



**Real Estate Operations - Compliance**

Box 1111, North Wilkesboro, NC 28656  
(Street Address) – 1605 Curtis Bridge Road/ Wilkesboro, NC 28697

**MEMORANDUM**

**Via Certified Mail**

Date: January 6, 2013

To: NC Division of Waste Management  
Brownfields Program  
Mail Service Center 1646  
Raleigh, NC 27699-1646

RE: Lowe's of North Hickory  
Brownfields Project#: 10001-06-18



Please find enclosed the 2014 Land Use Restrictions Update for the aforementioned location.

If you have any questions, please contact Melissa Call at 336-658-5785.

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**Brownfields Project #:** 10001-06-18  
**Brownfields Property:** Lowe's of North Hickory, 1430 Second Street NE  
**Property Owner (In whole or part):** Lowe's Home Centers, Inc.



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

LUR 1: No use may be made of the Brownfields Property other than for retail, office, parking and open space purposes, related stormwater structures including detention ponds, and streets and roadways. For purposes of this restriction, the following definitions apply:

- a. "Retail" refers to an activity the principal use or purpose of which is the sale of goods, products or merchandise directly to the consumer.
- b. "Office" refers to the conduct or rendering of business or professional services.
- c. "Parking" refers to an area designated for the temporary accommodation of motor vehicles, whether for a fee or as a service.
- d. "Open Space" refers to open and unobstructed land or water used for recreation, natural resource protection, amenities and /or buffers, which may include areas maintained in a natural or undisturbed character and areas improved for active or passive recreation.
- e. "Roadways" refers to areas that are predominantly used for vehicular transportation, though they may also contain pedestrian walkways, utility easements, railroad crossings and/or on-street parking.

In compliance  Out of compliance

Remarks: \_\_\_\_\_  
\_\_\_\_\_  
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LUR 2: Other than for the installation and functioning for its intended use of the "Stormwater Detention Pond" (as denominated on the plat component of the Notice of Brownfields Property {"Notice"}), no activities that remove, use or may encounter groundwater or surface water (for example, installation of water supply wells, fountains, ponds, lakes or swimming pools, or construction or excavation activities that may encounter water) may occur on the Brownfields Property without prior sampling and analysis of groundwater in any areas proposed for such activities to the written

satisfaction of the Department of Environment and Natural Resources ("DENR"), 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 prior written 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 3: No building constructed on the Brownfields Property may be used until a professional engineer licensed in North Carolina has provided DENR certification under seal that a mechanical ventilation system was installed in the building in accordance with design specifications and in compliance with the Mechanical Ventilation section of the Ventilation chapter of the North Carolina State Building Code.

In compliance  Out of compliance

Remarks: \_\_\_\_\_  
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LUR 4: Soil within the area denominated "Area of Possible Soil Contamination" on the plat component of the Notice may not be exposed without a minimum of seven (7) business days advance written notice to DENR, unless DENR states otherwise in writing in advance. At the time such soil is exposed, DENR may inspect and sample, or require sampling of, the exposed soil for contaminants. If soil contamination is discovered that DENR 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 DENR reasonably requires shall be removed and disposed of in accordance with applicable law, and any other actions that DENR reasonably 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 DENR determines would not likely contaminate groundwater if capped, or likely pose an imminent threat to public health or the environment if exposed, as much soil as DENR reasonably requires shall be

removed and disposed of in accordance with applicable law or capped to the written satisfaction of DENR.

In compliance  Out of compliance

Remarks: \_\_\_\_\_  
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LUR 5: Except in accordance with prior written conditions imposed by DENR, landscaping and contours at the Brownfields Property may only be disturbed:

- a. in connection with planting, mowing and pruning of vegetation, to a soil depth of three (3) feet or less; and
- b. in connection with the maintenance, repair or replacement of underground utilities, to whatever depth is required, as long as no saturated soils associated with any water table are encountered.

In compliance  Out of compliance

Remarks: \_\_\_\_\_  
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LUR 6: No basements may be constructed on the Brownfields Property unless they are, as determined in writing by DENR, vented in conformance with applicable building codes.

In compliance  Out of compliance

Remarks: \_\_\_\_\_  
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LUR 7: None of the contaminants known to be present in the environmental media at the Brownfields Property, including those listed in Tables 1 and 2 of the Notice, may be used or stored at the Brownfields Property without the prior written approval of DENR, except in *de minimis* amounts in consumer products routinely kept for display or

sale at the Brownfields Property, and in products kept at the Brownfields Property for cleaning and other routine housekeeping activities.

In compliance  Out of compliance

Remarks: \_\_\_\_\_  
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LUR 8: 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 9: The Brownfields Property may not be used as a playground, or for child care centers or schools, except that playground products (such as swing sets) may be displayed on paved areas as a routine part of selling those products to consumers at the Brownfields Property.

In compliance  Out of compliance

Remarks: \_\_\_\_\_  
\_\_\_\_\_  
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LUR 10: 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 11: 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 remains recorded at the Catawba County Register of Deeds office, and that the land use restrictions are being complied with.

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 Catawba County Register of Deeds office and that the Land Use Restrictions are being complied with.

This Land Use Restrictions Update is certified by **Lowe's Home Centers, Inc.**, owner of at least part of the Brownfields Property.

Name typed or printed of party making certification: **Lowe's Home Centers, Inc.**

By: Richie Chapman

Name typed or printed: Richie Chapman

Title typed or printed: Retail Facilities Manager  
on behalf of Lowe's Home Centers, Inc.

Date: 1/6/14

NORTH CAROLINA  
Wilkes COUNTY

I, Lisa H. Sale, a Notary Public of the county and state aforesaid, certify that Richie Chapman personally came before me this day, demonstrated his identity, and signed the foregoing instrument.

WITNESS my hand and official stamp or seal, this 10<sup>th</sup> day of January, ~~200~~ 2014

Lisa H. Sale  
Name:  
Notary Public

My Commission expires: 02-17-15

