ii.):

- a. This subparagraph applies to buildings on the Brownfields Property at the time the Notice of Brownfields Property (“Notice”) is recorded, as depicted on the plat component of the Notice.
  - i. A professional engineer registered in North Carolina shall inspect the mechanical ventilation system and shall document any measures required to bring the system into compliance with the Code.
  - ii. A North Carolina heating, ventilation and air-conditioning contractor shall implement any measures documented by the professional engineer.
  - iii. A party certified by the American Association of Balancing Contractors or the National Environmental Balancing Bureau,

other than the professional engineer or heating, ventilation and air-conditioning contractor in question, shall perform testing, adjusting and balancing of the system when any work by the contractor is complete. Within seven (7) days after its issuance, a copy of the Certified Test and Balance Report shall be submitted to DENR.

- iv. The professional engineer shall provide DENR certification under seal that all possible entrances for vapors, including without limitation foundation cracks, holes in concrete floors, gaps around pipes and utility lines, major cracks in walls, sumps and floor drains, have been sealed, and that the mechanical ventilation system complies with the Code.
  
- b. As to buildings constructed on the Brownfields Property after recordation of the Notice, defined as those not depicted on the plat component of the Notice, a professional engineer shall provide DENR certification under seal that a mechanical ventilation system that complies with the Code has been installed. Surface water and underground water at the Brownfields Property may not be used for any purpose without the prior written approval of DENR.

In compliance  Out of compliance

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

LUR 3: No building may be constructed within 200 feet downgradient of the "Toluene Area," as depicted on the plat component of the Notice, unless a vapor barrier membrane system and, at DENR's discretion, a passive vent sub-slab system or an active vent sub-slab system (also known as a sub-slab depressurization system), is approved by DENR in writing and then installed as approved under the entire slab-on-grade foundation of the portion of the building to be enclosed. The vapor barrier membrane system shall be sealed around any slab-penetrating vertical pilings, utility chases and conduits, and sub-slab support structures, and shall be overlapped and taped so as to minimize air migration pathways.

In compliance  Out of compliance

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

LUR 4: No monitoring wells on the Brownfields Property may be decommissioned except in accordance with prior written conditions imposed by the relevant DENR program.

In compliance  Out of compliance

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

LUR 5: Surface water and underground water at the Brownfields Property may not be used for any purpose except in accordance with prior written conditions imposed by DENR, provided, that water from any ponds on the Brownfields Property that DENR determines in writing merit characterization as retention ponds may, at DENR's discretion based on analytical data satisfactory to DENR, be used for dust suppression during demolition, grading or other site preparation or construction activities and, if not so used, shall be managed and disposed of in accordance with applicable law.

In compliance  Out of compliance

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

LUR 6: 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 in any areas proposed for such activities, and submittal of the analytical results to 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 and on such conditions as DENR imposes, including at a minimum requisite legal approval of plans and procedures to protect public health and the environment during the proposed activities.

In compliance  Out of compliance

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

LUR 7: Except in accordance with prior written conditions imposed by DENR, the only disturbance of landscaping and contours at the Brownfields Property that may occur is mowing and pruning of above-ground vegetation. Except in accordance with prior written conditions imposed by DENR, soil, landscaping and contours at the Brownfields Property may only be disturbed:

- i. in connection with planting, mowing and pruning of vegetation, and
- ii. to a soil depth of two (2) feet or less.

In compliance  Out of compliance

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

LUR 8: 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 9: No basements may be constructed on the Brownfields Property unless they are, as determined by DENR, vented in conformance with applicable building codes.

In compliance  Out of compliance

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

LUR 10: None of the contaminants known to be present in the environmental media at the Brownfields Property, including those listed in the tables at (2) in the Notice, may be used or stored at the Brownfields Property without the prior written approval of DENR, except as *de minimis* constituents of products used for cleaning and other routine housekeeping activities or of commercial or consumer products offered for sale to the public in the normal course of retail business.

In compliance  Out of compliance

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

LUR 11: The Brownfields Property may not be used as a park or for outdoor sports of any kind, including, but not limited to, golf, football, soccer and baseball, without the prior written approval of DENR.

In compliance  Out of compliance

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

LUR 12: The Brownfields Property may not be used for agriculture, grazing, timbering or timber production.

In compliance  Out of compliance

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

LUR 13: No outdoor playground activities may occur on the Brownfields Property, nor may the Brownfields Property be used for child care centers or schools.

In compliance  Out of compliance

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

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LUR 14: No outdoor kennel activities may occur on the Brownfields Property, nor are private outdoor animal pens or horse-riding allowed on the Brownfields Property.

In compliance  Out of compliance

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

LUR 15: Redevelopment of the Brownfields Property, as determined by DENR, may not be initiated until DENR approves in writing (if only via e-mail) implementation and a report thereon of a plan that DENR has approved in writing (if only via e-mail), in advance of implementation, that addresses demolition, excavation, grading, construction, and health and safety.

In compliance  Out of compliance

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

LUR 16: The Brownfields Property may not be used until soil remediation, of areas and pursuant to a plan approved in writing in advance by DENR, is performed to DENR's written satisfaction.

In compliance  Out of compliance

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

LUR 17: No party conducting environmental assessment or remediation at the Brownfields Property at the direction of, or pursuant to a permit or order issued by, DENR may be denied access to the Brownfields Property for purposes of conducting such assessment or remediation.

In compliance  X  Out of compliance

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

LUR 18: During January of each year after the year in which the Notice is recorded, the then current owner of any part of the Brownfields Property shall submit a notarized Land Use Restrictions Update to DENR certifying that the Notice of Brownfields Property containing these land use restrictions remains recorded at the Haywood County Register of Deeds office, and that the land use restrictions are being complied with.

In compliance  X  Out of compliance

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

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

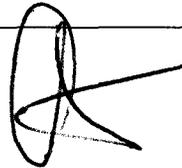
This Land Use Restrictions Update is certified by Waynesville Commons Retail Associates, L.L.C., owner of at least part of the Brownfields Property.

Name typed or printed of party making certification: \_\_\_\_\_

In the case of owners that are entities:

Signature of individual signing: \_\_\_\_\_

Name typed or printed: Anthony N. Petrarca  
Title: Vice President, Waynesville Capital Associates, L.L.C.,  
its Managing Member



In the case of all owners:

Date:  Jan 27 , 2014

WAYNESVILLE COMMONS RETAIL ASSOCIATES, L.L.C.

By: [Signature]  
Anthony N. Petrarca, Vice President  
Waynesville Capital Associates, L.L.C.,  
Managing Member

ATTEST: [Signature]  
Name typed or printed: Alan W. Sponseller  
Assistant Secretary, Waynesville Commons Retail Associates, L.L.C.

STATE OF OHIO  
SUMMIT COUNTY

I, Karen E. Sborry, a Notary Public of the county and state aforesaid, certify that Anthony N. Petrarca, personally came before me this day and acknowledged that he is the Vice President of Waynesville Capital Associates, L.L.C., the Managing Member of Waynesville Commons Retail Associates, L.L.C., a North Carolina limited liability company, 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.

WITNESS my hand and official stamp or seal, this 28th day of January, 2014.

[Signature]  
Name typed or printed: Karen E. Sborry  
Notary Public

Karen E. Sborry  
Notary Public, State of Ohio  
My Commission Expires November 26th, 2015  
Recorded in Summit County

My Commission expires: Nov. 26, 2015

[Stamp/Seal]