

Costco Gas Station Special Exception Timeline, 2012-13

Now – a). Any individual or organization who *might* want to testify at the public hearings on this matter should register themselves as a “Party of Record” with the Office of Zoning and Administrative Hearings (OZAH) in Rockville; this is the office that oversees the Hearing Examiner and coordinates with the Board of Appeals. [Copies of the form needed to ask to be a Party of Record are available on the BACKGROUND page of the SCGC website.] As a party of record, you will receive copies of most materials in this case. Registering as a party of record also preserves each registrant’s right to appeal to the State Court of Special Appeals if we are not successful at the Board of Appeals level.

b). The Planning staff assigned to coordinate this case is Renee Kamen, Senior Planner in the Development Revision Division of the Mont. Co. Planning Department, 8787 Georgia Ave., Silver Spring, 20910. Renee.Kamen@mncppc-mc.org 301-495-4723; fax 301-495-1303. Ms Kamen is currently reviewing Costco’s SE application, along with several of her colleagues with expertise in traffic, environment issues, stormwater management, etc. Comments by individuals should be emailed, faxed, or snail-mailed to Ms. Kamen.

Wed., Jan. 2 through Monday, January 14 – Members of the SCGC will be having various meetings Ms. Kamen and all the relevant Planning staff to discuss our concerns about this SE application. It is during this time period that all interested parties are encouraged to meet with Ms Kamen and/or her staff. This part of the process allows staff to be informed about various concerns as they prepare their report to the Planning Board. It also allows parties who intend to submit position papers to staff to formulate those position papers and any testimony they plan to give before the Planning Board (see below).

Wed., Jan. 16 – Opposition comments due. Ms. Kamen has requested that all comments to the Planning staff be provided to her by this date. Comments on email, hard copy, or fax that are received by this date will be attached to her report (which goes to the Planning Board) and will be fully reviewed by the relevant Planning staff. **Note:** Comments to the Planning staff/Board can still be sent to Ms. Kamen after this date and until approximately Thurs., Feb. 21. Staff will attempt to review all such comments and to make them available to the Planning Board members, but there are no guarantees.

Tues., Jan. 22/Wed., Jan. 23 – Ms. Kamen finalizes her full report and passes it to her supervisor, Mr. Khalid Afzal.

Fri., Feb. 15 – Planning staff report made public, available online. This report covers all the issues of the application and recommends a course of action by the Planning Board.

Thurs., Feb. 21 – Absolute last day for comments to Ms. Kamen that will be transmitted to the Planning Board for the Feb. 28 hearing.

Thursday, Feb. 28 – Planning Board hearing. Public hearing at the Planning Board, 8787 Georgia Ave., Silver Spring (Park & Planning HQ, first floor auditorium). The Planning Board is composed of 4 members and a chair (Françoise Carrier). They will hear a synopsis of the Planning staff report, and will hear from Costco representatives as well as parties who support or oppose the SE application. This is NOT a full-fledged legal hearing, and the Planning Board votes on the spot whether to deny the application, accept the application, or accept it with provisions. The Planning Board's decision and the Planning staff report is passed on to the Hearing Examiner.

March 11, 15, 18, 22, 2013 – Hearing Examiner hearings. Hearing dates in front of the Hearing Examiner (HE; Mr. Martin Grossman), Office of Zoning and Administrative Hearings (OZAH), 100 Maryland Ave., Council Office Building, Rockville. These dates may be extended if needed. Anyone can attend. The hearings begin at approximately 9:30 a.m. and last the full day, with a break for lunch. This is a quasi-judicial proceeding in which the HE is the judge. After a short introduction, the Costco lawyer will present Costco's full case, with witnesses. Our lawyer or someone(s) designated from our side will cross examine these witnesses; other representatives of groups also can cross examine witnesses. After Costco presents its case, our side presents our case for denial of the SE application for the gas station, with witnesses. Other represented groups also can present witnesses in support of their requests for approval or denial. Costco lawyers can – and will – cross examine our witnesses.

After both sides have presented their cases, the HE will leave the record open for 10 or so days to receive any extra written materials or rebuttal writings. Within 30-45 days after the HE hearing record is closed, the HE will write his report and will transmit to the Board of Appeals his report, the Planning Board's recommendation, and the Planning staff report - all to be used as exhibits by the Board of Appeals.

Board of Appeals hearing (date not yet set). The Board of Appeals (BoA) consists of five members who are appointed to their positions by the County Council. They will make the final decision about the Costco gas station Special Exception application. The BoA will set its hearing date at some time after receiving the report of the Hearing Examiner. The BoA hearing is not public, and oral argument normally is not allowed. However, it is possible for a party of record to request oral argument and, if the request is granted, the BoA hearing becomes public.

About 1 month after this hearing, the BoA writes its report, which is based on the HE report, the Planning Board recommendation, and the Planning staff report.

Either side can appeal the BoA's decision to the State Court of

Special Appeals.