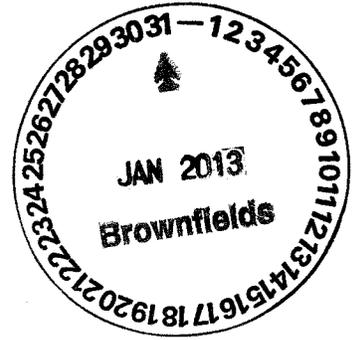


January 30, 2013

NC Brownfields Program
217 W. Jones Street
Raleigh, NC 27603



Re: Annual Land Use Restrictions Update
Brownfields Project Number 11045-07-60

To Whom It May Concern:

Attached is the Land Use Restrictions Update form for the 1200 South Boulevard Property (Project No. 11045-07-60). Please contact me if there are questions associated with this update.

Sincerely,

A handwritten signature in cursive script that reads "Randy Martin".

Randy Martin for 1200 South Boulevard, LLC

704-887-4779

Brownfields Project #: 11045-07-60

Brownfields Property: Charlotte Chemical Laboratory, South Blvd. & East Carson Blvd.

Property Owner (In whole or part): 1200 South Boulevard, LLC

LAND USE RESTRICTIONS (“LUR”) UPDATE

LUR 1: No use may be made of the Brownfields Property other than for high-density residential purposes; retail, hotel, service and other commercial purposes that the Department of Environment and Natural Resources (“DENR”) approves in writing in advance; civic purposes; utilities; open space; operation of East Carson Boulevard and East Palmer Street as rights of way; legally required stormwater management; operation of the City of Charlotte’s light rail system and related utilities; structures related to said system; automobile parking; warehousing and storage; and any purposes ancillary to the foregoing uses that are approved in writing by DENR in advance. Within the meaning of this restriction, the following definitions apply:

- a. “High-density residential” refers to structures used as multi-unit human dwellings, such as duplexes, triplexes, quadriplexes, condominiums, town homes and apartments, in which units are attached to each other with common walls and any associated property outside the structure(s) may be used, but is not owned, by particular inhabitants.
- b. “Retail” refers to the sale of goods, products or merchandise directly to the consumer, and includes restaurants with or without outdoor dining and ancillary service, open-air fresh food markets, open-air or sidewalk cafes, multi-tenant shopping centers and kiosks.
- c. “Hotel” refers to structures used as short-term multi-unit human dwellings and ancillary conference and common rooms, in which units are attached to each other with common walls and common exterior spaces.
- d. “Service” refers to personal service and entertainment establishments, including business and professional offices, beauty shops, barbershops, locations for dry-cleaning drop-off and pick-up, and nightclubs and bars.
- e. “Commercial” refers to wholesale, retail, office, entertainment or services use.
- f. “Civic” refers to the use of buildings or structures for dramatic, musical or cultural activities; as convention centers and halls, conference centers, exhibition halls and merchandise marts; as community recreation centers, athletic and sports facilities, libraries, museums, theaters, art galleries and police and fire stations.



- g. "Utilities" refers to electric and gas substations, water and sewer facilities and structures and uses ancillary to said facilities, and wireless communications facilities and structures and uses ancillary to said facilities.
- h. "Parking" refers to the temporary accommodation of motor vehicles in an area designed and designated for same.
- i. "Warehousing and storage" refers to storage of tangible materials.

In compliance X Out of compliance _____

Remarks: 1200 South Boulevard, LLC makes this certification upon its best information and belief after reasonable investigation. 1200 South Boulevard, LLC has no knowledge of any violations of this land use restriction.

LUR 2:

- a. Soil on the Brownfields Property may not be disturbed without a minimum of seven (7) business days advance written notice to DENR, unless DENR states otherwise in writing in advance. At the time the soil in question is disturbed, DENR may inspect and sample, or require sampling of, the 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 disturbed, as much soil as DENR reasonably requires shall be removed and disposed of in accordance with applicable law, or treated *in situ* in accordance with a plan approved in writing in advance by DENR, and any other actions that DENR reasonably requires to make the Brownfields Property suitable for the uses specified in LUR 1 above while fully protecting public health and the environment shall be taken. If soil contamination is discovered that DENR determines would neither contaminate groundwater nor pose an imminent threat to public health or the environment if capped, as much soil as DENR reasonably requires shall be capped *in situ* in accordance with a plan approved in writing in advance by DENR.
- b. Field screening techniques described in a plan approved in writing by DENR in advance shall be employed during any soil cutting, penetrating, excavation and grading activities conducted at the Brownfields Property that penetrate more than two (2) feet below the land surface. Soil that field screening and/or observation indicates 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 soils

shall be sampled and analyzed in accordance with a plan approved, in writing in advance, by DENR. All soil that DENR determines exceeds applicable soil remediation goals ("SRGs") of DENR's Inactive Hazardous Sites Branch ("IHSB") shall be managed to DENR's written satisfaction. If DENR determines that contamination is present in concentrations lower than the SRGs, the soil may be placed in the excavation from which it came, as opposed to being disposed of to DENR's written satisfaction, unless DENR determines that the analytical results are such that managing the stockpiled soil on the Brownfields Property would render the Brownfields Property unsuitable for the uses specified in Land Use Restriction 1 above and/or would render public health and the environment less than fully protected.

In compliance X Out of compliance _____

Remarks: 1200 South Boulevard, LLC makes this certification upon its best information and belief after reasonable investigation. 1200 South Boulevard, LLC has no knowledge of any violations of this land use restriction.

LUR 3: No fill material may be placed on the Brownfields Property unless DENR has been informed in writing of the source of said material and, if DENR so requires, unless DENR has been provided documentation satisfactory to DENR that the fill material does not contain hazardous substances at concentrations above residential SRGs of DENR's IHSB.

In compliance X Out of compliance _____

Remarks: 1200 South Boulevard, LLC makes this certification upon its best information and belief after reasonable investigation. 1200 South Boulevard, LLC has no knowledge of any violations of this land use restriction.

LUR 4: With the exception of buildings that are not enclosed (for example, an open parking garage), no building may be constructed on the Brownfields Property until DENR has been consulted regarding the proximity of the planned building to volatile contaminant plumes, as reflected in the most recent sampling results reasonably available to DENR. If DENR determines that the footprint of a building proposed to be constructed on the Brownfields Property would fall within one hundred (100) feet of said plume, it may not be constructed until:

- a. a vapor barrier system and/or mechanical or passive vapor barrier mitigation system based on the sampling results referenced above and approved in writing by DENR in advance is installed, within 30 days following which 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; or

- b. an assessment of the risk posed by soil gas to potential users of the building is prepared that demonstrates to DENR's written satisfaction that neither a vapor barrier nor mitigation system is required.

In compliance X Out of compliance _____

Remarks: 1200 South Boulevard, LLC makes this certification upon its best information and belief after reasonable investigation. 1200 South Boulevard, LLC has no knowledge of any violations of this land use restriction.

LUR 5: No building on the Brownfields Property (other than the electrical service structure depicted on the plat component of this Notice) 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 DENR, notwithstanding any exceptions the Code or alternative standard may contain, unless compliance with this land use restriction is waived in writing by DENR in advance in regard to particular enlargements or buildings. Within 30 days following installation of the subject mechanical ventilation in a new building, or modification of a mechanical ventilation system in connection with enlargement of an existing building, a professional engineer licensed in North Carolina shall provide DENR certification under seal that the ventilation system was installed in accordance with its design specifications and complies with the Code.

In compliance X Out of compliance _____

Remarks: 1200 South Boulevard, LLC makes this certification upon its best information and belief after reasonable investigation. 1200 South Boulevard, LLC has no knowledge of any violations of this land use restriction.

LUR 6: Surface water at the Brownfields Property may not be used for any purpose without the prior written approval of DENR, a restriction that does not include legally required stormwater management.

In compliance X Out of compliance _____

Remarks: 1200 South Boulevard, LLC makes this certification upon its best information and belief after reasonable investigation. 1200 South Boulevard, LLC has no knowledge of any violations of this land use restriction.

LUR 7:

- a. Except in connection with testing, remediation and monitoring required by DENR, and, in the case of the on-site groundwater extraction wells depicted on the plat component of this Notice, in connection with any geothermal system installed at the Brownfields Property (see LUR 7.b. below), no activities that remove or use groundwater (for example, installation of water supply wells, fountains, ponds, lakes or swimming pools supplied by groundwater, or construction or excavation activities) may occur on the Brownfields Property without prior sampling and analysis of groundwater to the satisfaction of DENR, and submittal of the analytical results to DENR. Any groundwater pumped from the ground shall be containerized, sampled and disposed of to DENR's written satisfaction, unless this requirement is waived in writing in advance by DENR regarding a particular instance of pumping or a proposed use of groundwater. If the analytical results disclose to DENR contamination in excess of North Carolina's groundwater quality standards, the proposed activities may not occur without the written approval of DENR on such conditions as DENR imposes, including at a minimum the requisite legal approval of plans and procedures to protect public health and the environment during the proposed activities.
- b. The groundwater extraction wells referenced in LUR 7.a. above may only be used in connection with a properly permitted and operational geothermal system used to cool and/or heat buildings at the Brownfields Property, unless it is shown to DENR's written satisfaction that the groundwater is suitable for other uses or that groundwater contamination no longer exists in the subject wells. Evidence of a yearly inspection of any such geothermal system and that any such system is operating properly shall be submitted in conjunction with the statement required by LUR 15.h. below.

In compliance X Out of compliance

Remarks: 1200 South Boulevard, LLC makes this certification upon its best information and belief after reasonable investigation. 1200 South Boulevard, LLC has no knowledge of any violations of this land use restriction.

LUR 8: No mining may be conducted on or under the Brownfields Property, including, without limitation, extraction of coal, oil, gas or any other mineral or non-mineral substances.

In compliance X Out of compliance

Remarks: 1200 South Boulevard, LLC makes this certification upon its best information and belief after reasonable investigation. 1200 South Boulevard, LLC has no knowledge of any violations of this land use restriction.

LUR 9: 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 approval of DENR, except for *de minimis* amounts of such substances for cleaning and other routine housekeeping activities; petroleum products used in the operation of motor vehicle landscaping equipment and marine engines; any such contaminants that are functional components of buildings; emergency generator fuel if stored and used in compliance with a plan approved in writing in advance by DENR; and constituents of products customarily used or offered for sale in retail grocery stores, drug stores, photo processing operations, retail paint and wallpaper stores, and similar retail businesses, so long as such products are stored, used and disposed of in compliance with all applicable laws and regulations.

In compliance Out of compliance

Remarks: 1200 South Boulevard, LLC makes this certification upon its best information and belief after reasonable investigation. 1200 South Boulevard, LLC has no knowledge of any violations of this land use restriction.

LUR 10: No construction may occur below grade on the Brownfields Property, including without limitation construction of basements and parking, without DENR's prior written approval and venting in conformance, as determined by DENR, with applicable building codes.

In compliance Out of compliance

Remarks: 1200 South Boulevard, LLC makes this certification upon its best information and belief after reasonable investigation. 1200 South Boulevard, LLC has no knowledge of any violations of this land use restriction.

LUR 11: Unless this Land Use Restriction is waived in writing by DENR, the owner of any portion of the Brownfields Property where any existing or subsequently installed monitoring well approved by DENR is damaged shall be responsible for repair of such well to the written satisfaction of the DENR agency that approved the well and within a time period acceptable to that DENR agency.

In compliance Out of compliance

Remarks: 1200 South Boulevard, LLC makes this certification upon its best information and belief after reasonable investigation. 1200 South Boulevard, LLC has no knowledge of any violations of this land use restriction.

LUR 12: Within 30 days after any written DENR 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 (other than the groundwater extraction wells referenced in LUR 7 above) 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 the official identified in subparagraph 34.a. of the Brownfields Agreement (“Agreement”), the Inactive Hazardous Sites Branch of DENR’s Superfund Section and DENR’s Division of Water Quality a report setting forth the abandonment procedures and results that includes well abandonment records.

In compliance X Out of compliance _____

Remarks: 1200 South Boulevard, LLC makes this certification upon its best information and belief after reasonable investigation. 1200 South Boulevard, LLC has no knowledge of any violations of this land use restriction.

LUR 13: No construction may be initiated at the Brownfields Property unless and until DENR approves a plan with a deadline for the removal of contaminated sludge and sediments in areas proximate to the Brownfields Property’s sediment vault/trap that are designated “ST-1” and “ST-2” on the plat component of the Notice. The plan shall require removal of as much contaminated sludge and sediment as DENR determines is necessary to make the Brownfields Property suitable for the uses specified in LUR 1 above while fully protecting public health and the environment.

In compliance X Out of compliance _____

Remarks: 1200 South Boulevard, LLC makes this certification upon its best information and belief after reasonable investigation. 1200 South Boulevard, LLC and its environmental consultant conducted inspections of the sediment traps, and no sediments or sludge were observed. This information was documented in a letter report and communicated to the Brownfields Program. 1200 South Boulevard, LLC has no knowledge of any violations of this land use restriction.

LUR 14: Neither DENR nor any 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 X Out of compliance _____

Remarks: 1200 South Boulevard, LLC makes this certification upon its best information and belief after reasonable investigation. 1200 South Boulevard, LLC has no knowledge of any violations of this land use restriction.

LUR 15: During January of each year after the year in which the Notice is recorded, the owner of any part of the Brownfields Property as of January 1st of that year shall submit a notarized Land Use Restrictions Update (“LURU”) to DENR, with a copy to Mecklenburg County’s chief public health and environmental officials, certifying that, as of said January 1st, the Notice remains recorded at the Mecklenburg County Register of Deeds office and that the LURs are being complied with. Alternatively, the obligations of this subparagraph may be discharged on behalf of some or all owners by an association that satisfies DENR in writing that it is validly acting as agent for said owners, and that accepts responsibility for compliance with this subparagraph pursuant to a notarized instrument approved in writing by DENR. A statement in a notarized copy of the master development association documents for the Brownfields Property requiring the master development association to annually submit the LURU shall suffice. The LURU shall state:

- 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.

N/A

- 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.

N/A

- c. whether any landscaped areas of the portion of the Brownfields Property subject to the LURU remain sufficiently vegetated and non-eroded, as determined by DENR.

1200 South Boulevard, LLC makes this certification upon its best information and belief after reasonable investigation. On the basis of information currently available to 1200 South Boulevard, LLC, 1200 South Boulevard, LLC believes that the landscaped areas of the portion of the Brownfields Property subject to the LURU remain sufficiently

vegetated and non-eroded, except potentially for landscaped areas impacted by activities related to the utility relocation work conducted in accordance with the Soil Management Plan and in coordination with DENR.

- d. whether any caps installed pursuant to LUR 2 above, in the portion of the Brownfields Property subject to the LURU, remain in good condition and sufficiently intact to prevent infiltration of moisture.

N/A

- e. whether buildings and pavement in the portion of the Brownfields Property subject to the LURU 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 portion of the Brownfields Property.

1200 South Boulevard, LLC makes this certification upon its best information and belief after reasonable investigation. On the basis of information currently available to 1200 South Boulevard, LLC, the remaining building on the property is in good repair. 1200 South Boulevard, LLC believes that the pavement on the property is being maintained in good repair, except potentially for pavement impacted by activities related to the utility relocation work conducted in accordance with the Soil Management Plan and in coordination with DENR.

The utility relocation work was conducted from March – August of 2012.

- f. whether any vapor barrier and/or mitigation systems installed pursuant to LUR 4 above, in the portion of the Brownfields Property subject to the LURU, are performing as designed to the best of the declarant's knowledge based upon a visual inspection; any maintenance and repair of any such system(s) that has been performed since the last LURU regarding the subject portion of the Brownfields Property; and whether the uses of the ground floors of any buildings in the portion of the Brownfields Property subject to the LURU that contain such vapor barrier and/or mitigation systems have changed, and, if so, how.

N/A

- g. whether any mechanical ventilation systems installed pursuant to LUR 5 above are performing as designed to the best of the declarant's knowledge based upon a visual inspection; and any maintenance and repair of any such system(s) that has been performed since the last LURU regarding the subject portion of the Brownfields Property.

N/A

- h. whether any geothermal system installed at the Brownfields Property (see LUR 7 above) has been inspected during the preceding year, as required by LUR 7.b. above, and is operating properly.

1200 South Boulevard, LLC makes this certification upon its best information and belief after reasonable investigation. On the basis of information currently available, 1200 South Boulevard, LLC believes that the geothermal system is not operating.

In compliance X Out of compliance

Remarks: 1200 South Boulevard, LLC makes this certification upon its best information and belief after reasonable investigation. 1200 South Boulevard, LLC has no knowledge of any violations of this land use restriction.

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 1200 South Boulevard, LLC, owner of at least part of the Brownfields Property.

Name typed or printed of party making certification: 1200 South Boulevard, LLC

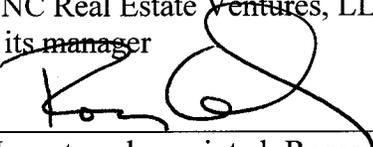
In the case of all owners:

Date: January 28, 2013

1200 SOUTH BOULEVARD, LLC

BY: NC Real Estate Ventures, LLC

its manager

By: 

Name typed or printed: Roseanne Giordani,
Manager

STATE OF TEXAS
TRAVIS COUNTY

I, Carol Kohler, a Notary Public of the county and state aforesaid, certify that **Roseanne Giordani** personally came before me this day and acknowledged that she is the Manager of NC Real Estate Ventures, LLC manager of 1200 South Boulevard, LLC, a North Carolina limited liability company, 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 her.

WITNESS my hand and official stamp or seal, this 28th day of January, 2013.

Carol Kohler

Name typed or printed:

Notary Public

My Commission expires: _____

[Stamp/Seal]

