

**OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS**  
**Special Exception Request S-2863, Costco Wholesale Corporation**  
**Kensington View Civic Association, Land Use and Zoning Committee Statement**

The Kensington View Civic Association agrees with the recommendation of the Planning Board and the Planning Staff for **denial** of the proposed Special Exception request (S-2863) for a gas station on the Westfield Wheaton Mall property and respectfully requests that the Hearing Examiner's Office recommend **denial**, also. In our initial submission, we stated that the application should be denied for the reasons that the Planning Board and Planning Staff stated, but also for:

**Neighborhood Need** - Section 59-G-1.24 requires from a "preponderance of the evidence of record that a need exists for the proposed use to serve the population in the general neighborhood". If the use is an automobile filling station that serves the purpose of selling gasoline, we believe there is an abundance of identical and similar uses (gasoline sales and/or membership discount gasoline sales) in the Wheaton/Kensington neighborhood.

**Transportation** - Section 59-G-2.06 requires that "the use at the proposed location will not create a traffic hazard or traffic nuisance". We believe there is ample evidence that the use at the proposed location will create both traffic hazards and traffic nuisances.

**Land Use** - Section 59-G-2.06 requires that "the use at the proposed location will not adversely affect nor retard the logical development of the general neighborhood or of the industrial or commercial zone in which the station is proposed". Both the State and the County have decided what "logical development" is in Metro Station Policy areas – Smartgrowth. Smartgrowth is sustainable and is characterized by compact, transit-oriented, bicycle-friendly land use, with neighborhood schools, walkable streets, mixed-use development and a wide range of housing choices. The Planning Board agreed with our argument that this Special Exception use is not consistent with the current, recently approved Wheaton Sector Plan and that approval would retard the logical development of the area. Costco agreed that Westfield Wheaton is in a Metro Station Policy area (Transcript - June 17, 2013, page 121).

We have attached our original letter and "Attachment A" which includes Wheaton Sector Plan language for your convenience (Exhibit # 82).

After over a year of hearings, we believe the applicant has not shown from a "preponderance of the evidence of record" that this proposal should be approved under Sec. 59-G-1.21, Sec. 59-G-1.24 or Sec. 59-G-2.06. In fact, when Costco's evidence was questioned, on various issues, the applicant simply changed their evidence. In order to keep this statement "brief", KVCA has signed on to the Closing Arguments of the Kensington Heights Civic Association and the Stop Costco Gas Coalition.

**OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS**  
**Special Exception Request S-2863, Costco Wholesale Corporation**  
**Kensington View Civic Association, Land Use and Zoning Committee Statement**

There is one aspect of this proposal that makes it unique and of grave concern to our neighborhood. As we stated in our initial letter, Kensington View is a community of dead-end streets. The only access to or from many of our homes is via University Boulevard, at East Avenue, Midvale Road, and Valley View Avenue. While this Special Exception request is for a small portion of Westfield Wheaton Mall, the Special Exception area does not include any access to public roads and has based all of its traffic data on five entrances that **Westfield controls**. While the traffic expert, Mr. Guckert, stated that the University Boulevard/Valley View entrance will not see a great increase from a gas station, this statement is based on the current five entrances. Since 26.4 acres (Planning Staff report) of the Westfield Mall have been changed to the CR zone (encompassing four of the five entrances), unlike other Special Exceptions, there is no assurance that the access to this gas station will remain the same. If these entrances are reduced, or even changed for that matter, our subdivision could be faced with traffic on University Boulevard that blocks both East Avenue and Midvale Road (the only access points to half of the homes in the subdivision, a public park, and Crossways). As Ms. Harris stated on 4/1/2014 page 37, Westfield can do whatever they want with their property:

**MS. HARRIS:** Yes. I was going to say but for the  
5 fact that this is coming up in the context of the special  
6 exception, **Westfield could go out there tomorrow and make**  
7 **this change, it's on private property, without any input**  
8 **from Park and Planning.** I'm not suggesting that and in  
9 fact, I think having input in this context is a good thing.  
10 **MR. GROSSMAN:** Right.  
11 **MS. HARRIS:** **But they could do it tomorrow so I**  
12 **think that needs to be kept in mind as well.**

While the context of the subject was Intersection 16, the fact remains that Westfield, not Costco, controls all access to or from public roads. If Westfield or a future owner decides to reduce five entrances down to one entrance (University Blvd. at Valley View Avenue) or make changes to traffic patterns that increases traffic at this intersection, Kensington View could literally be faced with a "nuisance", "other than" grade F, which Mr. Guckert, Traffic expert, addressed on April 1, 2014, page 95:

4 **MR. GROSSMAN:** **So regular occurring gridlock, in**  
5 **effect, is your idea of a nuisance.**  
6 **MR. GUCKERT:** **That's, that's what I would define**  
7 **it.**  
8 **MR. GROSSMAN:** And do you have a, is there a grade  
9 level for, in the HCM which is the equivalent of your  
10 definition of, of a regularly occurring gridlock?  
11 **MR. GUCKERT:** No, sir. That's why nuisance is not  
12 a defined term. I think it's in the mind of the beholder as  
13 to whether it's a nuisance or not.  
14 **MR. GROSSMAN:** It's somewhere beyond F in your  
15 mind?  
16 **MR. GUCKERT:** An F, I think it's something other

**OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS**  
**Special Exception Request S-2863, Costco Wholesale Corporation**  
**Kensington View Civic Association, Land Use and Zoning Committee Statement**

17 than F. Not beyond F but it's something other than F. **And**  
18 **I say that because F doesn't mean that you don't get home.**  
19 **F means that, that you have delay getting through, getting**  
20 **through an intersection as an example. It doesn't mean that**  
21 **you're not getting home.** But if you've got, if you've got  
22 delay that, that causes you, takes 30 minutes to get from  
23 the mall entrance to Georgia Avenue, you're going to,  
24 you're going to end up having gridlock and, and I'm not even  
25 -- we don't have a letter grade for something like that.

Unlike Mr. Guckert's opinion, residents of Kensington View could very easily, depending on Westfield's actions in the future, end up "not getting home".

Thank you for your time and consideration,

Eleanor Duckett  
Acting Chair – Land Use and Zoning Committee  
Kensington View Civic Association  
July 19, 2014