

Brownfields Program  
File Room Document Transmittal Sheet

23

Your Name: Shirley Liggins  
Project ID: 0901805079  
Facility Name: Fieldcrest Blanket  
Document Group: Land Use Restriction Updates (LURU)  
Document Type: Annual Certification (AC)  
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Author of Doc: Carlton Harlow

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0901805079

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**Brownfields Project #: 09018-05-79**

**Brownfields Property:** Fieldcrest Blanket Mill, 206 Warehouse Street

**Property Owner (In whole or part):** \_\_\_\_\_



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

LUR 1: The portion of the Brownfields Property designated "Nantucket Mill Area" on the plat component of the Notice of Brownfields Property ("Notice") may only be used for a performing arts center complex, defined as including a hotel and conference center, museum, arts and crafts studios, office space, warehousing, theater, restaurants, retail space and open space. The portion of the Brownfields Property designated "Fieldcrest Mill Area" on the plat component of the Notice may only be used for warehousing, office, theater, restaurants, parking and retail space purposes. The following definitions also apply for purposes of this restriction, and none of the uses permitted by this restriction may occur other than in conformance with the other land use restrictions below:

- a. "Hotel" refers to a building containing more than four individual rooms that provides overnight lodging facilities and reservation, cleaning, utilities and on-site management and reception services for paying customers.
- b. "Office" refers to a place where business or professional services are provided.
- c. "Retail" refers to the sale of goods, products or merchandise directly to the consumer, and includes restaurant use.
- d. "Open Space" refers to an outdoor area within a development site that is useable for the enjoyment of patrons of the development or the public.
- e. "Warehousing" refers to the storage of goods for a business or other enterprise.

In compliance  Out of compliance

Remarks: \_\_\_\_\_  
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LUR 2: Field screening techniques described in a plan approved in writing in advance by the North Carolina Brownfields Program ("NCBP") shall be employed during

any soil cutting, penetrating, excavating and grading activities conducted at the Brownfields Property. Soil that field screening and/or field observation indicates, subject to the Department of Environment and Natural Resources ("DENR") inspection, may be contaminated with regulated substances shall be stockpiled pending sampling and laboratory analysis. All stockpiles shall be covered by a material impervious to water in a manner that prevents water infiltration or run-off. Stockpiled soil shall be sampled and analyzed in accordance with a plan approved, in writing in advance, by NCBP. The stockpiled soil may be spread on the Brownfields Property if any areas on which such soil is spread are capped to NCBP's written satisfaction by a minimum of two (2) feet of clean fill dirt or an impervious structure such as a building or pavement, unless NCBP determines that the analytical results are such that spreading the stockpiled soil on the Brownfields Property will leave the Brownfields Property suitable for the uses specified in Land Use Restriction 1 above while fully protecting public health and the environment, in which case the subject soil shall, to NCBP's written satisfaction, be disposed of.

In compliance  Out of compliance

Remarks: \_\_\_\_\_  
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LUR 3: No fill material may be placed on the Brownfields Property prior to provision of a minimum of 10 business days' written notice to NCBP of the fill material's source, and the performance of any analytical testing that NCBP requires in writing to demonstrate the absence from the fill material of any regulated substances at concentrations that would render the Brownfields Property unsuitable for the uses specified in Land Use Restriction 1 above while fully protecting public health and the environment.

In compliance  Out of compliance

Remarks: \_\_\_\_\_  
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LUR 4: As of the expiration of the period in which NCBP determines that Prospective Developer is engaged in the redevelopment contemplated by the Brownfields Agreement ("Agreement"), or when Prospective Developer submits the Redevelopment Summary Report required by paragraph 17 of the Agreement, whichever occurs first unless NCBP agrees in writing in advance to a different period, soil at the Brownfields Property may not be disturbed without a minimum of 10 business days advance written notice to NCBP, unless NCBP states otherwise in writing in advance. At the time such

soil is disturbed, NCBP may inspect and sample, or require implementation of an environmental monitoring and testing plan approved by NCBP in writing in advance, to determine whether environmental contamination may exist within the footprint of all structures and pavement appearing on the Redevelopment Summary Report's survey plat. If soil contamination is discovered that NCBP determines would likely contaminate groundwater even if capped, or that may pose an imminent threat to public health or the environment if exposed, as much soil as NCBP requires shall be removed and disposed of in accordance with applicable law, and any other actions that NCBP requires to make the Brownfields Property suitable for the uses specified in Land Use Restriction 1 above while fully protecting public health and the environment shall be taken. If soil contamination is discovered that NCBP determines would not likely contaminate groundwater or likely pose an imminent threat to public health or the environment if capped, as much soil as NCBP requires shall be capped or removed and disposed of in accordance with applicable law to the written satisfaction of NCBP.

In compliance  Out of compliance

Remarks: \_\_\_\_\_  
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LUR 5: Unless compliance with this Land Use Restriction is waived in writing by NCBP in advance in regard to particular buildings, demolition of any building on the Brownfields Property depicted on the plat component of the Notice shall be carried out in accordance with applicable legal requirements, including without limitation those administered by the Lead and Asbestos Abatement Program of DENR's Division of Public Health.

In compliance  Out of compliance

Remarks: \_\_\_\_\_  
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LUR 6: 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 NCBP, notwithstanding any exceptions the Code or alternative standard may contain, unless compliance with this land use restriction is waived in writing by NCBP in advance in regard to particular buildings. Within 30 days following installation of the subject mechanical ventilation in a building, or modification of an existing ventilation system

such that the subject mechanical ventilation is provided, a professional engineer licensed in North Carolina shall provide NCBP certification under seal that the ventilation system was installed or modified in accordance with its design specifications and complies with the Code.

In compliance  Out of compliance

Remarks: \_\_\_\_\_  
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LUR 7: No building may be constructed on the Brownfields Property until NCBP has been consulted regarding the proximity of the planned building to one or more volatile contaminant plumes on the Brownfields Property. NCBP may require such testing as it determines is necessary to determine the nature and extent of volatile contaminants on the Brownfields Property. If DENR determines that the footprint of a building proposed to be constructed on the Brownfields Property would fall within 100 feet of such a plume, it may not be constructed until Prospective Developer: i. installs a vapor barrier system and/or mechanical or passive vapor mitigation system based on the testing and pursuant to a plan approved in writing in advance by DENR and approved in writing by DENR as installed; or ii. prepares an assessment of the risk posed by plume-related soil gas that demonstrates to DENR's written satisfaction that neither a vapor barrier nor mitigation system is required. Within thirty 30 days following installation of any vapor barrier system and/or mechanical or passive vapor mitigation system pursuant to this Land Use Restriction, 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, only after which may the building be used. DENR's UST Section retains any jurisdiction it possesses over the matters addressed in this Land Use Restriction.

In compliance  Out of compliance

Remarks: \_\_\_\_\_  
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LUR 8: Except for environmental testing, remediation and monitoring required by DENR, no activities that remove or use groundwater (for example, installation of water supply wells, fountains, ponds, lakes or swimming pools, or construction or excavation activities) may occur on the Brownfields Property without prior sampling and analysis of groundwater to the satisfaction of NCBP, and submittal of the analytical results to NCBP. Any water pumped from the ground shall be containerized, sampled

and disposed of to NCBP's written satisfaction, unless this requirement is waived in writing in advance by NCBP regarding a particular instance of pumping. If the analytical results disclose to NCBP contamination in excess of North Carolina's groundwater quality standards, the proposed activities may not occur without the approval of NCBP on such conditions as NCBP 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: \_\_\_\_\_  
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LUR 9: Contours at the Brownfields Property may not be disturbed without the prior written approval of NCBP, except in connection with mowing and pruning of above-ground vegetation.

In compliance  Out of compliance

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

LUR 10: 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 11: Nothing may be constructed below grade on the Brownfields Property, including without limitation swimming pools, basements and parking, without NCBP's prior written approval and venting in conformance, as determined by NCBP, with applicable building codes.

In compliance  Out of compliance

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

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LUR 12: None of the contaminants known to be present in the environmental media at the Brownfields Property, including those listed in Table A of the Notice, may be used or stored at the Brownfields Property without the prior approval of NCBP, except in *de minimis* amounts for cleaning and other routine housekeeping activities, petroleum products used in the operation of motor vehicle engines, and emergency generator fuel if stored and used in compliance with a plan approved in writing in advance by NCBP.

In compliance  Out of compliance

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

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LUR 13: The owner of any portion of the Brownfields Property where any existing or later DENR-approved monitoring well is damaged shall be responsible, at DENR's discretion, for abandonment or repair of such well(s) in compliance with, as determined by DENR, Title 15A of the North Carolina Administrative Code, Subchapter 2C ("15A NCAC 2C"), and within a time period acceptable to DENR. Upon DENR's written request to abandon any monitoring well or supply well on the Brownfields Property, the owner of the portion of the Brownfields Property containing the well shall effect abandonment in compliance with 15A NCAC 2C. Said owner shall provide DENR a written report setting forth the abandonment procedures used, as well as well abandonment log(s), within thirty (30) days after abandonment.

In compliance  Out of compliance

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

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LUR 14: Within 30 days after any written NCBP request to do so, the then owner of each portion of the Brownfields Property containing any groundwater monitoring wells, injection wells, recovery wells, piezometers and other man-made points of groundwater access at the Brownfields Property shall effect the abandonment of same in accordance with Subchapter 2C of Title 15A of the North Carolina Administrative Code, and shall, within 30 days after concluding such abandonment,

provide NCBP, DENR's Inactive Hazardous Sites Branch and DENR's Division of Water Quality a written report setting forth the abandonment procedures used, as well as well abandonment log(s).

In compliance  Out of compliance

Remarks: \_\_\_\_\_  
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LUR 15: 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, which is to be conducted using reasonable efforts to minimize interference with authorized uses of the Brownfields Property.

In compliance  Out of compliance

Remarks: \_\_\_\_\_  
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LUR 16: 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 ("LURU") to NCBP certifying that the Notice of Brownfields Property containing these land use restrictions remains recorded at the Rockingham County Register of Deeds office and that the land use restrictions are being complied with on the part(s) of the Brownfields Property owned by the party submitting the LURU, and stating:

- a. the full name, mailing address, telephone and facsimile numbers, and e-mail address of the owner submitting the LURU if said owner acquired any part of the Brownfields Property during the previous calendar year; Insert required information here, if applicable:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- b. the transferee's full name, mailing address, telephone and facsimile numbers, and e-mail address, if said owner transferred any part of the Brownfields Property during the previous calendar year; Insert

required information here, if applicable:

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- c. whether any caps installed on the subject part(s) of the Brownfields Property pursuant to Land Use Restrictions 2 and 4 above remain in good condition and intact;

*YES*

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- d. whether buildings and pavement on the subject parts of the Brownfields Property are being maintained in good repair; and the date(s) and nature of any building- and/or pavement-related construction, maintenance or repair work performed since the last LURU regarding the subject part(s) of the Brownfields Property; Insert required information here, if applicable:

*YES*

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- e. whether any vapor barrier and/or mitigation systems installed on the subject part(s) of the Brownfields Property pursuant to Land Use Restriction 7 above are performing as designed; any maintenance and repair of any such system(s) performed since the last LURU regarding the subject part(s) of the Brownfields Property; and whether the uses of the ground floors of any buildings on the subject part(s) of the Brownfields Property that contain such vapor barrier and/or mitigation system(s) have changed, and, if so, how; Insert required information here, if applicable:

*NA*

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- f. whether any mechanical ventilation systems installed on the subject part(s) of the Brownfields Property pursuant to to Land Use Restriction 6 above are performing as designed; and any maintenance and repair of any such system(s) performed since the last LURU

regarding the subject part(s) of the Brownfields Property; Insert required information here, if applicable:

NA

g. a summary of the uses of the subject part(s) of the Brownfields Property during the preceding year that includes drawings illustrating the location of such uses. Insert required information here, if applicable (or attach with drawings):

NA

In compliance  Out of compliance

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

This Land Use Restrictions Update is certified by RIVERWALK DEVELOPMENT, LLC owner of at least part of the Brownfields Property.

Name typed or printed of party making certification: CARLTON E. HARLOW

In the case of owners that are entities:

Signature of individual signing: *Carlton E. Harlow*  
Name typed or printed: CARLTON E. HARLOW  
Title: MANAGING MEMBER

In the case of all owners:

Date: 12-22-11

[use for LLCs]

[Insert Name of LLC]

By: CARLTON E. HARLOW  
Name typed or printed:  
Member/Manager

NORTH CAROLINA  
WASH COUNTY

I, F. MARTIN LEARY, a Notary Public of the county and state aforesaid, certify that CARLTON E. HARLOW personally came before me this day and acknowledged that he/she is a Member of RIVERWALK DEVELOPMENT 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 22<sup>nd</sup> day of DECEMBER, 2011.

[Signature]  
Name typed or printed: F. MARTIN LEARY  
Notary Public

My Commission expires: 2/1/14

[Stamp/Seal]

