

Attachment N: Landscaping and Forest Conservation Plans

M.R. Adelman

Mark R. Adelman, Ph.D.

Costco/Westfields's Landscaping and Forest Management Plans: One Step Down the Slippery Slope

by

Mark R. Adelman, Ph.D. [1]

Webmaster, The Stop Costco Gas Coalition (SCGC) [2]

This is a document related to Costco's Special Exception application S-2863, asking for approval to build/operate a mega gas station in the southwest quadrant of Westfield's Wheaton Plaza. It is a filing, on behalf of the SCGC, in opposition to S-2863. In a sense it is an addendum to our separate filing (Exhibit C) rebutting Costco's Land Use Report. And it is relevant to our filing (Exhibit D) on the Sector Plan. More specifically it is in rebuttal to a filing that Costco did not make.

I. Overview and Background

The site on which Costco proposes to build/operate its mega gas station is immediately adjacent to the Kensington Heights neighborhood; that includes residential homes, the Kenmont Swim Club, and the Stephen Knolls School for special needs children. The interface between the Costco site and the adjacent neighborhood is a portion of Wheaton's Green Forested Buffer. It is a relatively thin strip of land but is nevertheless one of the largest portions of the Forested Buffer, the protection of which is required by the Wheaton Sector Plan. It is also a sloping domain through which the air pollutants released by the proposed gas station will reach the Kensington Heights community: such pollutants must follow this path because they will flow downhill and prevailing winds will simply add to the physical forces that drive them down this slope.

Montgomery County Code, that governs how Costco's application (S-2863) must be evaluated, specifies (section 59-G-1.23 (d)) that the applicant (Costco) must file a Forest Conservation Plan (FCP), related to the forested buffer mentioned above. However Costco has not filed such an FCP because it claims to have received an exemption from this requirement. The exemption in question (42011026E) was issued by the Montgomery County Planning Department to Westfield Corporation, for the Wheaton Costco Mall Addition construction project.

But since that exemption was issued (improperly - see following) at a time when Costco had not yet applied for the Special Exception needed for the proposed mega gas station, and the gas station is a separate project from the Costco Mall Addition, it is clearly not appropriate to claim that the exemption applies to the gas station. In fact, given that the proposed gas station is to be sited even closer to the Forest Buffer than is the Costco store, and poses a far more likely threat to the Forest and Stream Buffer than does the store, it seems especially important to re-visit the entire matter of the issuance of the exemption and require that the Planning Department process separate applications for exemptions (one for the store, another for the gas station). More to the point, Costco should comply with the Forest Buffer protection mandate as set forth in the Wheaton Sector Plan and submit the required Forest Protection Plan, rather than relying on exemption(s) of questionable validity.

Those who wish more information on the above should read the three attachments to this filing. Attachment A is an excellent and remarkably brief article published by the

Audubon Naturalist Society (ANS) in early 2012. Attachments B and C are copies of letters, sent by ANS, to the Director of the Planning Department requesting that the process by which the exemption was granted be reviewed in light of a number of irregularities that ANS had identified. ANS also raised concerns about the implications of failure to even recognize the existence of the forested buffer because the forest section in question is in a stream buffer and Westfield/Costco had, by virtue of the above cited exemption, thus also been exempted from having to comply with conditions of the regulations (NRI-FSD) that would normally apply so that storm water management plans are consistent with preserving the qualities of stream buffers and, thus, groundwater. A separate filing on this matter, by ANS, is included as Exhibit O.

II. The Specific Issue

The County Code that determines how S-2863 is to be evaluated also requires that Costco file information on how it plans to landscape the property (the mega gas station) for use of which it is requesting approval. Costco provided this information in its Land Use Report, to which we have filed an extensive rebuttal (Exhibit C). In Costco's Land Use Report (CLUR), the landscaping issue is raised not simply as a matter of landscaping *per se*, but repeatedly in the context of the "screen wall" that Costco proposes to erect so as to "protect" the residents of the Kensington Heights neighborhood from any potentially negative impacts of the mega gas station. In our rebuttal of CLUR we noted:

"Its filed plans for landscaping constitute a *de facto* plan for Forest Conservation/Management and the exemptions granted inherently preclude any certainty that the plantings will be guided by appropriate County agencies."

That is, there is an inherent conflict between Westfield/Costco's having obtained an exemption (of contested validity) from having to file a Forest Conservation Plan (and thus also satisfy regulations regarding the effects of stormwater management on the impacted forest and stream buffer) and its plans to do landscaping work near/in the forest buffer. The past actions of Montgomery County's Planning Department provide no assurance that it will direct/monitor what Westfield/Costco actually do as they muck about with Wheaton's Green Forested Buffer. We request (as does ANS in Exhibit O) that the County fully implement the Forest Buffer protection mandate as set forth in the Wheaton Sector Plan. Unless/until this matter has been fully resolved, Costco should not be allowed to use the questionable exemption as part of S-2863.

It should be noted that Planning Staff, in its report to the Planning Board (Exhibit U) rejected our assertions regarding the impropriety of the process by which the disputed exemption was issued. Their wording (p. 27) of the report reads, in part,

"The submitted exemption plan did not show a stream or stream buffer nor did that exemption show any clearing or grading outside of the ring road and no forest was proposed for removal."

This wording is remarkably similar to the wording provided by Mark Pfefferle, (Chief, Development Applications and Regulatory Coordination, Montgomery County Planning Department) in response to a question from Councilmember Navarro's

chief of staff regarding this matter:

"The submitted exemption plan did not show a stream or stream buffer nor did that exemption show any clearing or grading outside of the ring road. No forest was proposed for removal on the exemption plan."

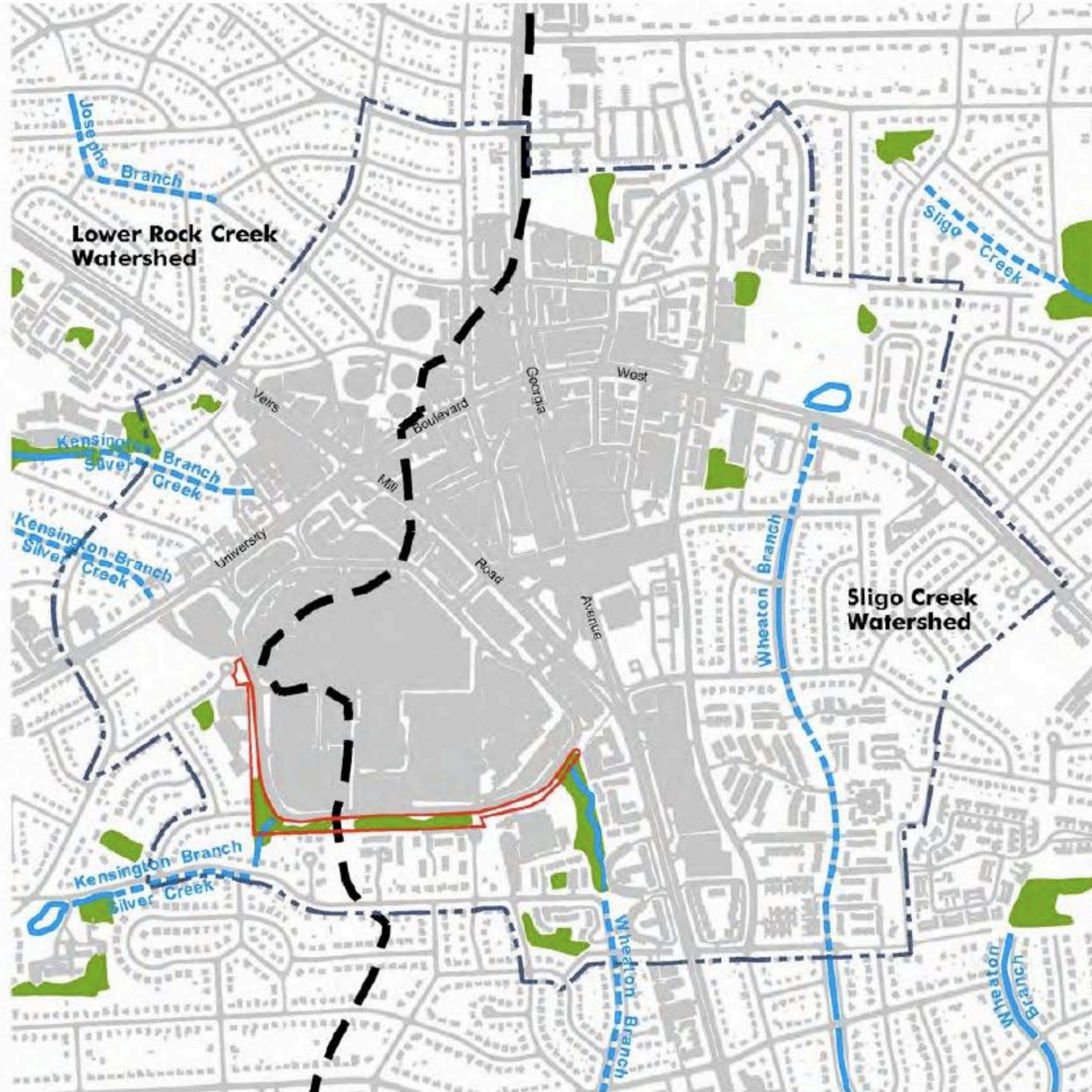
That the wording is so similar can perhaps be attributed to the fact that both staffs work in the same building and presumably discuss such matters. But what is troublesome is that both sources seem to be saying that the source for their information is the applicant's "submitted exemption plan". Had either group of County Staff consulted the attached maps (attachments A-C), they could have easily confirmed that the site for the proposed gas station is essentially on top of Silver Creek, which flows into Rock Creek, thence to the Potomac. And that Wheaton Branch starts just to the east of "Mt. McComas" (i.e very close to the proposed gas station site), flows into Sligo Creek, and thence into the Anacostia Watershed. Thus any pollutants flowing away from the proposed gas station site will reach the Chesapeake Bay (and add to its contaminant load) via two watersheds.

III. Conclusion

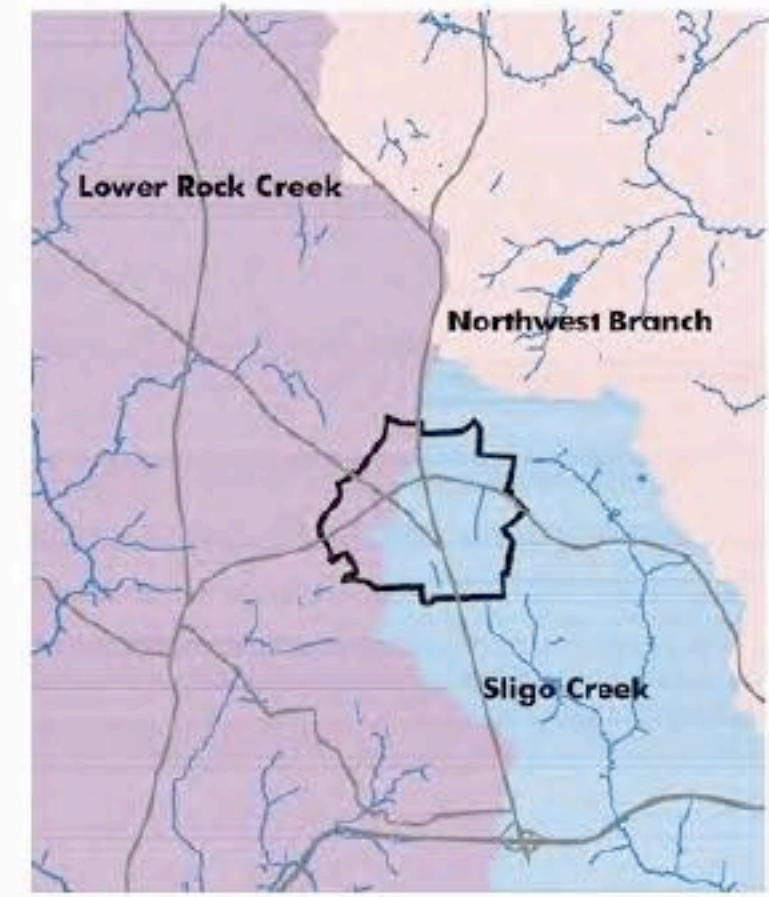
The discussion above is yet another example of why Costco's application (S-2863) does not satisfy the elements of the Code that must be satisfied if S-2863 is to be approved. They add still more weight to our assertion that S-2863 must not be approved: **it must be denied.**

ENDNOTES

1. Dr. Adelman has an AB in Biology and a PhD in Biophysics. His CV is available at (<http://www.educationalassistance.org/MRA/MRAPersonal/CV.html>). He has over 40 years experience in reading and evaluating complex documents and deciding whether the data presented support the conclusions reached.
2. The Stop Costco Gas Coalition was formed in October 2012 by a group of citizen-activists who were concerned that only a small segment of the public was following the Costco mega gas station issue. The SCGC website (www.stopcostcogas.org) has a large amount of information about the application, background material relevant to understanding the Special Exception process, references providing information on citizen concerns, and a listing of the members who have joined the Coalition.



- Wheaton Sector Plan Boundary
- Watershed Boundary
- Remnant Streams
- - - Streams in Storm Drains
- Westfield Wheaton Green Buffer
- Impervious Surface
- Forest



Watersheds



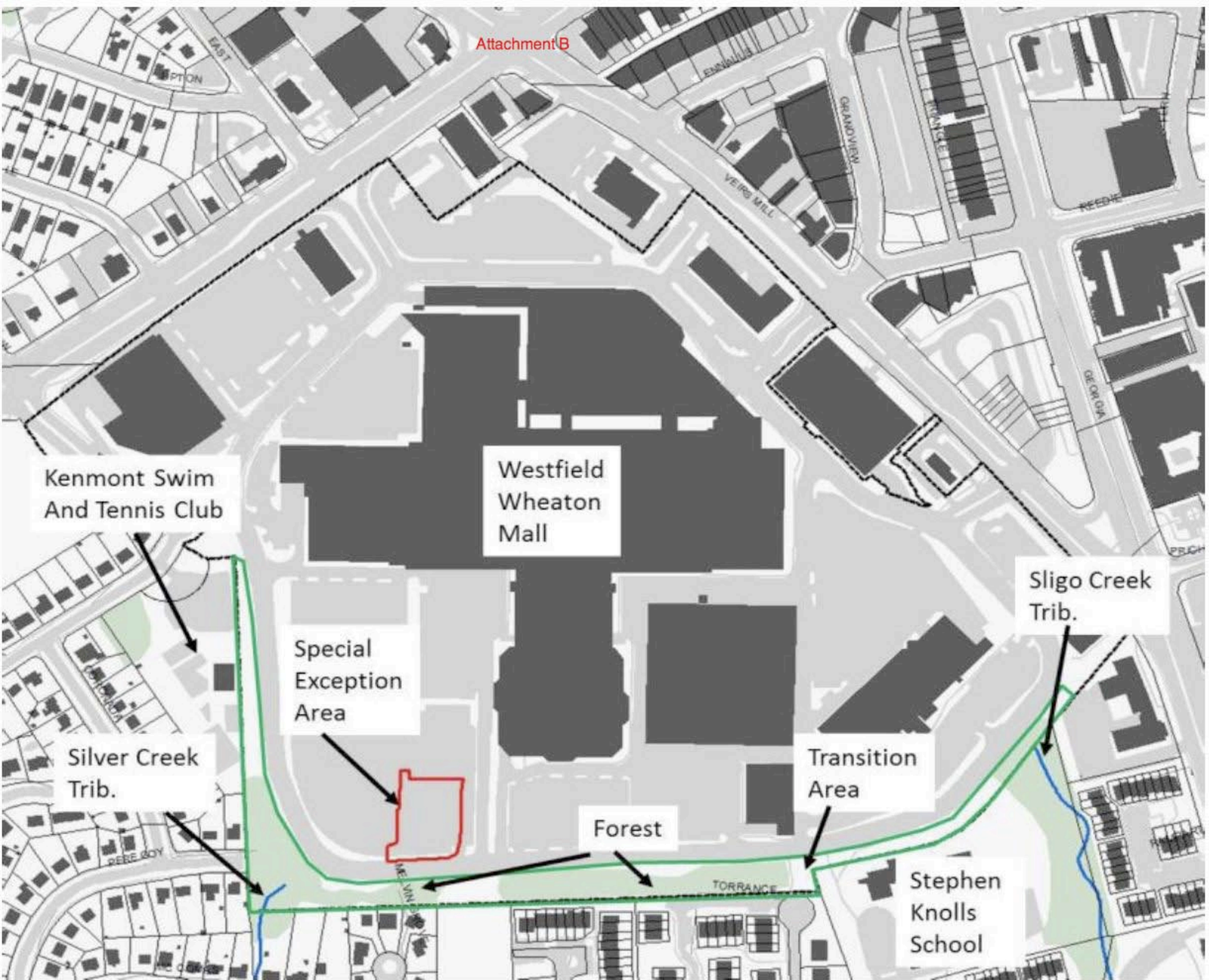
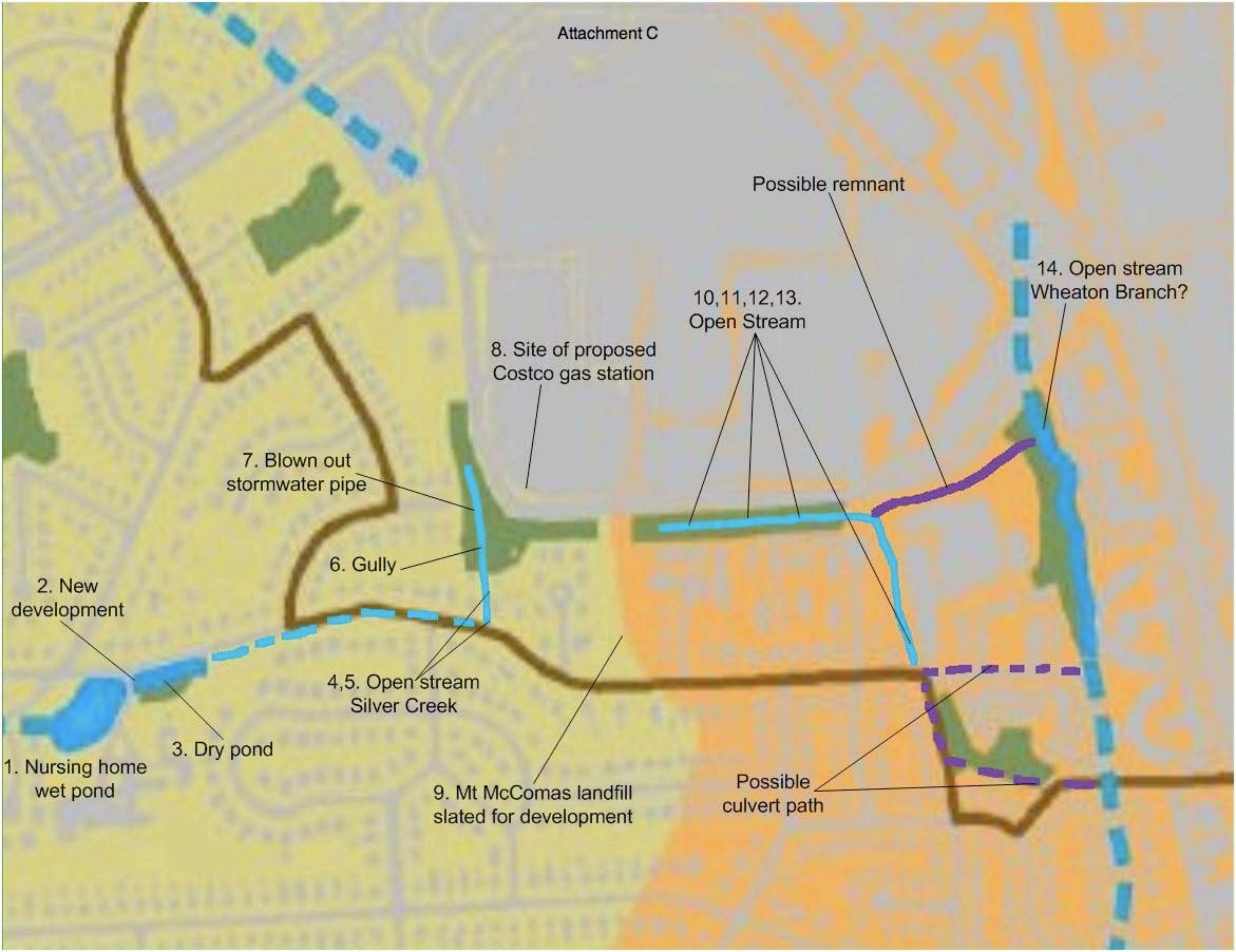


Figure 2: Environmental Features



Possible remnant

14. Open stream
Wheaton Branch?

10,11,12,13.
Open Stream

8. Site of proposed
Costco gas station

7. Blown out
stormwater pipe

6. Gully

4,5. Open stream
Silver Creek

9. Mt McComas landfill
slated for development

Possible
culvert path

2. New
development

3. Dry pond

1. Nursing home
wet pond