

Brownfields Project #: 09035-05-92
Brownfields Property: Costco, 2838 Wake Forest Road
Property Owner (In whole or part): Costco Wholesale Corporation



LAND USE RESTRICTIONS (“LUR”) UPDATE

LUR 1: No use may be made of the Brownfields Property other than for commercial purposes, defined as a non-industrial enterprise carried on for profit by the owner, lessee or licensee, including without limitation a membership warehouse store, with associated parking lots, a gasoline station and a tire installation facility. “Industrial” in this context means the assembly, fabrication or processing of goods or materials using processes that may produce noise, smoke, fumes, vibration, dust, odors, glare, emissions or health or safety hazards outside of the building or property where such assembly, fabrication or processing takes place, and where the area occupied by the outdoor storage of goods and materials used in such processes exceeds twenty-five (25) percent of the floor area of all buildings on the property.

In compliance Out of compliance

Remarks: _____

LUR 2: Surface water and underground 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,

consistent with applicable law, 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 may not be excavated to a depth of more than three (3) feet 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, as much soil as DENR requires in accordance with applicable law shall be capped to the written satisfaction of DENR, unless DENR determines said contamination would likely contaminate groundwater or pose an unreasonable risk to public health or the environment despite capping. In that case, as much soil as DENR requires in accordance with applicable law shall be removed and disposed of in accordance with applicable law, and any other actions that DENR 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.

In compliance Out of compliance

Remarks: _____

LUR 5: Unless compliance with this Land Use Restriction is waived in writing by DENR in advance in regard to particular buildings, no indoor space on the Brownfields Property may be occupied 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. For buildings constructed on the Brownfields Property after recordation of the Notice of Brownfields Property ("Notice"), within thirty (30) days following installation of mechanical ventilation a professional engineer shall provide DENR certification that the ventilation system was installed in accordance with design specifications and complies with the Code.

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 the tables set forth in "(2)" of the Notice, may be used or stored at the Brownfields Property without the prior written approval of DENR, except:

- a. in *de minimis* amounts for cleaning and other routine housekeeping activities so long as the contaminant-containing products are stored in non-leaking containers that are kept closed at all times when not in use,
- b. as constituents of products for sale, or
- c. if a gasoline station or tire installation facility is located on the Brownfields Property, in connection with such use.
- d. if Prospective Developer is required by law to collect used oil, in

connection with such collection in quantities no greater than are required by law.

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.

In compliance Out of compliance

Remarks: _____

LUR 12: The Brownfields Property may not be used for kennels, private animal pens or horse-riding without the prior written approval of DENR.

In compliance Out of compliance

Remarks: _____

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. Any such assessment or remediation shall be conducted at reasonable times following reasonable notice to the Brownfields Property's owner(s), and shall include reasonable efforts to minimize any interference with operations on the Brownfields Property.

In compliance Out of compliance

Remarks: _____

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 to DENR certifying that the Notice remains recorded at the Wake County Register of Deeds office, and that these Land Use Restrictions are being complied with.

In compliance Out of compliance

Remarks: _____

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

This Land Use Restrictions Update is certified by Eric Ward - General MGR
owner of at least part of the Brownfields Property.

Name typed or printed of party making certification: Eric Ward

In the case of owners that are entities:

Signature of individual signing: 
Name typed or printed: Eric Ward
Title: General Manager

In the case of all owners:

Date: 1-17-14

[Insert notary block from among the following that is pertinent to type of party submitting LURU: corporation, LLC, partnership or individual.]
[use for corporations]

[Insert Name of Corporation]

By: Costco
Name typed or printed:
Title typed or printed:

ATTEST:

Eric Ward
Name typed or printed:
Secretary, Costco (corporation name)

NORTH CAROLINA
WAKE COUNTY

I, TODD A. WARD, a Notary Public of the county and state aforesaid, certify that ERIC WARD personally came before me this day and acknowledged that he/she is the Secretary of COSTCO (corporation name), a NORTH CAROLINA (state) corporation, and that by authority duly given and as the act of the corporation, the foregoing Land Use Restriction Update was signed in its name by its OWNER and attested by him/her as its Secretary.

WITNESS my hand and official stamp or seal, this 17th day of JANUARY, 2014.

Todd A. Ward
Name:
Notary Public

My Commission expires: 6/23/2015

[Stamp/Seal]

