

February 20, 2013

Christopher Walker
D 704.331.7515
F 704.353.3215
chris.walker@klgates.com

Via E-Mail/Hard Copy to Follow via U.S. Mail

Mr. David Peacock
NC Division of Waste Management
Brownfields Program
Mail Service Center 1646
Raleigh, NC 27699-1646

Re: Land Use Restrictions Update
Burlington Industries- Durham Site, 749 Ninth Street (NCBP # 14032-10-32)

Dear Mr. Peacock:

On behalf of Crescent Ninth Street Venture I, LLC, I've enclosed the Land Use Restrictions Update for the referenced Brownfields site. We apologize for the delay in getting this to you. Crescent Ninth Street Venture I, LLC completed the Land Use Restrictions Update in January, but it was inadvertently not submitted. The original Land Use Restrictions Update will follow via U.S. Mail with the hard copy of this letter.

Please contact me with any questions.

Sincerely,



Christopher Walker

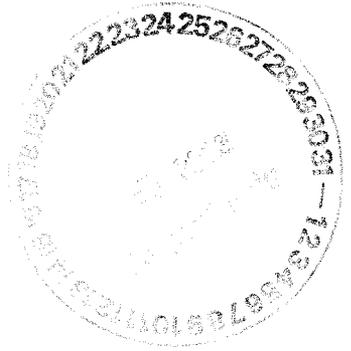
Enclosure

cc:

David A. Franchina, Esq. (via e-mail and w/ encl.)
Joseph Ghiold (via e-mail and w/ encl.)
Gayle B. Harris, MPH, RN (via e-mail and w/ encl.)
Brian T. Nicholson (via e-mail and w/ encl.)
Glen Whisler, P.E. (via e-mail and w/ encl.)



Brownfields Project #: 14032-10-32
Brownfields Property: Burlington Industries-Durham Site, 749 Ninth Street
Property Owner (In whole or part): Crescent Ninth Street Venture I, LLC



LAND USE RESTRICTIONS (“LUR”) UPDATE

LUR 1: No use may be made of the Brownfields Property other than for high-density residential purposes and any other purposes the Department of Environment and Natural Resources (“DENR”) subsequently approves in writing prior to their occurrence. Within the meaning of this restriction, “high-density residential” refers to use of units in multi-unit buildings as permanent dwellings.

In compliance X Out of compliance _____

Remarks: Crescent Ninth Street Venture I, LLC makes this certification upon its best information and belief after reasonable investigation. Crescent Ninth Street Venture I, LLC has no knowledge of any violations of this land use restriction.

LUR 2: Surface 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: Crescent Ninth Street Venture I, LLC makes this certification upon its best information and belief after reasonable investigation. Crescent Ninth Street Venture I, LLC has no knowledge of any violations of this land use restriction.

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 reflect contaminant concentrations that exceed the standards and screening levels applicable to the uses authorized for the Brownfields Property, the groundwater-related activities proposed may only occur in compliance with any written conditions DENR imposes.

In compliance X Out of compliance _____

Remarks: Crescent Ninth Street Venture I, LLC makes this certification upon its best information and belief after reasonable investigation. Crescent Ninth Street Venture I, LLC has no knowledge of any violations of this land use restriction.

LUR 4: Soil on the Brownfields Property may not be disturbed unless any sampling DENR requires has been conducted, and any actions DENR requires have been

taken based on the sampling results, to ensure the Brownfields Property is suitable for the uses specified in Land Use Restriction 1 above and public health and the environment are fully protected. Such actions may include the capping or treatment of soil *in situ* and/or disposal of soil off-site.

In compliance X Out of compliance _____

Remarks: Crescent Ninth Street Venture I, LLC makes this certification upon its best information and belief after reasonable investigation. Crescent Ninth Street Venture I, LLC has no knowledge of any violations of this land use restriction.

LUR 5: No building may be constructed on the Brownfields Property until:

- a. DENR determines in writing, based on submittals from the building's proponent, that the building's users, and public health and the environment, would not be at risk from the Brownfields Property's volatile contaminant plume; or
- b. vapor mitigation measures approved in writing by DENR in advance are installed to the satisfaction of a professional engineer licensed in North Carolina, as evidenced by said engineer's seal, and photographs illustrating the installation and a brief narrative describing it are submitted to DENR and deemed satisfactory in writing by that agency.

In compliance X Out of compliance _____

Remarks: Crescent Ninth Street Venture I, LLC makes this certification upon its best information and belief after reasonable investigation. Crescent Ninth Street Venture I, LLC has no knowledge of any violations of this land use restriction.

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: Crescent Ninth Street Venture I, LLC makes this certification upon its best information and belief after reasonable investigation. Crescent Ninth Street Venture I, LLC has no knowledge of any violations of this land use restriction.

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: Crescent Ninth Street Venture I, LLC makes this certification upon its best information and belief after reasonable investigation. Crescent Ninth Street Venture I, LLC has no knowledge of any violations of this land use restriction.

LUR 8: None of the contaminants known to be present in the environmental media at the Brownfields Property, including those appearing in Exhibit 2 of the Notice of Brownfields Property's Exhibit A, 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 petroleum products used in the operation of motor vehicles, motor vehicle landscaping equipment and marine engines; in functional components of buildings; in emergency generator fuel if stored and used in compliance with a plan approved in writing in advance by DENR; and in 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 X Out of compliance ____

Remarks: Crescent Ninth Street Venture I, LLC makes this certification upon its best information and belief after reasonable investigation. Crescent Ninth Street Venture I, LLC has no knowledge of any violations of this land use restriction.

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

In compliance X Out of compliance ____

Remarks: Crescent Ninth Street Venture I, LLC makes this certification upon its best information and belief after reasonable investigation. Crescent Ninth Street Venture I, LLC has no knowledge of any violations of this land use restriction.

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: Crescent Ninth Street Venture I, LLC makes this certification upon its best information and belief after reasonable investigation. Crescent Ninth Street Venture I, LLC has no knowledge of any violations of this land use restriction.

LUR 11: The Brownfields Property may not be used for kennels, private animal pens or horse-riding. This Land Use Restriction does not preclude legal household pets kept or exercised on the Property in compliance with law.

In compliance X Out of compliance _____

Remarks: Crescent Ninth Street Venture I, LLC makes this certification upon its best information and belief after reasonable investigation. Crescent Ninth Street Venture I, LLC has no knowledge of any violations of this land use restriction.

LUR 12: The owner of any portion of the Brownfields Property where any subsequently installed, DENR-approved monitoring well is damaged shall be responsible for repair of any such well to DENR's written satisfaction and within a time period acceptable to DENR.

In compliance X Out of compliance _____

Remarks: Crescent Ninth Street Venture I, LLC makes this certification upon its best information and belief after reasonable investigation. Crescent Ninth Street Venture I, LLC has no knowledge of any violations of this land use restriction.

LUR 13: Neither DENR, nor any party conducting environmental assessment or remediation at the Brownfields Property at the direction of, or pursuant to a permit, order or agreement issued or entered into 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: Crescent Ninth Street Venture I, LLC makes this certification upon its best information and belief after reasonable investigation. Crescent Ninth Street Venture I, LLC has no knowledge of any violations of this land use restriction.

LUR 14: 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, and to the chief public health and environmental officials of Durham County (except that a joint LURU may be submitted for owners of residences by a duly constituted owners' association), certifying that, as of said January 1st, the Notice remains recorded at the Durham County Register of Deeds office and 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; and

- 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.

- c. whether any vapor mitigation measures installed pursuant to Land Use Restriction 5 above are performing as designed, and whether the uses of the ground floors of any buildings containing such measures have changed, and, if so, how.

In compliance X Out of compliance

Remarks: Crescent Ninth Street Venture I, LLC makes this certification upon its best information and belief after reasonable investigation. Crescent Ninth Street Venture I, 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 Durham County Register of Deeds office and that the Land Use Restrictions are being complied with.

This Land Use Restrictions Update is certified by Crescent Ninth Street Venture I, LLC, owner of at least part of the Brownfields Property.

Name typed or printed of party making certification: Crescent Ninth Street Venture I, LLC

In the case of all owners:

Date: 1/30/13

CRESCENT NINTH STREET VENTURE I, LLC
By: Crescent Multifamily Holdings, LLC, its
manager

By: _____
Name typed or printed: Brian J. Natwick
President

NORTH CAROLINA
Mecklenburg COUNTY

I, Devette H. Harper, a Notary Public of the county and state aforesaid, certify that Brian J. Natwick personally came before me this day and acknowledged that he is a President of Crescent Multifamily Holdings, LLC, the manager of Crescent Ninth Street Venture I, LLC, a Delaware 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 him.

WITNESS my hand and official stamp or seal, this 30th day of
January, 2013.

Devette H. Harper
Name typed or printed:

Notary Public
My Commission Expires
November 27, 2016

My Commission expires: _____

[Stamp/Seal]

