

**Brownfields Project #:** 10061-06-60

**Brownfields Property:** Old Pineville Road, 4928 Old Pineville Rd. & 649 Scholtz Rd.

**Property Owner (In whole or part):** John J. Huson



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

LUR 1: No use may be made of the Brownfields Property other than for mixed office, retail, residential (see LUR 4 below) and, with prior written Department of Environment and Natural Resources (“DENR”) approval, other commercial purposes. In connection with this restriction, the following definitions apply.

- a. “Office” refers to the provision or rendering of business or professional services.
- b. “Retail” refers to the sale of goods, products or merchandise directly to the consumer.
- c. “Residential” refers to use for a permanent dwelling of a single family, detached, duplex, triplex, quadriplex, attached or multifamily dwelling, and to hotel use.
- d. “Commercial” refers to an enterprise carried on for profit by the owner, lessee or licensee.

In compliance  X  Out of compliance \_\_\_\_\_

Remarks: None

LUR 2: Unless compliance with this Land Use Restriction is waived in writing by DENR in advance, no use of the Brownfields Property may occur prior to demolition of all buildings on the Brownfields Property depicted on the plat component of the Notice of Brownfields Property (“Notice”) 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  X  Out of compliance \_\_\_\_\_

Remarks: Building was demolished in 2009

LUR 3: Soil underlying buildings identified 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 waives or relaxes this requirement 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 affected soil is exposed, as much soil as DENR reasonably requires shall be removed and disposed of in accordance with applicable law in order to render the Brownfields Property suitable for the uses specified in Land Use Restriction 1 above while fully protecting public health and the environment, and any other actions that DENR reasonably requires to make the Brownfields Property suitable for the uses specified in the Brownfields Agreement 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 disturbed, at the discretion of the party(ies) performing the work 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, as necessary to make the Brownfields Property suitable for the uses specified in Land Use Restriction 1 above while fully protecting public health and the environment.

In compliance -X Out of compliance \_\_\_\_

Remarks: None

LUR 4: No residential construction or conversion of any structure to residential use may occur at the Brownfields Property without prior written notification to DENR and:

- a. pre-occupancy certification to DENR, under the seal of a professional engineer licensed in North Carolina, that mechanical ventilation with outdoor air of each space to be occupied has been provided in conformance with the most current version of the Mechanical Ventilation section of the Ventilation chapter of the North Carolina State Building Code; or
- b. pre-construction/conversion sampling and analysis of soil gas to the written satisfaction of DENR that DENR determines in writing obviates the option set forth in LUR 4.a. above.

In compliance - X Out of compliance \_\_\_\_

Remarks: None

LUR 5: Underground water at the Brownfields Property may not be used for any purpose without the prior written approval of DENR.

In compliance -X Out of compliance \_\_\_\_

Remarks: None

LUR 6: 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 -X      Out of compliance \_\_\_\_

Remarks: None

LUR 7: 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 -X      Out of compliance \_\_\_\_

Remarks: None

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 prior written approval of DENR.

In compliance - X      Out of compliance \_\_\_\_

Remarks: None

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

In compliance -X      Out of compliance \_\_\_\_

Remarks: None

LUR 10: The Brownfields Property may not be used as a playground, or for child care centers or schools.

In compliance -X      Out of compliance \_\_\_\_

Remarks: None

LUR 11: The Brownfields Property may not be used for kennels, private animal pens or horse-riding.

In compliance -X      Out of compliance \_\_\_\_

Remarks: None

LUR 12: The owner of any portion of the Brownfields Property where any existing or later DENR-approved monitoring well 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 -X      Out of compliance \_\_\_\_

Remarks: None

LUR 13: 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: None

LUR 14: 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 DENR certifying that the Notice of Brownfields Property containing these Land Use Restrictions remains recorded at the Mecklenburg County Register of Deeds office and that the Land Use Restrictions are being complied with, and stating:

- a. the name, mailing address, telephone and facsimile numbers, and contact person's 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: During 2011 the property was transferred from the original Owner to a revocable trust, The John J Huson Revocable Trust with the same address and responsible party as the original owner. This was done for estate planning purposes only.
- b. 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 required information here, if applicable: No change.

In compliance -X      Out of compliance \_\_\_\_

Remarks: See para A above.

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

This Land Use Restrictions Update is certified by John J Huson, Trustee, owner of at least part of the Brownfields Property.

Name typed or printed of party making certification: John J Huson

In the case of owners that are entities:

In the case of all owners:

Date: January 7, 2014

[Insert Name of Owner] – John J Huson, Revocable Trust

By: John J Huson, Trustee

Name typed or printed:

Attest John J. Huson

NORTH CAROLINA  
Mecklenburg COUNTY

I, SUSAN M. WILLIAMS, a Notary Public of the county and state aforesaid, certify that JOHN J. HUSON personally came before me this day, demonstrated her/his identity, and signed the foregoing Land Use Restriction Update.

WITNESS my hand and official stamp or seal, this 3rd day of January, 2013

Susan M. Williams  
Name typed or printed: SUSAN M. WILLIAMS  
Notary Public

My Commission expires: April 23, 2015

