

Brownfields Program  
File Room Document Transmittal Sheet

23

Your Name: Shirley Liggins  
Project ID: 0801604068  
Facility Name: Padgett Lane - Downtown Ventures  
Document Group: Land Use Restriction Updates (LURU)  
Document Type: Annual Certification (AC)  
Description: annual certification  
Date of Doc: 1/13/2012  
Author of Doc: Richard Gaylord

**File Room Use Only**

Date Recieved by File Room:

Date Scanned:

Month	Day	Year
8	2	2012

0801604068

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**Brownfields Project #:** 08016-04-68

**Brownfields Property:** Padgette Lane, 105 Padgette Lane

**Property Owner (whole or in part):** Downtown Urban Ventures LLC

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

LUR 1: No use may be made of the Brownfields Property other than for high-density residential and commercial/office purposes. The following definitions apply regarding this restriction:

- i. "High-density residential" refers to structures used as multi-unit human dwellings, such as duplexes, triplexes, quadriplexes, condominiums, town homes and apartments, in which units are attached to each other with common walls and any associated property outside the structure(s) may be used, but is not owned, by particular inhabitants.
- ii. "Commercial/office" refers to wholesale, retail and entertainment uses, and the provision of business or professional services, plus related contiguous parking lots and driveways.

In compliance  Out of compliance

Remarks:

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

In compliance  Out of compliance

Remarks:

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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 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 on such conditions as DENR imposes, including at a minimum compliance with plans and procedures, approved pursuant to applicable law, to protect public health and the environment during the proposed activities.

In compliance  Out of compliance

Remarks:

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LUR 4: No building may be constructed on the Brownfields Property until DENR has been consulted regarding the proximity of the planned building to the Brownfields Property's volatile contaminant plume. If DENR determines that the footprint of a building proposed to be constructed on the Brownfields Property would fall within 100 feet of said plume, it may not be constructed without a vapor barrier system and/or mechanical or passive vapor mitigation system, approved in writing in advance by DENR. Within 30 days following installation of the vapor barrier system and/or mechanical or passive vapor mitigation system, DENR shall be provided certification of proper installation under seal of a professional engineer licensed in North Carolina, as well as photographs illustrating the installation and a brief narrative describing it. With DENR's prior written approval, additional investigation activities including, without limitation, soil gas samples, performed to DENR's written satisfaction, may be conducted, and installation of a barrier or mitigation system possibly excused, so long as the proponent makes an advance written commitment to install a barrier or mitigation system if DENR so requires based on review of a report DENR deems adequate of the investigation activities.

In compliance  Out of compliance

Remarks:

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LUR 5: Soil underlying paved surfaces and buildings at the Brownfields Property may not be exposed without prior sampling and analysis of such soil to the satisfaction of DENR, and submittal of the analytical results to DENR. If such results disclose contamination in excess of the applicable standards as determined by DENR, the soil may not be exposed without the approval of DENR on such conditions as DENR imposes, including at a minimum compliance with plans and procedures, approved

pursuant to applicable law, to protect public health and the environment during the activities that would expose such soil.

In compliance  Out of compliance

Remarks:

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LUR 6: Soil anywhere on the Brownfields Property exhibiting any stain or odor may not be disturbed without prior sampling and analysis, to DENR's written satisfaction, of soil proposed to be disturbed. If sampling results disclose contamination that DENR determines renders the Brownfields Property unsuitable for the uses specified in Land Use Restriction 1 above, the soil may only be disturbed in conformance with procedures approved in writing in advance by DENR to protect public health and the environment while the disturbed soil is exposed, and if as much soil is treated, removed and disposed of in accordance with applicable law, or covered with an impervious or hard pervious surface, as DENR determines is necessary to render the Brownfields Property suitable for said uses. If treatment is chosen, it shall occur in conformance with procedures approved in writing in advance, and afterwards as to their implementation, by DENR. If covering the soil is chosen, said surface shall be maintained to DENR's satisfaction. If soil removal is chosen, information satisfactory to DENR regarding the transportation and disposition of such soil shall be supplied in a written report to DENR within 90 days following removal. For purposes of this land use restriction, the following definitions apply:

- i. "Impervious surface" means any structure or groundcover consisting of asphalt, concrete, stone, brick, terrazzo, roofing, ceramic tile or other natural or man-made material that prevents the absorption of surface water into the soil.
- ii. "Hard pervious surface" means any structure or groundcover that 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 any contaminants in the soil. Pervious concrete and pervious tennis court materials are examples.

In compliance  Out of compliance

Remarks:

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LUR 7: Soil, landscaping and contours at the Brownfields Property may not be disturbed without the approval of DENR, except for mowing and pruning of above-ground vegetation.

In compliance  Out of compliance

Remarks:

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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:

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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:

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LUR 10: None of the contaminants known to be present in the environmental media at the Brownfields Property, including those listed in Tables A and B of the Notice of Brownfields Property ("Notice"), 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:

Garage repair shop still operating, uses some oil products for repairs, etc.

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LUR 11: 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.

In compliance  Out of compliance

Remarks:

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

In compliance  Out of compliance

Remarks:

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LUR 13: The Brownfields Property may not be used as a playground, or for child care centers or schools.

In compliance  Out of compliance

Remarks:

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LUR 14: The Brownfields Property may not be used for kennels, private animal pens or horse-riding.

In compliance  Out of compliance

Remarks:

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LUR 15: The owner of any portion of the Brownfields Property where any DENR-approved monitoring well installed after recordation of the Notice is damaged shall be responsible for repair of any such wells to DENR's written satisfaction and within a time period acceptable to DENR.

In compliance  Out of compliance

Remarks:

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LUR 16: 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  Out of compliance

Remarks:

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LUR 17: 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 Orange County Register of Deeds office, and that the land use restrictions are being complied with and stating:

- i. the name, mailing address, telephone and facsimile numbers, and contact person's e-mail address of the owner submitting the Land Use Restrictions Update if said owner acquired any part of the Brownfields Property during the previous calendar year. Insert information here, if applicable:

Downtown Urban Ventures LLC  
3701 NATIONAL Dr Ste 206  
Raleigh NC 27612  
(919) 783-5777 (919) 783-6707 (FAX)  
Richard@richardgaylorhomes.com

ii. the transferee's name, mailing address, telephone and facsimile numbers, and contact person's e-mail address, if said owner transferred any part of the Brownfields Property during the previous calendar year. Insert information here, if applicable:

N/A

iii. whether any vapor barrier and/or mitigation systems installed pursuant to Land Use Restriction 4 above are performing as designed, and whether the uses of the ground floors of any buildings containing such vapor barrier and/or mitigation systems have changed, and, if so, how. Attach or insert information here, if applicable:

N/A

In compliance  Out of compliance

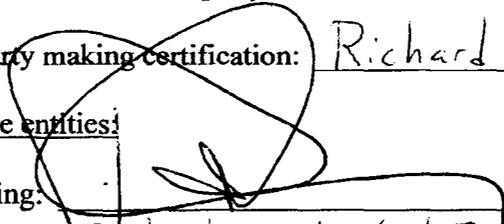
Remarks:

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

This Land Use Restrictions Update is certified by Downtown Urban Ventures owner of at least part of the Brownfields Property. LLC

Name typed or printed of party making certification: Richard W. Gaylord Jr

In the case of owners that are entities:

Signature of individual signing:   
Name typed or printed: Richard W. Gaylord Jr  
Title: Member

In the case of all owners:

Date: 11/13/12

[use for LLCs]

[Name of LLC]

By: Richard W. Gaylord Jr  
Name typed or printed:  
Member/Manager

NORTH CAROLINA  
Franklin COUNTY

I, Deborah Comfort, a Notary Public of the county and state aforesaid, certify that Richard W. Gaylord Jr personally came before me this day and acknowledged that he/she is a Member of Downtown Urban Ventures, 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 23 day of January, 2012.

Deborah Comfort  
Name typed or printed:  
Notary Public Deborah Comfort

My Commission expires: 10/05/12

[Stamp/Seal]

