



## MEMORANDUM

**To:** Kirkland Hearing Examiner

**From:** Eric Shields, Planning Director, SEPA Responsible Official  
Janice Coogan, Project Planner

**Date:** March 29, 2012

**Subject:** APPEAL OF SEPA DETERMINATION OF NONSIGNIFICANCE FOR PROPOSED COSTCO WHOLESALE PARKING LOT LOCATED SOUTH OF 8720 120<sup>TH</sup> AVENUE NE, APPEAL FILE NO. APL12-00003

### I. INTRODUCTION

- A. Appellant: Odd Hauge submitted an appeal on March 1, 2012, regarding the State Environmental Policy Act (SEPA) Determination of Nonsignificance for a proposed new 63 stall parking located on the east side of 120<sup>th</sup> Avenue NE, south of NE 90<sup>th</sup> ST and adjacent to the existing Costco parking lot (Enclosure 1).
- B. Action Being Appealed: The SEPA Responsible Official (Planning Director) decision to issue a Determination of Nonsignificance (DNS) on February 17, 2012 (Enclosure 3). The SEPA review (case SEP11-00022) was conducted in conjunction with a pending land surface modification permit case LSM11-00032 currently under review for the proposed parking lot. Proposed plans and supplemental technical reports including surface water analysis are included in Enclosure 4. The purpose of SEPA review and City regulations are to mitigate potential project impacts. The City did not identify any short term or long term significant adverse environmental impacts as part of the SEPA review.
- C. Applicant: Patrick Mullaney with Foster Pepper LLC representing Costco Wholesale submitted a response brief to Mr. Hauge's appeal letter in Enclosure 2.
- D. Appeal: In his appeal letter Mr. Hauge claims that the current storm water system in the watershed no longer functions as designed and must be dealt with before further pavement of the proposed parking lot adds to the storm water flow in the watershed (Enclosure 1).

See Sections V and VI for more information regarding the appeal issues and staff analysis.

### II. RULES AND CRITERIA FOR APPEAL AND DECISION

- A. Rules: Kirkland Municipal Code (KMC) Sections 24.02.220 through 24.02.240 set forth the rules for SEPA appeals. In the event that a project permit does not include an open record public hearing, the SEPA appeal will be heard and decided upon by the hearing examiner using the provisions of KMC Subsections 24.02.230 (g), (h), and (i), which include hearing notice, participation, and staff report requirements.
- B. Criteria for Submission of an Appeal: Under KMC Section 24.02.230, an appeal must be filed with the environmental coordinator within fourteen calendar days of the date of the determination is issued by the responsible official. Additionally, the appeal must be in written form and must contain a brief and concise statement of the matter being appealed, the specific components or aspects that are being appealed, the appellants basic rationale

or contentions on appeal, and a statement demonstrating standing to appeal. The appeal may also contain whatever supplemental information the appellant wishes to include.

- C. Participation in the Appeal: Only the applicant or proponent, city staff, and persons who have appealed the SEPA determination may participate in the appeal. These persons may participate in the appeal in either or both of the following ways:
  - 1. Submit written testimony to the Planning Department prior to distribution of the staff report (eight days prior to the appeal hearing).
  - 2. Appear at the hearing and submit oral or written testimony directly to the hearing body. The hearing body may reasonably limit the extent of oral testimony to facilitate the orderly and timely conduct of the hearing.
- D. Hearing Scope and Considerations: KMC Section 24.02.230(i)(1-4) sets for the following additional appeal procedures.
  - 1. The matters to be considered and decided upon in the appeal are limited to the matters raised in the notice of appeal.
  - 2. The decision of the responsible official shall be accorded substantial weight.
  - 3. All testimony will be taken under oath.
  - 4. The decision of the hearing body hearing the appeal shall be the final decision on any appeal of a threshold determination including a mitigated determination of nonsignificance.
- E. Decision on the Appeal: Pursuant to KMC Section 24.02.230(h), the hearing body shall consider all information and material within the scope of the appeal submitted by persons entitled to participate in the appeal. The hearing body shall either:
  - 1. Affirm the decision being appealed; or
  - 2. Reverse the decision being appealed; or
  - 3. Modify the decision being appealed.

### **III. BACKGROUND AND SITE DESCRIPTION**

- A. Site Location: The site for the proposed new parking lot is located south of the existing Costco employee parking lot at 8720 120<sup>th</sup> Avenue NE and is known as the Guynup parcel. The proposed new parking lot is owned by the same owners as the Rose Hill Shopping Center to the south. The site is currently vacant. The existing Costco employee parking lot will be connected together with the new parking lot by a shared access driveway.

To the east is the Forbes Lake office building and associated parking lot. To the west across the street is the Costco Wholesale store (Enclosure 4).
- B. Zoning and Land Use: The site is approximately .71 acres (30,984 sf) and zoned Rose Hill Business District 3 (RH 3).

### **IV. APPEAL ISSUES**

The SEPA appeal letter from Mr. Hauge was submitted before the March 2, 2012 deadline to appeal the SEPA determination. Mr. Hauge's appeal issue is related to storm water runoff in the Forbes Creek drainage basin (Enclosure 1).

### **V. APPLICANT'S RESPONSE TO APPEAL ISSUES**

Costco Wholesale Corporation submitted a response to Mr. Hauge's appeal letter on March 27, 2012 and is contained in Enclosure 2. In summary, the applicant requests the Hearing Examiner deny Mr. Hauge's SEPA appeal on the basis that the City's SEPA determination complies with SEPA requirements and that the City will mitigate the environmental impacts through

development regulations rather than through the EIS process. The response letter also states that Mr. Hauge's SEPA appeal should be dismissed for failing to comply with the criteria in KMC 24.02.230 in that the appeal letter does not identify the specific aspects the project that will allegedly lead to a significant adverse environmental impact and the applicant does not have standing in the appeal case.

## **VI. STAFF RESPONSE TO APPEAL ISSUES**

The SEPA "threshold determination" is the formal decision as to whether the proposal is likely to cause a significant adverse environmental impact for which mitigation cannot be easily identified. The SEPA Rules state that *significant* "means a reasonable likelihood of more than a moderate adverse impact on environmental quality [WAC 197-11-794(1)]". In addition, *significant* involves an analysis of the context, intensity, and severity of the impact.

Where City regulations have been adopted to address an environmental impact, such regulations are adequate to achieve sufficient mitigation [WAC 197-11-660(1)(e)]. Therefore, when requiring project mitigation based on adverse environmental impacts, the City would first consider whether a regulation has been adopted for the purpose of mitigating the environmental impact in question. The City would then look at the project site and proposed use and determine if it presents unusual circumstances or impacts as a result of different site size or shape, transition between uses, topography, or inadequate infrastructure. Mitigation may then be required if the proposal results in significant adverse environmental impacts which substantially exceed the limitations anticipated with the adopted City codes.

In light of this approach, the City has reviewed the appellant's appeal issues and provides the following finding of facts and conclusions.

### **A. Background on Forbes Creek Drainage Basin**

#### **1. Facts:**

- a. The subject property is located within the Forbes Creek drainage basin. Surface water from the property flows to lower elevations, to catch basins located along 120<sup>th</sup> Avenue NE and NE 90<sup>th</sup> ST, eventually flowing into Forbes Lake located north of NE 90<sup>th</sup> ST. (Enclosures 5 and 6).
- b. *The following information is provided for background on the storm water system in the drainage basin and was provided by City of Kirkland Public Works Department staff Jenny Gaus, Surface Water Engineering Supervisor and Kelli Jones, Storm Water Utility Engineer.*

Information in this section is provided as background material, and is not necessarily directly related to the environmental impacts of the proposed project. Because of the long history that Mr. Hauge has in approaching the City on this issue, staff would like the Hearing Examiner to have as complete a picture as possible for use in review of the matter at hand.

A pipe on the west side of the intersection of NE 90th Street and 120th Ave NE drains the bulk of the water from the 340-acre upstream basin. Water exiting the pipe runs north through city unopened right of way, city park property, and several private properties before flowing into Forbes Lake. This pipe is currently submerged as is a portion of the drainage system stretching to just north of the Costco driveway on the west side of 120th Ave NE. Although having a submerged system is not desirable in terms of maintenance as it reduces pipe longevity and makes sediment removal challenging, this condition at this location does not cause significant roadway flooding or other public safety hazards.

Much of the area stretching north from NE 90th Street to Forbes Lake is extremely flat (6 feet of fall over approximately 900 feet). The soils map for the area suggests the historic presence of wetlands (Enclosure 7). As of 1936, it appears that ditches had been dug, likely to drain this area so that it could be used for agriculture (Enclosure 8). A ditch stretching north from NE 90th Street to Forbes Lake was dredged through the 1970s by King County. Kirkland annexed the area in 1988, and conducted limited dredging until 1994, when work was halted due to changed environmental regulations. The pipe discussed above was installed when the ditch probably still existed to some extent – in approximately 1985. The pipe was likely free-flowing (not submerged) when it was installed, but has become submerged as the ditches have filled and as beavers have begun to work the area, raising the water level. In addition, development of the basin, which was largely done before stormwater controls were first required (approximately 1979), has altered the volume and flow rate of water that reaches this area. Surrounding properties may have filled portions of what was historically wetland, as development occurred prior to the implementation of City wetland regulations (Costco, Rose Hill Presbyterian Church). This has likely reduced the area in which water can pond. Historically wet conditions have returned, and wetness has also likely increased due to upstream development and loss of historic wetland area.

Mr. Hauge purchased property north of NE 90th Street and west of 120th Ave NE in 1993 and 1997. In 1998, Mr. Hauge appealed the City's determination that a Type I wetland existed on his property. The Hearing Examiner denied the appeal in 1999. Since that time he has continued to dispute the presence of wetlands on his property through letters to the City Council and public meetings. He points to stormwater runoff and lack of a free-flowing drainage ditch between NE 90th Street and Forbes Lake as causes of wetland conditions on his property, and questions the need to regulate development of these wetlands, which he contends were artificially created.

The issue at hand is whether and/or how the proposed project will impact the drainage situation at the intersection of NE 90<sup>th</sup> Street and 120<sup>th</sup> Avenue NE. Definition of the problem is key here – it is questionable whether the presence of wetlands alone, without associated significant flooding of structures or roadways, should be considered to be a drainage issue given their role is to store water and protected through environmental regulations. Surface water design regulations as contained in KMC 15.52.060, namely the 2009 King County Surface Water Design Manual (KCSDM) and Kirkland Amendment, allow for full analysis of downstream drainage issues, and so this should not be a SEPA issue.

The following is a summary of how downstream drainage issues are addressed in the KCSDM. The KCSDM leads an applicant through a set of eight Core Requirements to determine the type and size of facilities that must be provided for mitigation of surface water impacts (pages 1-21 to 1-64). Core Requirement #2 (page 1-23) requires analysis of the off-site drainage system. If downstream drainage issues are identified, they must be classified by Type. In this case, a high water level in a wetland would be identified as a Type 1 Conveyance System Nuisance Problem as indicated by this text from the KCSDM:

“For any other nuisance problems that may be identified downstream, this manual does not require mitigation beyond the area-specific flow control facility requirements applied Core Requirement #3 (Section 1.2.3.1) because preventing aggravation of such problems (e.g. those caused by the elevated water surfaces of ponds, lakes, wetlands, and closed depressions or those involving downstream erosion) can require two to three times as much onsite detention volume, which is considered unwarranted for nuisance problems....” (page 1-25)

The following further explains the principles of impact mitigation for drainage problems associated with lakes and wetlands:

“When a problem is caused by high water-surface elevations of a volume-sensitive water body, such as a lake, wetland, or closed depression, aggravation is the same as for problems caused by conveyance overflows. Increasing the volume of flows to a volume-sensitive water body can increase the frequency of the problem’s occurrence. Increasing the duration of flows for a range of return frequencies both above and below the problem return frequency can increase the severity of the problem; mitigating these impacts requires control of flow durations for a range of return frequencies both above and below the problems return frequency. The net effect of this duration control is to release the increased volumes from development only at water surface elevations below that causing the problem, which in turn can cause an increase in these lower, but more frequently occurring, water surface elevations. This underscores an unavoidable impact of development upstream of volume-sensitive water bodies: the increased volumes generated by the development will cause some range of increase in water surface elevations, no matter what detention standard is applied.” (page 1-28 KCSDM)

The KCSDM further states that for conveyance system nuisance problems “...Increases in the projects contribution to this type of problem are considered to be prevented if sufficient onsite flow control and/or offsite improvements are provided as specified in Table 1.2.3.A (p. 1-36).” Table 1.2.3.A notes that flow control performance criteria for impact mitigation for a Conveyance System Nuisance Problem (Type 1) are the same as those for a Conservation Flow Control area – no additional mitigation is required. As noted below, the proposed project will be required to provide Conservation Flow Control.

2. Conclusion: Nothing about the preliminary storm water plans indicates that the proposal would cause an adverse significant impact to the environment that would not be mitigated via surface water design requirements. The City will continue to review the preliminary plans for the proposed Costco parking lot for compliance with the regulations discussed below.

## B. Storm Water Runoff Requirements

### 1. Facts:

- a. The property is approximately .71 acres. The proposed parking lot improvements shown in LSM11-00032 include an asphalt surface, an underground detention facility with discharge into a catch basin located in 120<sup>th</sup> Avenue NE, striping for 63 parking stalls, internal and perimeter landscaping, pedestrian pathways and storm drainage improvements. Preliminary plans from the applicant show an erosion control plan

that is still being reviewed (see Enclosure 4). Lot coverage requirements limit the amount of impervious surface to 80%.

The plans include a technical report prepared by Barghausen Engineers dated October 2011, incorporating a storm water analysis and geotechnical report by Kleinfelder. The revised study was submitted on March 19, 2012 and is currently under review (Enclosure 4).

The proposed project is required to comply with 2009 King County Surface Water Design Manual and Kirkland Amendment per KMC 15.52.060. The project will be required to provide flow control and water quality treatment facilities that meet the requirements of the 2009 King County Surface Water Design Manual (KCSWDM) as amended by the City of Kirkland per KMC 15.52.060. Full details in how the applicant proposes to meet Core Requirements 1-8 are provided in the Technical Information Report for the project. The City received the updated TIR for the project, and is in the process of reviewing this document. What follows is a summary of general requirements under Core Requirement #3 (Flow Control) and Core Requirement #8 (Water Quality) as City staff understands them thus far. These requirements appear to be most relevant to the issues raised in Mr. Hauge's appeal letter.

Under Core Requirement #3 Flow Control, the project must provide Conservation Flow Control because the site drains to a tributary of Forbes Creek, which is a fish-bearing stream. Conservation flow control, which is intended to protect streams and constructed drainage systems downstream of a developed area, requires that flows leaving the developed site match flows that would have occurred were the site in a forested (i.e. pre-developed) condition. Specifically, flows from the developed site must match the duration of forested flow rates from half of the 2 year storm event to the 50 year storm event as well as match the forested peak flows for the 2 and the 10 year storm event. Low impact development (LID) best management practices (BMPs) are required where feasible per KCSWDM Section 5.2.1.

Under Core Requirement #8 Water Quality the project must provide enhanced basic water quality treatment, which is a designed to remove 80% of influent total suspended solids and 50% of the total zinc from runoff for a typical rainfall year. This level of treatment is required for commercial industrial and multi-family land uses that discharge to fish-bearing streams. Forbes Creek supports trout and salmon, among other species. Enhanced basic treatment can be provided in one of a variety of underground or aboveground facilities including a stormwater wetland, large sand filter, a combination of two facilities in series, one of which is either a sand filter or a canister filter systems, or proprietary systems that have been approved by the Washington State Department of Ecology.

The applicant will provide engineering plans, and the City will review them for compliance with the regulations noted above.

2. Conclusion: Since the land surface modification permit is currently under review, staff will continue to review the design for the parking lot to ensure it complies with the code requirements for storm drainage requirements.

**VII. STAFF RECOMMENDATION**

Staff did not find any significant adverse environmental impacts regarding the project in terms of the proposed storm drainage. Therefore, staff recommends that the Hearing Examiner uphold the February 17, 2012 SEPA Determination of Nonsignificance.

**VIII. JUDICIAL REVIEW (KMC24.02.240)**

Judicial review of SEPA determinations is by RCW 43.21C.075 required to be heard only at the time of judicial review of the underlying action, i.e. approval or disapproval of the proposal for which SEPA review was required. For rules on perfecting and timing of the SEPA determination and judicial appeal, see RCW 43.21C.075 and WAC 197-11-680(4). The notice required by WAC 197-11-680(5) shall be appended to the permit or "notice of appeal" at the time of final city action. (Ord. 4150 § 2 (part), 2008)

**IX. ENCLOSURES**

1. Hauge Appeal Letter
2. Costco response letter from Patrick Mullaney, Foster Pepper
3. SEP11-00022 DNS, Staff Memo, Environmental Checklist
4. Proposed LSM plans, storm drainage plans and technical reports
5. Forbes Lake Drainage System map
6. Vicinity drainage map
7. Soils map
8. 1936 Aerial Photo

Cc:

Oskar Rey, City Attorney's office  
Patrick Mullaney, Foster Pepper  
Applicant-Costco Wholesale  
Appellant- Odd Hauge  
John Ellingsen, Barghausen  
Jenny Gaus, Public Works  
Kelli Jones, Public Works  
File: APL12-00003



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Avi PM  
PLANNING DEPARTMENT  
BY \_\_\_\_\_

City of Kirkland  
Janice Coogan, Senior Planner

Dear Janice,

We are appealing the go-ahead for Costco's parking lot (ref. SEP11-00022). The 63 stall parking lot will require further paving and that will add to the storm-water flow. The storm-water system no longer functions as designed and the present runoff from asphalt in the watershed must be dealt with before we add to it.

Kirkland,  
March 1, 2012



Odd Hauge  
11834/44 NE 90<sup>th</sup> Street



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BEFORE THE CITY OF KIRKLAND  
HEARING EXAMINER

In Re: Appeal Of Odd Hauge

No. SEP11-00022

File No. APL12-00003

**PRE-HEARING MEMORANDUM  
OF APPLICANT COSTCO  
WHOLESALE CORPORATION**

**I. INTRODUCTION**

Costco Wholesale Corporation (“Costco”) respectfully submits this prehearing Memorandum to address the Mr. Odd Hauge (“Hauge”) SEPA Appeal. As explained below, Costco’s proposed development complies with the City’s newly-adopted, rigorous stormwater requirements. Additionally, SEPA does not require Costco to address pre-existing conditions on Mr. Hauge’s property that are not caused, or exacerbated by, its proposed development.

**II. NATURE OF THE PROJECT**

Costco’s proposed development consists of constructing a 63-stall parking lot on a 0.71 acre site to serve the existing Costco Warehouse store, which is located to the west of the development site across 120<sup>th</sup> Avenue NE. The parking lot improvements include the addition of a paved parking area, stormwater controls, landscaping, sidewalk construction and fire hydrant

1 relocation. A new, off-site sidewalk will be constructed along 120<sup>th</sup> Avenue NE. The new  
2 parking lot will connect to an existing parking lot which is located to the north of the  
3 development site.

4 Currently, there is no existing storm drain system on the development site. Runoff flows  
5 north and northwest and drains into a series of open ditches, catch basins and pipes in 120<sup>th</sup>  
6 Avenue NE. This system discharges to a point to the north of the intersection of 120<sup>th</sup> Avenue  
7 NE and NE 90<sup>th</sup> Street, which is the upstream inlet to Forbes Ditch. Forbes Ditch conveys runoff  
8 from the drainage basin into Forbes Lake. October 13, 2011 Technical Information Report  
9 (“TIR”) prepared by Barghausen Engineering. Excerpts from the TIR are attached. A copy of  
10 the complete TIR will be provided at the hearing as an exhibit.

11 The project is subject to Kirkland’s 2009 drainage code standards. These standards  
12 include the 2009 King County, Washington Surface Water Design Manual, as amended by the  
13 City of Kirkland Addendum (“2009 King County Manual”). Because the project adds  
14 impervious surface, it is subject to Full Drainage Review, detention, water quality, and low  
15 impact development best management practices, including conservation flow control and  
16 enhanced water quality elements. TIR, p. 4.

### 17 III. THE HAUGE SEPA APPEAL

18 Costco is aware that Mr. Hauge is a landowner with property that is located to the north  
19 of Costco’s warehouse and the proposed development site. Mr. Hauge’s property is located near  
20 Forbes Lake in an area of relatively low elevation with respect to the rest of the drainage basin.  
21 Mr. Hauge has a long-standing dispute with the City, contending that his property has become  
22 wetter over the past several decades. Mr. Hauge attributes the change in conditions on his  
23 property, in part, to increased development in the basin and to the City’s failure to dredge the  
24 Forbes Ditch stream channel.

25 Mr. Hauge’s three-sentence SEPA appeal does not identify any specific stormwater  
26 impacts attributable to Costco’s proposed development. Instead, Mr. Hauge speculates that the

COSTCO’S PRE-HEARING MEMORANDUM - 2

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1 parking lot will require further paving that will add to the stormwater flow. He also contends  
 2 that the City's overall stormwater system for the area "no longer functions as designed" and that  
 3 "the present runoff from asphalt in the watershed must be dealt with before we add to it."

#### 4 IV. RELATIONSHIP BETWEEN SEPA AND THE CITY'S SURFACE WATER 5 REGULATIONS

6 The City employs an integrated and consolidated project permit process based upon the  
 7 City's comprehensive plan and development regulations. KMC 20.04.100, .120. The City's  
 8 determination of consistency "shall be based on review of the applicable development  
 9 regulations. . . ." KMC 20.04.120. The City's review emphasizes existing requirements and  
 10 adopted standards, with the use of supplemental authority as specified by Chapter 43.21C RCW  
 11 to the extent that existing requirements do not adequately address a project's specific probable  
 12 adverse environmental impacts. *Id.*

##### 13 A. The City's Decision On Costco's Proposed Development Complies With SEPA.

14 Selection of an environmental review process is left to the sound discretion of the  
 15 appropriate governing agency. *Pease Hill Community Group v. County of Spokane*,  
 16 62 Wash.App. 800, 809, 816 P.2d 37 (1991). SEPA allows agencies to determine that a project's  
 17 environmental impacts will be mitigated through its development regulations, rather than through  
 18 the EIS process to meet SEPA requirements. *King County WTD v. King County Hearing*  
 19 *Examiner*, 135 Wn.App. 312, 325-27, 144 P.3d 345 (2006). (Snohomish County's adoption of  
 20 seismic regulations constituted reasonable and adequate mitigation); RCW 43.21C.240(1) and  
 21 (2).

22 The agency's decision must be accorded substantial weight and should be upheld on  
 23 review unless it is "clearly erroneous." RCW 43.21C.090; *Indian Trail Property Owner's Assoc.*  
 24 *v. City of Spokane*, 76 Wash.App. 430, 442, 886 P.2d 209 (1994). An agency's decision is  
 25 "clearly erroneous" only when the reviewing court is left with the definite and firm conviction  
 26 that a mistake has been committed. *Norway Hill Preservation & Protection Ass'n v. King*

1 *County Council*, 87 Wash.2d 267, 274, 552 P.2d 674 (1976); *Wenatchee Sportsmen Ass'n v.*  
2 *Chelan County*, 141 Wn.2d 169, 176, 4 P.3d 123 (2000). In this SEPA appeal, Mr. Hauge has  
3 the burden of proof. KMC 145.95.

4 Here, the City's SEPA decision is not clearly erroneous and should be upheld.  
5 KMC 15.52.050 and .060 require development of stormwater plans that meet the City's  
6 stormwater design criteria, which is accomplished through compliance with the 2009 King  
7 County Manual.

8 The Barghausen TIR demonstrates compliance with the applicable regulations in this  
9 case. To mitigate for increased runoff, the project has applied Conservation Flow Control,  
10 resulting in a required storage volume of 9,240 cubic feet in an underground detention vault.  
11 TIR p. 11. The development include a water quality wet vault and StormFilter vault to meet the  
12 enhanced basic treatment requirements of the City of Kirkland Addendum to the 2009 King  
13 County Manual. Finally, the project will utilize low impact development standards to convert  
14 approximately 10% of the site into a rain garden with a volume of approximately 775 cubic feet.  
15 TIR, p. 11. As a result of these mitigations, TIR § 3.2, p. 9 concludes that "the runoff from the  
16 proposed project will be reduced slightly . . . so there will be no change in the performance of the  
17 downstream system."

18 Costco's obligation under the 2009 King County Manual is to apply the basic control  
19 standards of Core requirement #3 (flow control). The Manual does not require additional  
20 mitigation to address the pre-existing ground and surface water fluctuations on Mr. Hauge's  
21 property. TIR, p. 9.

22 In short, as will be explained at the hearing, Costco will expend hundreds of thousands of  
23 dollars to comply with the City's new, stringent stormwater standards. In so doing, Costco has  
24 fulfilled its obligations to the City's substantive code provisions and to SEPA. For this reason,  
25 Mr. Hauge's SEPA appeal should be denied.  
26

COSTCO'S PRE-HEARING MEMORANDUM - 4

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1 **B. Mr. Hauge's SEPA Appeal Is Subject To Dismissal For Failing To Comply With**  
2 **KMC 24.02.230.**

3 Mr. Hauge's SEPA appeal should also be dismissed because it fails to meet the  
4 requirements of KMC 24.02.230(d). KMC 24.02.230 requires that a SEPA appeal include 1) "a  
5 brief concise statement of the matter being appealed;" 2) "the specific components or aspects that  
6 are being appealed;" 3) "the appellant's basic rationale or contentions on appeal;" and 4) "a  
7 statement demonstrating standing to appeal."

8 Here, Mr. Hauge fails to identify the specific components or aspects of the project that  
9 will allegedly lead to a significant adverse environmental impact. Instead, he merely speculates  
10 that the act of paving will add to stormwater flow.

11 Mr. Hauge's appeal also does not include a statement demonstrating standing to appeal.  
12 A party wishing to challenge actions under SEPA must meet a two-part standing test: (1) the  
13 alleged endangered interest must fall within the zone of interests protected by SEPA, and (2) the  
14 party must allege an injury in fact. *Leavitt v. Jefferson County*, 74 Wash.App. 668, 678-79, 875  
15 P.2d 681 (1994). The injury in fact element is satisfied when a plaintiff alleges the challenged  
16 action will cause "specific and perceptible harm." *Leavitt*, 74 Wash.App. at 679, 875 P.2d 681.

17 Because Mr. Hauge has failed to provide the statement required by KMC 24.02.230(d)  
18 and because Mr. Hauge's alleged injury is merely conjectural or hypothetical, he does not have  
19 standing. *Trepanier v. City of Everett*, 64 Wash.App. 380, 383, 824 P.2d 524 (992); see *CORE v.*  
20 *City of Olympia*, 33 Wash.App. 677, 683-84, 657 P.2d 790 (1983) (a bald assertion of injury  
21 without supporting evidentiary facts is insufficient to support standing).

22 **V. CONCLUSION**

23 For the forgoing reasons, Costco respectfully requests that the Examiner deny  
24 Mr. Hauge's SEPA appeal.

1 DATED this 27<sup>th</sup> day of March, 2012.

2 FOSTER PEPPER PLLC

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4 Patrick J. Mullaney, WSBA No. 21982  
5 Attorney for Costco Wholesale Corporation

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# TECHNICAL INFORMATION REPORT

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**Guynup Parcel**  
8629 120th Avenue N.E.  
Kirkland, WA 98033

City of Kirkland File No. TBD

Prepared for:  
Costco Wholesale  
999 Lake Drive  
Issaquah, WA 98027

October 13, 2011  
Our Job No. 6222



CIVIL ENGINEERING, LAND PLANNING, SURVEYING, ENVIRONMENTAL SERVICES  
18215 72ND AVENUE SOUTH KENT, WA 98032 (425) 251-6222 (425) 251-8782 FAX  
BRANCH OFFICES ♦ OLYMPIA, WA ♦ TACOMA, WA ♦ SACRAMENTO, CA ♦ TEMECULA, CA  
[www.barghausen.com](http://www.barghausen.com)

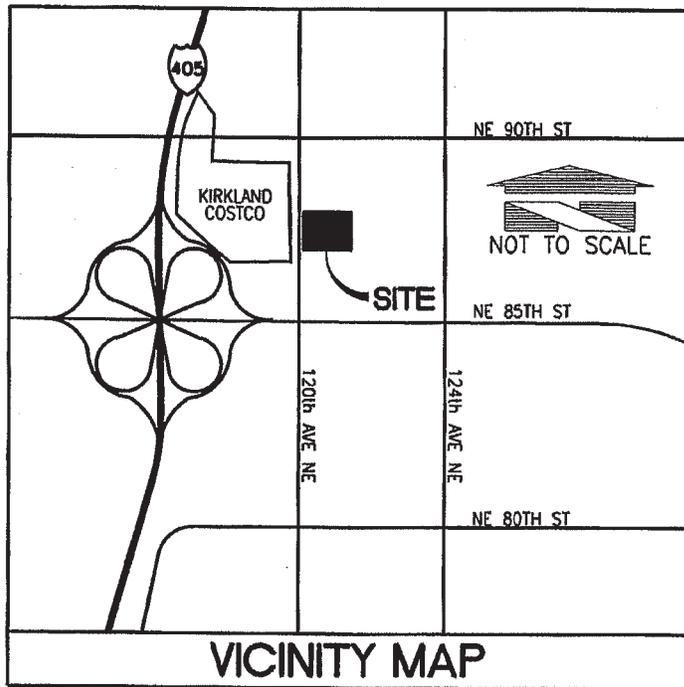
## 1.0 PROJECT OVERVIEW

The proposed 0.71-acre parking lot project lies within Section 4, Township 25 North, Range 5 East in the City of Kirkland, Washington. More specifically, the site is located on Tax Parcel No. 123850-0110-08 and is located to the east of 120th Avenue N.E. lying four tax parcels south of the intersection with N.E. 90th Street. The project site is an undeveloped lot where a new parking lot will be constructed to serve the existing Costco warehouse under a lease agreement.

The site is bordered to the west by 120<sup>th</sup> Avenue N.E. and the existing Costco warehouse. To the south and east is commercial property and to the north is an existing parking lot. The site slopes primarily to the northwest with slopes ranging from 3 percent to 30 percent slopes. Site soils consist of sandy loam. No sensitive areas have been identified on this parcel.

Currently, there is no existing on-site storm drain system. Runoff flows to the north and northwest toward the northern property line and draining into 120<sup>th</sup> Avenue N.E. Ultimately, the existing drainage system within 120<sup>th</sup> Avenue N.E. consists of a series of open ditches, catch basins, and pipes. This system discharges to a point north of the intersection of 120th Avenue N.E. and N.E. 90th Street, which is the upstream inlet to Forbes Ditch. This ditch conveys the runoff from the North Forbes Lake drainage basin into Forbes Lake.

The on-site improvements will include the addition of stormwater controls, paved parking area, landscaping, a sidewalk connection, and fire hydrant relocation. The new parking lot will connect to the existing parking lot to the north, owned by Costco. Based on the addition of new impervious surfaces, the improvements trigger Full Drainage Review as defined by the City of Kirkland. In accordance with the 2009 King County, Washington Surface Water Design Manual (KCWSWDM) and the City of Kirkland Addendum to the KCWSWDM; detention, water quality, and Low Impact Development (LID) Best Management Practices (BMPs) will be applied to the site. Conservation Flow Control and Enhanced Water Quality elements have been designed in accordance with the aforementioned manuals.



### 3.0 OFF-SITE ANALYSIS

#### 3.1 Upstream Drainage

There is very minimal upstream area contributing to the site. A small upstream basin of approximately 0.04 acres drains into the project area from the south. This area is not anticipated to impact the project.

#### 3.2 Downstream Drainage Course

The downstream drainage course flows to the north in the west side of 120th Avenue N.E. for 345 feet where it discharges to the upstream inlet of Forbes Ditch.

Forbes Ditch is constricted by silt in varying degrees from this point to Forbes Lake. The water level in the ditch is also influenced by a very high seasonal groundwater table. The runoff from the proposed project will be reduced slightly with the increase in pervious surface so there will be no change to the performance of the downstream system.

There are no recorded drainage complaints available for this report but the City of Kirkland provided the following text:

Downstream problems in the Vicinity of 120<sup>th</sup> Ave NE from NE 90<sup>th</sup> Street north to Forbes Lake

1. The area between N.E. 90th Street and Forbes Lake has what appears to be a large area of wetlands and the water level in these wetlands determines the water level in the drainage network from the Costco site to Forbes Lake because the pipes in the area are very flat. Portions of the drainage system at the intersection of N.E. 90th Street and 120th Avenue N.E. are underwater throughout the year (see attached map). Backwater impacts of water levels in the pipe system should be considered in the project design. Water levels in the wetland appear to have caused nuisance problems such as driveway overtopping and yard flooding for the property at 8734 120th Avenue N.E.
2. Water level fluctuations in Forbes Lake cause nuisance yard flooding for properties directly adjacent to the lake during large (> 10-year) storm events.

Further study of these issues beyond the Level 1 Downstream Analysis will not be required, as based on the following in the 2009 KCWSWDM:

*"For any other nuisance problem which may be identified downstream, this manual does not required mitigation beyond the basic flow control standard applied in Core Requirement #3. This is because to prevent aggravation of such problems (e.g. those caused by the elevated water surfaces of ponds, lakes, wetlands, and closed depressions or those involving downstream erosion) can require two to three times as much onsite detention volume, which is considered unwarranted for addressing nuisance problems..."*  
(KCWSWDM page 1-25)

#### 4.3 Flow Control Design

The proposed site involves the addition of asphalt and concrete pavements. To mitigate for increased runoff, the project has applied Conservation Flow Control, resulting in a required storage volume of 9,240 cubic feet. Detention storage will be provided in a underground detention vault designed pursuant to the 2009 KCWSWDM. The detention portion of the vault, or live storage, will be placed above the dead storage contained in a 154'x20'x7' (LxWxD) combined detention/wetvault. Please refer to calculations within this Section.

#### 4.4 Water Quality

The proposed site involves the addition of asphalt and concrete pavements, which are classified as pollution generating surfaces. A water quality wetvault and StormFilter vaults are proposed to provide water quality for Enhanced Basic Treatment in accordance with City of Kirkland Addendum to the 2009 KCWSWD.

The wetvault required storage volume is approximately 2,493 cubic feet. This volume will be placed beneath the live storage within the combined vault. In addition, a Stormfilter has been designed to meet the Enhanced Basic Menu. The proposed Stormfilter consists of a 48-inch Contech manhole with 3 ZPG filter media cartridges. Please refer to calculations within this Section.

#### 4.5 Low Impact Development

The City of Kirkland requires an evaluation of the applicability of utilizing LID BMPs at the site. Based on the Stormwater Low Impact Development Feasibility Evaluation Worksheet, the site is required to apply the use of a Rain Garden. The site will contain more than 65 percent impervious in the developed condition and based on the requirements, 10 percent of the site area (3,102 square feet) will be conveyed to the proposed rain garden. The required volume is approximately 775 cubic feet. Please refer to the Evaluation Worksheet and Calculations within this section.

