

Costco Gas Station Controversy: A Brief Synopsis

The Beginning

In early 2010, residents of Kensington Heights were informed of a proposed development by Westfield/Costco. There were three elements:

1. Costco planned to build a warehouse store in the Westfield Wheaton Plaza.
2. Montgomery County government had agreed to give Westfield \$4 million to facilitate the Costco project.
3. Costco would only build the store if the County passed - in advance - a Zoning Text Amendment (ZTA) that assured Costco could build a mega gas station adjacent to the store without having to apply for the Special Exception (SE) that is normally required for any gas station construction. In effect, the ZTA would be specific to only two mall sites – Westfield Wheaton and Westfield Montgomery.

Members of the Kensington Heights Civic Association (KHCA) were not opposed to the projected warehouse store, but strongly opposed having a Costco mega gas station immediately adjacent to their residential neighborhood, for a number of reasons. They formed a working group to gather information, funds, and support for a battle to block the ZTA and, ultimately, construction of the gas station at the proposed site.

Some comments about the notion of a 'mega gas station'

The gas station that Costco proposes to build/operate in the Westfield Wheaton Plaza is much larger than a 'typical' gas station, which has 6-12 pumps and sells about 1.5 million gallons of gas per year. The proposed mega station would have 16 pumps and is expected to sell at least 12 million gallons/year. It would not be a neighborhood gas station: its clientele would be drawn from much of Montgomery County and the District of Columbia. Experience shows that Costco stations typically have long lines of waiting cars, anywhere from 20-60, waiting with their engines idling, and spewing gasoline fumes. Thus such stations create large amounts of air-borne pollutants, problems of noise, traffic congestion, etc., with the exact levels of these impacts depending on the precise siting of the station. In this case, the effects of the mega station would impact

- a residential community (with some of the homes being within 200 feet of the pumps),
- a recreational facility (Kenmont Swim & Tennis Club) - also within a few hundred feet of the pumps, and
- a public school (Stephen Knolls) for special needs children - many with severe respiratory problems - within less than 1000 feet of the pumps.

Much of the research done by KHCA (and the experts they hired) has provided detailed documentation as to what is known - and what is NOT known - about the impact of such a mega gas station in a residential setting. The information

presented at the public hearings suggests that there is good reason for community concerns.

The First ZTA fight

The KHCA activists identified a series of concerns: air quality, health risks, increased traffic congestion, noise pollution, etc. and began collecting information. They arranged for a number of people to testify before the County Council, which was under considerable pressure from the County Executive to pass the ZTA. At the hearing, held in May 2010, numerous citizens spoke against the ZTA; none spoke in favor. With it clear that the Council would not move forward on the ZTA, Costco withdrew its request.

The Surprise

Following withdrawal of the ZTA (above) Costco reversed its position and announced it **would** proceed with construction of the warehouse store and would at the same time conform to the requirements of the Special Exception process in an effort to obtain permission to construct the gas station.

About the \$4 million for Westfield

Next the citizens lobbied the County Council to only release those 'promised' funds to Westfield if Costco/Westfield met with the citizens and made a reasonable effort to resolve the various concerns. This led to some promises by Costco/Westfield to 'mitigate' the impacts of the store operations (including the loading dock in particular) as well as the proposed gas station (if it were approved): this mitigation would include building a wall to buffer noise, fumes, etc. and providing a marked pedestrian pathway on the ring road. These agreements constituted a partial victory for the citizens association and were used by the County Executive in certifying to the County Council that the conditions had been met to disperse the \$4 million. The promised mitigation items became part of Costco's filings for the Special Exception process, but are believed to be binding whether or not the special exception is approved.

The story of another ZTA and how it changed the game

As the battle rolled on after the above events, but before the Special Exception process got to the stage of final application filings and the start of hearings (see below), citizens armed with a growing body of documentary evidence lobbied the County Council to pass legislation to establish reasonable guidelines as to how close to various 'sensitive land uses' facilities such as the gas station should be placed. A number of Council members concurred and proposed ZTA 12-07.

In its initial form (which was supported by the MoCo and DC Sierra Clubs, the Audubon Society, and several civic groups in addition to KHCA) this ZTA proposed a buffer zone of at least 1000 feet between gas stations selling more than 3.6 million gallons per year and "sensitive land uses," including schools and various other primarily outdoor uses. After intensive lobbying of all Council members by all

parties involved, a compromise version of ZTA 12-07 was passed (July 2012) with the minimal buffer zone reduced to 300 feet. Unfortunately neither the original nor the amended ZTA included residences as sensitive land uses. The Council did indicate, though, that the buffer zone stipulation might well be increased for larger gas stations and/or as more evidence accumulated. As a result Costco was forced to submit a revised site plan. While the new plan now has the station more than 300 feet from the swim club, it does so by moving it closer to many residences and to within less than 1000 feet of the Stephen Knolls school.

And what is the status of the Special Exception (SE) process?

First a brief description of the process:

- 1. All parties submit their documentation to Park and Planning (P&P). After review, the P&P Board has a public hearing with testimony from the P&P staff and interested parties. Then the P&P Board takes a position on the project.*
- 2. The P&P Board position and documentation from Costco and other interested parties is submitted to the Special Exception Hearing Examiner from the Office of Zoning and Administrative Hearings, who holds a hearing. All parties testify at the Special Exception Hearing which is projected to take 3 days.*
- 3. The SE Hearing Examiner then takes the case under review and makes a finding. There is no time limit on his/her deliberations before he/she issues a finding.*
- 4. The SE Hearing Examiner forwards his/her finding to the Board of Appeals. They review all the documentation and make a final finding, which is the end of the process; appeals of the finding are allowed.*

Thus the SE process and the preparations for the hearings can be an extended process, and the time for working with P&P staff can begin immediately after the complete application is filed. Costco filed its initial application in 2010 for the originally proposed site but had to revise it several times. After ZTA 12-07 passed, the old application was no longer operative and a new application must be filed, by the end of October if Costco seeks to meet hearing dates now scheduled for mid-March 2013. Based on prior experience, those dates may slip, but no one can count on that. Hence it is important that those opposed to the gas station (at the revised site) be ready to respond immediately to any filings that are made and begin preparing for the hearings. With the holidays approaching, deadlines for submitting materials to P&P staff will be upon the civic community far sooner than may seem likely!

What is the role of the Stop Costco Gas Coalition in all this?

Most of the founding members of SCGC are residents of Kensington Heights and were involved to one degree or another in the activities of KHCA between 2010 and mid 2012; many remain active in KHCA. As the process has dragged on - and as the long delay in beginning the Special Exception process has continued - it became obvious that there was widespread citizen interest in this issue across the County. Montgomery County will, de facto, be setting a precedent for Costco to use in proposing siting of similar gas stations throughout Maryland - and perhaps

across the country. If the gas station is approved in such a highly questionable location, the precedent established here may be used by other large corporations to justify siting other large-scale facilities with questionable impacts in/near residential neighborhoods. In the CONCERNS section of this website we post more information about the specifics of each of the various issues.

For the purposes of this synopsis it is sufficient to say that the citizens of Kensington Heights raised serious questions as to the wisdom of siting the mega gas station where Costco/Westfield propose to place it -- or anywhere else where it would be in *anyone's* back yard. The coalition wholeheartedly supports that position and is working to expand the ranks of those who oppose this mega gas station siting and those who seek state legislation that will establish guidelines at least as stringent (preferably more so) as those in ZTA 12-07 to protect all Maryland residents.