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VIA E-MAIL agnesk@tigard-or.gov

Ms. Agnes Kowacz
City of Tigard
Tigard Civic Center
13125 SW Hall Blvd.
Tigard, OR 97223

Re: Costco Fuel Station / CUP 2013-0002

Dear Ms. Kowacz:

Enclosed with this letter please provide Costco's proposed edits to the findings from the Planning Commission's Final Order 2014-03 PC in this matter dated May 22, 2014. Costco is providing these proposed edits for consideration by staff and the City Council in response to the pending appeal from Cain Petroleum. If you have any questions, please contact me.

Best regards,

A handwritten signature in black ink, appearing to read 'David J. Petersen', with a long horizontal flourish extending to the right.

David J. Petersen

DJP/djp
Enclosure
cc (by e-mail): Mr. David H. Rogers
Ms. Sonia Hennum Daleiden
Ms. Kelly Laustsen

Costco's Proposed Revisions to Final Order 2014-03 PC

Page 5

In the findings on 18.330.030.A.3, add the following sentence: "Adequate streets and utilities capacity exists as analyzed in response to Development Code Chapter 18.810." This could be inserted immediately before "This standard is met."

Page 12

Replace the finding under 18.620.040.A.1 with the following:

This criterion applies to all street facing elevations within 10 feet of a public street. The fuel station canopy will be set back from SW Dartmouth by 58 feet 8 inches. Therefore this criterion does not apply.

Further, the City Council finds that there are good reasons not to apply the street-facing elevation standard to the fuel station canopy. First, the canopy must necessarily admit vehicles to the gas pumps underneath, which cannot occur through doors and windows. Second, the purpose of the standard is to create visual interest with windows, displays and openings, thereby avoiding featureless walls along pedestrian walkways. But with the greater setback here, the risk of a featureless visual canyon is eliminated. Visual interest for pedestrians will still exist with views of adjacent landscaping and the fuel station beyond. Third, the open sides of the canopy are the functional equivalent of windows, providing visual access to activity under the canopy.

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Replace the finding at the very bottom of the page under 18.620.090 with the following:

The City Council agrees with the recommendations of the DET and the Planning Commission. Substantial evidence supports those recommendations as set forth in the DET report attached to this Order as Exhibit "D." The City Council further finds that this standard is met because the applicant has submitted a site plan that meets the DET's recommended conditions.

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Replace the findings under 17.705.030.H with the following:

Access to the site is from SW Dartmouth Street. The two existing driveways to the site are approximately 617 feet apart. No new access is proposed. The existing driveway locations are well over 300 feet from existing offsite driveways to the south. There is an existing driveway about 50 feet north of the site. Because no new driveways or other access points are proposed, this standard is met.

The staff report dated April 7, 2014 identified possible concerns about sufficient turning radius at the north entrance for fuel delivery trucks. As recommended by

City staff, the City Council finds that the applicant's redesign of the north entrance as part of this project that will eliminate this concern.

The staff report dated April 7, 2014 also identified potential queuing onto SW Dartmouth Street of vehicles entering the Costco site at the south entrance. The report cited unspecified field observations, but these observations were not corroborated. The applicant introduced traffic counts and video documentation of traffic operations at the south entrance on a busy weekend peak period that revealed no queuing spillback from the south entrance driveway onto SW Dartmouth Street. In fact, the video showed very limited queuing at all during the peak period. As the applicant explained, the south driveway is long enough to accommodate many cars, and the primary movement at the inbound end of the driveway is a right turn that rarely causes significant delay. The applicant also submitted testimony from its warehouse manager that he had not seen inbound queuing at the south entrance back up onto SW Dartmouth at any time in the six years he has worked there, except possibly if construction or an accident blocked another entrance.

The City Council finds the applicant's evidence to be specific, corroborated and directly on point, while the field observations cited in the staff report are general and uncorroborated. The weight of the evidence demonstrates there is no queuing problem at the south entrance and no mitigation is required. Consequently, no condition of approval is needed to address this issue, and there is no need or justification to require the applicant to enter into agreements with neighboring property owners for off-site parking. The City Council agrees with and adopts the Planning Commission's approval of the project without condition #6 as proposed in the April 7, 2014 staff report.

Page 28

Replace the findings under 18.810.030.CC with the following:

The applicant submitted a traffic study dated August 5, 2013, as supplemented by reports dated April 1, April 23 and April 28, 2014. Collectively, those reports show that the new fuel station will generate about 45 additional net new vehicles (or 90 net new trips) to the site during the critical weekday p.m. peak hour, which is less than 9% of the current traffic on SW Dartmouth Avenue and less than 3% of the current traffic on Highway 99W.

The applicant's traffic reports show that with this small contribution of additional trips and the completion of improvements already under construction, the intersection of 99W and SW Dartmouth Street will meet the adopted prevailing ODOT operational standard (i.e., volume-to-capacity ratio) even with the proposed fuel station in place. The applicant's reports also show that while the intersection as a whole meets the applicable standard, there are individual movements on the northbound and southbound approaches that are currently operating at overcapacity. However, with construction of new right-turn lanes in both the northbound and southbound directions, those movements would operate

at equal or better conditions even with the proposed fuel station in place, as compared to operations without the fuel station and without mitigation. Thus, even though not required by any applicable approval criteria, the applicant proposes to mitigate the proposed project's impact on those specific movements by constructing new right-turn lanes in both the northbound and southbound directions at the 99W/Dartmouth intersection. These improvements are required by condition #1.

The City Council finds that substantial evidence shows that the proposed fuel station will not cause the 99W/SW Dartmouth intersection, or any other transportation facility, to operate in violation of any adopted and applicable operational standard. The City Council also finds, however, that certain movements at the 99W/Dartmouth intersection presently operate overcapacity, but with construction of dedicated northbound and southbound right-turn lanes as proposed by the applicant, those movements will operate at equal or better capacity with the fuel station in place as compared to present conditions. Accordingly, to mitigate the impact of the proposal on those specific movements, the City Council agrees with the Planning Commission's adoption of condition #1 requiring construction of dedicated northbound and southbound right-turn lanes at the 99W/Dartmouth intersection.

The City Council further finds that construction of the right-turn lanes is feasible because substantial evidence in the record shows that construction of the turning lanes is possible, likely and reasonably certain to proceed. Specifically, the applicant has submitted construction drawings showing that the turning lanes can be built. In the case of the northbound right-turn lane, no additional right-of-way is required based on modifications to turning radius standards approved by the City Public Works Department. As to the southbound right-turn lane, evidence submitted by the applicant shows that the property owner at the northwest corner of the intersection is likely to agree to dedicate the necessary right-of-way after further review. A showing of feasibility does not require a showing of absolute certainty, and the property owner's statements are substantial evidence that the southbound right-turn lane is feasible. Further, no contrary evidence showing the infeasibility of either of the proposed right-turn lanes has been submitted.

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Replace the findings under "Rough Proportionality Analysis" with the following:

The Transportation Development Tax (TDT) due for this proposal is \$192,528. This has been calculated using standard Washington County TDT calculation procedures. This calculation accounts for higher-than-normal internal trips between the Costco warehouse and fuel station, because the fuel station serves only Costco members.

The applicant proposes, and condition #1 requires, construction of dedicated northbound and southbound right-turn lanes at the Highway 99/SW Dartmouth

intersection. The report of the applicant's traffic engineer dated April 1, 2014 constitutes substantial evidence that the cost of those improvements is \$237,833, and no contrary evidence has been submitted. Improvement of the Dartmouth/99W intersection is an "eligible capital improvement" under Washington County TDT Code Section 3.17.070(B) and Appendix C thereto, and therefore the full cost of the right-turn lanes is creditable against the TDT. The applicant also proposes driveway modifications but they are not TDT creditable because they serve only the applicant's property.

According to Washington County, the TDT is implemented at a level estimated to recover 23.3% of the cost County-wide to provide transportation system capacity sufficient to accommodate new development. Thus, 100% of the transportation capacity cost resulting from this project would be the TDT amount (\$192,528) divided by 23.3%, which equals \$826,299. The applicant proposes improvements costing \$237,833 which is 28.8% of the full transportation capacity cost.

FINDINGS: The total cost of creditable improvements (\$287,833) exceeds the TDT due (\$192,528). Because the improvements are fully creditable, completion of the improvements constitutes payment of the TDT in full and no additional payment is due from the applicant. The cost of the creditable improvements is roughly proportional to the project's impact on the transportation system because it equals about 28.8% of the total estimated cost to provide transportation capacity accommodating the development, which is consistent with the 23.3% recovery expected from the TDT County-wide.

Additional findings on appeal

In response to appeal issue #4 alleging a failure to address the transportation issues and deficiencies recommended by Greenlight Engineering, Costco recommends that the City Council make a finding that the lack of specific responses to Greenlight's allegations from the Planning Commission is understood to mean that the Planning Commission considered the issues raised and found them to be without merit. Costco also recommends that the City Council find that it has independently considered the issues raised by Greenlight and, after review of the evidence in the whole record, agrees with the Planning Commission that they are without merit.