

"Federation Corner" column
The Montgomery Sentinel - 9/18/14

Record-breaking land use hearing reaches finale

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The record-breaking land use hearing on Costco Wholesale's bid for a special exception to build a mega gas station in Wheaton will finally come to an end this Friday morning, September 19, starting at 9:30 a.m. Running for seventeen months, with thirty-six days of action-packed proceeding, the hearing will conclude with oral arguments of forty minutes for each side.

Despite Costco's objections and delay due to illness on their legal team, closing oral arguments in the longest-running land use hearing in county history will take place this Friday, in the seventh floor hearing room of the County Council Building in Rockville. The seating in the venue is available to any member of the public who wishes to attend.

In one corner is Costco Wholesale--the nation's fourth largest retailer--asking for a special zoning exception. In the other corner--a coalition of civic and environmental groups (the Stop Costco Gas Coalition) that have matched the big-box retailer toe-to-toe in opposing a special zoning exception which, if granted, would allow Costco to build the busiest gas station in Montgomery County a mere 118 feet away from single-family residences, next to an outdoor community swimming pool and a County school for medically fragile children with special needs, some of whom require the aid of mechanical respirators and oxygen masks.

The Special Exception hearings continued despite the fact that Costco's own air quality model was shown to produce more than double the Environmental Protection Agency's maximum one-hour exposure levels to nitrogen oxides, which are a major source of air pollution and related health risk.

[NOTE--Along the way, the County Council inserted itself into the debate when it approved Zoning Text Amendment 12-07 on July 24, 2012. That amendment to the county zoning code establishes a new category of automobile filling station: one that dispenses more than 3.6 million gallons of fuel a year, a size at which the California Air Resources Board recommended that gas stations should be treated differently. According to a County Council staff report, some ninety-six percent of gasoline stations pump 2.4 million gallons of fuel per year or less. Of the four percent that pump more than 2.4 million gallons, the average gallons pumped is 3.6 million.

{ZTA 12-07, now enacted into law, requires these super stations to be located "at least 300 feet from the lot line of any public or private school or any park, playground, day care center, or any outdoor use categorized as a cultural, entertainment and recreation use." As introduced, the legislation would have required a 1,000 foot buffer from such uses as well as from any hospital use, but the ZTA was weakened during consideration by the full Council prior to its adoption.]

Spirits are high among the residents of the Wheaton and Kensington neighborhoods opposed to the Costco mega gas station, in advance of the oral arguments to be presented this Friday. Their mood is reflected in comments from Karen Cordry,

President of the Kensington Heights Civic Association, who said, "Costco's opening arguments called us emotional and claimed they had all the facts but, after all their expert mistakes have been uncovered, Costco didn't even want to do oral arguments in this case."

The sentiment is echoed by Larry J. Silverman, Esq., an Environmental Policy Expert for the Stop Costco Gas Coalition, who said "We are proud to have established the most extensive and comprehensive public record on siting of a mega gas station in the United States that should aid policy makers in addressing this nation-wide fuel industry trend."

Once the record-breaking hearing concludes with the oral arguments, the Hearing Examiner for the case, with the Office of Zoning and Administrative Hearings, will prepare a report with findings of fact for a final decision to be made by the county Board of Appeals.

Those wanting more information on this case and the arguments against the granting of the special exception can visit the website for the opposition coalition at www.stopcostcogas.org.

The views expressed in this column do not necessarily reflect formal positions adopted by the Federation. To submit an 800-1000 word column for consideration, send as an email attachment to montgomerycivic@yahoo.com