

**Brownfields Project #:** 08036-04-68  
**Brownfields Property:** Flynt Fabrics, 200 & 210 South Nash Street  
**Property Owner (In whole or part):** \_\_\_\_\_



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

LUR 1: No use may be made of the Brownfields Property other than for owner- or tenant-occupied residential apartments and related amenities (such as parking areas, patios, walkways, clubhouse and swimming pool). For purposes of this Land Use Restriction, "residential" refers to a permanent dwelling, whether it be a single family, detached, duplex, triplex, quadriplex, attached or multifamily dwelling.

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").

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 that use groundwater, 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: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

LUR 4: Soil underlying paved and other impervious or hard pervious surfaces and

buildings at the Brownfields Property, as identified as on the plat component of the Notice of Brownfields Property ("Notice"), may not be exposed, and 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 exposed or 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 exposed or disturbed in conformance with plans and procedures designed to protect public health and the environment while the soil is exposed or disturbed, and if as much soil as DENR requires is removed and disposed of in accordance with applicable law, or covered with an impervious or hard pervious surface, in which case the cover shall be maintained in good repair. Information satisfactory to DENR regarding the transportation and disposition of any soil removed from the Brownfields Property must be supplied in a letter report to DENR within ninety (90) days following removal. For purposes of this Land Use Restriction, the following definitions apply:

- a. "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.
- b. "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 potential contaminants in the soil. Pervious concrete and pervious tennis court materials are examples.

In compliance  Out of compliance

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

LUR 5: 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 6: 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 7: None of the contaminants known to be present in the environmental media at the Brownfields Property, including those listed in paragraph 8 of the Brownfields Agreement ("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 8: 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: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

LUR 9: The Brownfields Property may not be used for agriculture, grazing, timbering or timber production.

In compliance  Out of compliance

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

LUR 10: The Brownfields Property may not be used as a playground, or for child care centers or schools without the approval of DENR.

In compliance  Out of compliance

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

LUR 11: The owners of affected portions of the Brownfields Property are responsible for maintaining in good repair all impervious and hard pervious surfaces at 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 12: 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 certifying that this Notice remains recorded at the Orange County Register of Deeds' office, that the Land Use Restrictions are being complied with, and that impervious and hard pervious surfaces at the Brownfields Property are being maintained such that they are continuing to function as caps.

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 BELMORE DEVELOPMENT LLC  
owner of at least part of the Brownfields Property.

Name typed or printed of party making certification: SUSAN F. GREEN

In the case of owners that are entities:

Signature of individual signing: *Susan F Green*  
Name typed or printed: SUSAN F. GREEN  
Title: MANAGER

In the case of all owners:

Date: 1/6/14

[use for LLCs]

[Name of LLC] BELLEVUE DEVELOPMENT LLC

By: Susan F Green

Name typed or printed: SUSAN F. GREEN Member/Manager

IDAHO

BLAINE COUNTY

I, P A Nachtman, a Notary Public of the county and state aforesaid, certify that Susan F Green personally came before me this day and acknowledged that he/she is a Member of Bellevue Development, LLC, a \_\_\_\_\_ (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 6<sup>th</sup> day of January, 2014.

P Nachtman

Name typed or printed: P Nachtman  
Notary Public

My Commission expires: 3/16/16

[Stamp/Seal]

