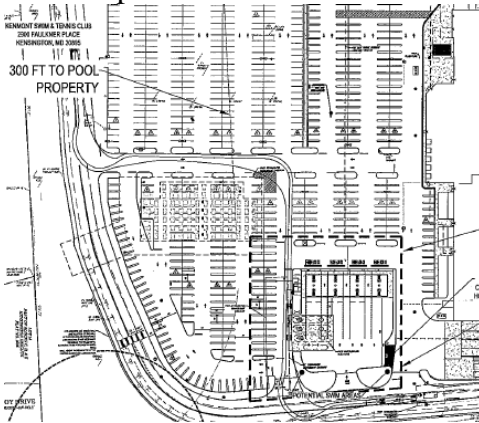


# COSTCO GAS STATION UPDATE

New Proposed Location



Examples of 20-35 Idling Cars at Columbia Location



For the last 3 years, KHCA, its neighbors and supporters have been fighting Costco’s proposal to put the largest volume gas station in the County (eight times bigger than a typical station) in the southwest corner of Westfield Wheaton, adjacent to KHCA homes. Below is a report on what has happened, highlighting our significant victories along the way.

In July, the County Council passed a Zoning Text Amendment requiring a minimum 300-foot buffer between large gas stations and various sensitive uses – but specifically does not apply to homes. That forced Costco to move its proposed station away from Kennont – and to place it instead within 900 feet of the disabled children at Stephen Knolls and within 125 feet of some Kensington Heights homes. This location does not alleviate the significant potential health concerns our experts have identified with a gas station this size and still presents the same problems with traffic flow, pedestrian safety, and idling cars.

Costco must still go through the Special Exception process to be given permission to build its high-volume gas station, and is currently expected to file its updated application at the end of October. After reviewing that application, KHCA needs to decide what to do.

## Options to Discuss:

- Put KHCA Opposition to Costco’s Special Exception application on hold to engage in negotiations with Costco for added benefits or mitigating measures. To date Costco has offered to provide an eight-foot “green wall” between our residential areas and the loading docks and gas station that was contained in its original Special Exception proposal and some additional landscaping. We have not requested additional mitigating measures in response to this offer and decided to come back to the KHCA membership to get feedback and direction.
- Refuse to negotiate and continue to oppose the Special Exception Hearing scheduled for next March (11<sup>th</sup>, 15<sup>th</sup>, 18<sup>th</sup>, and 22<sup>nd</sup>). The Zoning Text Amendment improved our overall position, and our lawyer believes we have a number of strong arguments to present. However, continuing to contest the Special Exception will require a meaningful commitment of financial resources and time from those opposing the station’s new proposed location to pay the lawyer and experts.

Please join us at **the KHCA General Membership Meeting on Oct. 25 at 7:30** at Stephen Knolls to hear from our expert witness, Dr. Henry Cole, our environmental advisor, Larry Silverman, Esq., and to discuss the new proposal and the Special Exception process.

## **COSTCO GAS STATION HISTORY**

**How did all of this start?** —In January 2010, KHCA representatives were informed that 1) Costco wanted to come to Westfield Wheaton to build a warehouse store along the south ring road and a high-volume gas station in the southwest corner, directly adjacent to KHCA homes and the Kenmont swim club, 2) the County had agreed to give Westfield \$4 million to assist in the overall development project relating to the Costco wing of the mall and 3) Costco would not build the store unless the County passed a Zoning Text Amendment that guaranteed it could build the high-volume gas station without going through the Special Exception process required for all gas stations in the County and would only apply to large malls in Montgomery County.

**What did KHCA do?** In February 2010, KHCA held a special meeting at Kenmont and invited Costco representatives to explain their proposal for the warehouse and gas station. After Costco's presentation, the membership voted to support the store but oppose the gas station at the proposed location. After the February vote, there were a number of KHCA meetings about developments regarding the gas station, including internal membership meetings as well as meetings with Costco and Westfield and the County's Park and Planning Staff, at which information was presented, members views were solicited, and concerns were expressed

**Positive Outcome for KHCA No. 1 – Defeating the ZTA that would allow Costco's gas station without Special Exception review:** In light of Costco's ultimatum, the County Executive had asked the County Council to pass the ZTA that would give Costco the right to build its gas station without following the Special Exception process applicable to all gas stations in the County. KHCA organized testimony for the Council hearing held in May 2010. After the hearing ended, with no community members speaking in favor of the gas station, it was clear the Council would not move the ZTA forward and Costco dropped its request.

**Positive Outcome for KHCA No. 2 – Costco decided to build the warehouse store without first getting approval for the gas station:** Despite its initial threats, Costco announced it would build the store, regardless of the outcome of its Special Exception application for the gas station. The store is now almost complete and was scheduled to open in the near future. (The opening has been delayed for construction reasons unrelated to the gas station, according to Costco.)

**Positive Outcome for KHCA No. 3 – Concessions as part of approval of the \$4 million funding to Westfield:** After learning that the supposedly "done deal" concerning the \$4 million subsidy had not yet been approved by the Council, KHCA lobbied the Council to condition approval of funds on Costco and Westfield meeting with KHCA to make a good faith effort to resolve our concerns. The Council agreed and we had a number of meetings on these issues with Costco and Westfield. They eventually stated that they would build a substantial wall along the ring road and the loading dock to help screen neighbors from potential lights, smells, and sounds coming from the then proposed gas station and the store and to provide a pedestrian walkway along the ring road. While offering far less than what KHCA sought, the agreements, which

formed the basis for the County Executive's favorable report on the requested \$4 million funding, provide an enforceable baseline for what must be done as part of the store construction and are included in Costco's Special Exception application. They are also a baseline which a continued negotiation may evolve.

**What happened with the Special Exception process?** Costco submitted its initial application in the fall of 2010, but then requested many postponements to rework the proposal. It was not put into largely final form until the fall of 2011 and continued to be updated over the next several months. During this period, KHCA and others studied the details of the application and explored the unique problems this gas station would cause for its neighbors and prepared materials and testimony for Special Exception hearings that were ultimately postponed several times. Costco is now in the process of submitting a new gas station proposal and KHCA must decide how to proceed with regard to the new proposed site.

**What's different about this station?** It's one of a new breed of "mega stations." A typical gas station has *6 to 12* pumps and sells about *1.5 million* gallons per year, primarily to neighborhood customers. This station would have *16* pumps and is projected to sell up to *12* million gallons a year to customers drawn from all over Montgomery County and the District. We have documented at other Costco stations that large numbers of idling cars – 30, 40, or more – are standard operating procedure and Costco has agreed with these estimates.

**Why are those factors an issue?** Vehicle emissions include many hazardous chemicals that may cause respiratory illnesses, retard mental and physical development in babies and children, and lead to cancer. Research on these effects continues to develop. Idling cars also waste gasoline and release carbon dioxide, a greenhouse gas leading to climate change and the extreme weather events that are becoming more common. State law prohibits extended idling (with some limited exceptions that may or may not apply here), in order to limit such effects, but this station would exacerbate those problems.

**What did KHCA do?** We hired a lawyer and found two experts on health issues and air quality to help in the SE process. What we learned is that *mega-stations* must have adequate setbacks from homes and sensitive uses such as schools, recreation sites, and other outdoor facilities, to serve as buffers against the health effects that we know of now – and those that we learn about later. The original proposed location for the station would have been less than 180 feet from Kenmont and only about 1300 feet from the Stephen Knolls school, which serves 100 of the County's most severely disabled children, many of them with respiratory issues. The Stephen Knolls PTA and Montgomery County School District have been informed and have not actively participated in the Special Exception process, to date, although individual parents have testified before the Counsel. KHCA has been unable to contact many of the parents of children at Stephen Knolls directly.

Earlier this year, five Council members co-sponsored ZTA 12-07, which, as written, would have required *any gas station* selling more than 3.6 million gallons per year to be built at least *1,000* feet from sensitive land uses. KHCA made great efforts in support of the ZTA, including meeting with Council members, presenting petitions, organizing press conferences, and obtaining support from groups such as the Montgomery County and DC Sierra Clubs,

Kensington View Civic Association, Coalition of Kensington Communities, and the Audubon Naturalist Society.

At the County Council hearing on this ZTA, KHCA members testified along with the mother of one of the Stephen Knolls students, as well as many other members of the public. Costco attempted to paint the ZTA as directed only at them – despite the fact that it would apply to *any* high-volume gas station in the County. Costco also used its stores and member lists to seek support from its *regional* customer base despite the fact that the County requires gas stations to serve *neighborhood* needs.

After intense lobbying from both KHCA and Costco, in July 2012, the Council eventually unanimously agreed to an amended ZTA that requires a 300-foot buffer from various sensitive uses but did not include homes. However, during the debate it was made clear that 300 feet was a *minimum* buffer for a 3.6 million gallon station, and that larger stations *could* require wider buffers. The ZTA meant that Costco could not build in its original location.

**Has Costco given up?** No. Costco has now proposed to build the station several hundred feet to the east of the previously proposed location, directly adjacent to the store. The new location is no longer within 300 feet of Kenmont – but now is less than 1,000 feet from Stephen Knolls, and is closer to homes on Melvin Grove Court, Littleford Lane, Torrance Court, and “Mt. McComas” (where additional homes may be built in the future). The EPA has cautioned against locating a school within 1,000 feet of even a 3.6 million gallon per year station, much less a mega-station almost four times as large. The new location would also require much more interaction of the gas station traffic with the vehicle and pedestrian traffic trying to use the store, which could create additional problems.

**What happens now?** Costco has to revise and re-file all of the supporting documents for its Special Exception application to take into account the new location. This will include updating its emissions analysis to take into account the new location of the station and its impact on the nearby school and homes. A process is currently underway with our experts and Costco’s experts to try to agree upon the parameters for this analysis. Costco will also need to update its traffic and parking studies, and there is the possibility that the warehouse store might be open such that its impact upon traffic and parking might be captured in the updated analysis.

**What’s the timetable?** Park and Planning has directed Costco to file its application by October 2012 if SE hearings are to go forward in mid-March 2013. If Costco does not file its amended application materials by then, the hearing dates will likely have to be postponed yet again.

**Note:** If Costco fails to file all of the necessary documents for the newly proposed gas station site by October 2012 as requested by Park and Planning, it ***DOES NOT MEAN*** the process is over – it will just be further delayed.

**What can we do?** If KHCA chooses to continue to oppose Costco’s Special Exception application, *then those urging opposition to the Special Exception should be prepared to help with labor and financial resources to sustain our professional experts and attorney* for the Special Exception hearings. While a core group of volunteers have been dedicating their time and talents to this effort, and many others have made financial contributions, we are going to

need renewed energy and resources to sustain the fight that has been going on for three years already.

Our lawyer believes there are several strong bases to attack Costco's SE application, including potential health issues, the lack of neighborhood "need" for a station this size, which is already served by more than 25 other stations in a short driving radius. But there are no guarantees we will be successful in opposing the Special Exception, and our efforts to do so will require significant additional resources – measured in both KHCA members' time and money.

Again, absent that commitment from KHCA's membership, our only alternative will be to try to negotiate concessions with Costco to mitigate the impact of the station. If there is support to put our efforts to oppose Costco's Special Exception application on hold in order to negotiate further mitigating measures (in addition to the 300-foot buffer zone we were successful in lobbying to create that protects our parks, pools, playgrounds and other public uses), Costco will welcome it. KHCA would need to establish a small committee (2-4 people) that would participate in those discussions on its behalf. While Costco has provided a short list of items on which it would be willing to negotiate, KHCA would be free to identify other subjects or issues for negotiation with Costco and define a "wish list" of mitigating measures. If KHCA and Costco cannot reach agreement during those negotiations, KHCA could resume its efforts to oppose Costco's Special Exception application.

**To express your opinion and become part of the ongoing dialogue, attend the Oct. 25 KHCA general meeting and stay tuned to the KHCA newsletter and website for further developments**