



DATE: September 22, 2020

TO: Mayor and City Council

FROM: City Attorney

SUBJECT: Motion to Renew Debate on Proposed Development of a Fuel Facility with Related Site Improvements at the Costco Business Center Located at 22330 Hathaway Avenue, Application No. 201706217 (Assessor Parcel No. 429-0082-003-00)

RECOMMENDATION

That the City Council votes to renew debate on the proposed Costco Fuel Facility to allow consideration of the project by the full Council. A vote to renew does not constitute a vote in favor of the project. Rather, an affirmative vote merely expresses a willingness to continue debate on the matter at a future noticed hearing.

SUMMARY

The proposed Costco Business Center Fuel Facility was considered by City Council on July 21, 2020. Although several motions were made, Council could not achieve four affirmative votes one way or the other, and the matter failed. On September 15, 2020, an oral request was made to put a Motion to Renew on the next agenda.

BACKGROUND

On July 21, 2020, the City Council considered Costco's proposal, Major Modification to an Existing Planned Development (Application No. 201702617), to add a Fuel Facility to their business center located on Hathaway Avenue in the City of Hayward.¹ Six Council Members were present. Following a full and fair public hearing, several motions were made. None of the motions garnered four affirmative votes. Because four votes were not reached as to any motion, they all failed.

¹ Based on comments made during the July 21st meeting, the Sustainability Committee scheduled a meeting in November to discuss a possible moratorium on gas stations.

On September 15, 2020, an oral motion was made to add a Motion to Renew to the next agenda. Accordingly, this item was added to tonight's agenda.

DISCUSSION

A Motion to Renew is a procedural device that allows continued debate on a previously heard item. A vote to renew does not constitute a vote in favor of the project. Rather, an affirmative vote merely expresses a willingness to continue debate on the matter. If there are four votes in favor of renewing debate on the project, the item will be brought back to Council on a later agenda for continued debate. Council can approve, with or without additional conditions, or deny the project at that time. A motion to renew differs from a motion to reconsider, as a motion to reconsider typically occurs at the same or next meeting. A motion to reconsider also requires that the motion be made by the prevailing side. Here there was no prevailing side. A motion to renew can be made by any member at a subsequent meeting.

ECONOMIC AND FISCAL IMPACT

There is no economic or fiscal impact from this procedural matter.

STRATEGIC ROADMAP

This is not applicable as this is a procedural matter.

SUSTAINABILITY FEATURES

This is not applicable as this is a procedural matter.

PUBLIC CONTACT

This is a procedural matter which does not require additional public contact beyond inclusion on the published agenda. If Council votes to renew the motion, the matter will be put on a future City Council Agenda and notice will be sent consistent with prior noticing of this matter.

NEXT STEPS

Following City Council approval, Costco's request will return to the City Council for further consideration.

Prepared by: Joseph Brick, Assistant City Attorney

Recommended by: Michael Lawson, City Attorney

Approved by:



Kelly McAdoo, City Manager