

Brownfields Project #: 11036-07-92  
Brownfields Property: Triangle Drive, 6009 Triangle Drive  
Property Owner (In whole or part): Thornwood Partners, LLC



**LAND USE RESTRICTIONS ("LUR") UPDATE**

LUR 1: No use may be made of the Brownfields Property other than for the manufacturing, warehousing and sale of stone, wood and solid surface countertops.

In compliance  Out of compliance

Remarks: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

LUR 2: No building may be constructed on the Brownfields Property until the Department of Environment and Natural Resources ("DENR") has been consulted regarding the proximity of the planned building to the Brownfields Property's volatile contaminant plume. If DENR determines that the footprint of a building proposed to be constructed on the Brownfields Property would fall within 100 feet of said plume, it may not be constructed without a vapor barrier system and/or mechanical or passive vapor mitigation system approved in writing in advance by DENR. Within thirty 30 days following installation of the vapor barrier system and/or mechanical or passive vapor mitigation system, 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. With DENR's prior written approval, additional investigation activities including, without limitation, soil gas samples, performed to DENR's written satisfaction, may be conducted, and installation of a mitigation system possibly excused, so long as the proponent makes an advance written commitment to install a mitigation system if DENR so requires based on review of a report DENR deems adequate of the investigation activities.

In compliance  Out of compliance

Remarks: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

LUR 3: No activities that remove, use or may encounter groundwater or surface water (for example, installation of water supply wells, fountains, ponds, lakes or swimming pools) or construction or excavation activities that may encounter water 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: 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 5: 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 6: None of the contaminants known to be present in the environmental media at the Brownfields Property, including those listed in Table A 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 7: The Brownfields Property may not be used as a playground, or for child care centers or schools.

In compliance  Out of compliance

Remarks: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

LUR 8: 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, which is to be conducted using reasonable efforts to minimize interference with authorized uses of the Brownfields Property.

In compliance  Out of compliance

Remarks: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

LUR 9: 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 1<sup>st</sup> of that year shall submit a notarized Land Use Restrictions Update ("LURU") to DENR, and to the chief public health and environmental officials of Wake County, certifying that, as of said January 1<sup>st</sup>, the Notice remains recorded at the Wake 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.

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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.

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c. whether any vapor barrier and/or mitigation systems installed pursuant to LUR 2 above are performing as designed, and whether the uses of the ground floors of any buildings containing such vapor barrier and/or mitigation systems have changed, and, if so, how.

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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 Ken Vincitorio,  
owner of at least part of the Brownfields Property.

Name typed or printed of party making certification: Ken Vincitorio owner

In the case of owners that are entities:

Signature of individual signing: \_\_\_\_\_  
Name typed or printed: \_\_\_\_\_  
Title: \_\_\_\_\_

[use for LLCs]

Thornwood Partners, LLC

[Insert Name of LLC]

By:

*[Handwritten signature]*

Name typed or printed: Ken Vucetario

Member/Manager

NORTH CAROLINA

Wake COUNTY

I, Natalie Dunn, a Notary Public of the county and state aforesaid, certify that Ken Vucetario personally came before me this day and acknowledged that he/she is a Member of Thornwood Partners LLC, a North Carolina (state) limited liability company, and its Manager, 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/her.

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

January, 2013

Natalie Dunn

Name typed or printed:

Notary Public

My Commission expires: 10/21/2013

[Stamp/Seal]

**NATALIE DUNN  
NOTARY PUBLIC  
WAKE COUNTY, NC**

In the case of all owners:

Date: 1/3/13

**Ken Vincitorio**  
President

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**THE COUNTERTOP FACTORY, INC.**

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