CITY OF ROCKY MOUNT NORTH CAROLINA

OFFICE OF
THE CITY MANAGER

JUL 2012
Brownfields

July 27, 2012

Mr. David Peacock
N.C. Division of Waste Management
Brownfields Program
1646 Mail Service Center
Raleigh, N.C. 27699-1646
Attention: Land Use Restrictions Update

Subject: Douglas Block Redevelopment Area
Rocky Mount, Edgecombe County
Brownfields Project No. 11002-07-33

Dear David:

Enclosed is the LURU for the property owned by the City of Rocky Mount in the subject Redevelopment Area.

Sincerely,

Peter Varney

Peter F. Varney
Assistant City Manager

cjw

Enclosure

331 South Franklin Street • Post Office Box 1180 • Rocky Mount, North Carolina 27802-1180
Telephone (252) 972-1325 • Fax (252) 972-1173 • *Website: www.rockymountnc.gov*

Brownfields Project #: 11002-07-33
Brownfields Property: Tobacco Warehouse, 221-223 NE Main Street
Property Owner (In whole or part): City of Rocky Mount

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LAND USE RESTRICTIONS ("LUR") UPDATE

LUR 1: No use may be made of the Brownfields Property other than mixed use involving retail, office, open space and residential, hotel and recreational development. For purposes of this LUR, "mixed use" refers to a project characterized by three (3) or more significant revenue-producing uses (from among retail, office, residential, hotel, entertainment, cultural, and recreation uses), that are mutually supporting and whose project components are physically and functionally integrated, and developed in conformance with a Brownfields Property-wide plan. The following definitions also apply:

a. "Retail" refers to the sale of goods, products, or merchandise directly to the consumer.

b. "Office" refers to the rendering of business or professional services.

c. "Open space" refers to areas, whether landscaped or natural, set aside for the use and enjoyment of residents/users of a development or of the general public.

d. "Residential" refers to use for a permanent dwelling of any single family, detached, duplex, triplex, quadriplex, attached or multifamily dwelling; any manufactured, mobile or group home; or any boarding house or dormitory.

e. "Hotel" refers to a building containing more than four individual rooms for the purpose of providing overnight lodging facilities for reservation, cleaning services, combined utilities and on-site management and reception for paying customers.

f. "Recreational" refers to swimming pools, tennis courts and indoor uses of theaters and community centers.

In compliance ✓ Out of compliance ____

Remarks: _____

LUR 2: Surface water at the Brownfields Property may not be used for any purpose without the prior written 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, 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 written 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 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: _____

LUR 4: 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 LUR 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 by DENR. If covering the soil is chosen, said cover shall be maintained to DENR's satisfaction. If removal and disposal is chosen, information that meets with DENR's written satisfaction 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:

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 any contaminants in the soil. Pervious concrete and pervious tennis court materials are examples.

In compliance ✓ Out of compliance ____

Remarks: _____

LUR 5: No building may be constructed on the Brownfields Property without a written determination by DENR as to whether it would lie within one 100 feet of the Brownfields Property's volatile contaminant plume. If DENR determines that a proposed building would lie within said area, it may not be constructed without mechanical ventilation with outdoor air 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 DENR. The building may not be used unless and until a professional engineer licensed in North Carolina provides DENR certification under seal that the mechanical ventilation was installed as designed and complies with the Code. Moreover, the building may not be constructed unless and until DENR approves in writing a vapor mitigation plan for the building, nor may the building be used unless and until DENR determines in writing that the plan has been satisfactorily implemented. DENR may waive the requirements of this LUR in regard to particular proposed buildings.

In compliance ✓ Out of compliance ____

Remarks: _____

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 ✓ Out of compliance ____

Remarks: _____

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 ✓ Out of compliance ____

Remarks: _____

LUR 8: 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 written approval of DENR, except in *de minimis* amounts for cleaning and other routine housekeeping activities.

In compliance ✓ Out of compliance ____

Remarks: _____

LUR 9: 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 ✓ Out of compliance ____

Remarks: _____

LUR 10: The Brownfields Property may not be used for agriculture, grazing, timbering or timber production.

In compliance ✓ Out of compliance ____

Remarks: _____

LUR 11: The Brownfields Property may not be used as a playground, or for child care centers or schools, without the prior written approval of DENR.

In compliance ✓ Out of compliance ____

Remarks: _____

LUR 12: 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: _____

LUR 13: 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 LURU to DENR certifying that the Notice remains recorded at the Edgecombe 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 information:
Douglas Block Landlord, LLC P.O Drawer 1477
Rocky Mount, NC 27802-1477
Joyce Dickens 252-442-5178 rmecdc@embarqmail.com

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 information:
City of Rocky Mount P.O. Drawer 1180 Rocky Mount, NC 27802
Peter Varney 252-972-1330
peter.varney@rockymountnc.gov

c. whether any vapor mitigation plans implemented pursuant to LUR 5 above are achieving their goals, and whether the uses of the ground floors of any buildings subject to any such plans have changed, and, if so, how.

Yes **(attach information)** ___ No ___ N/A

In compliance ✓ Out of compliance ____

Remarks: Property was transferred in 2010. The Douglas Block Landlord LLC owns six historic buildings on the Douglas Block. The City owns the remaining property including the real property on which the historic buildings are situated.

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

This Land Use Restrictions Update is certified by Peter Varney, owner of at least part of the Brownfields Property.

Name typed or printed of party making certification: Peter Varney

In the case of owners that are entities:

Signature of individual signing: _____
Name typed or printed: _____
Title: _____

In the case of all owners:

Date: July 26, 2012

CITY OF ROCKY MOUNT

By: Peter Varney

Peter Varney, Assistant City Manager

NORTH CAROLINA

NASH COUNTY

I, Charlean J. Wilkins, a Notary Public of the county and state aforesaid, certify that Peter Varney personally came before me this day, demonstrated his identity, and signed the foregoing Land Use Restriction Update.

Witness my hand and official stamp or seal, this 27th day of July, 2012.

Charlean J. Wilkins

Name typed or printed: Charlean J. Wilkins

Notary Public

My Commission expires: Dec. 17, 2014

CHARLEAN J. WILKINS
NOTARY PUBLIC
NASH COUNTY, N.C.