9a

EXHIBIT: _____
LAND CONSERVATION & DEVELOPMENT COMMISSION
DATE: 3-13-09
PAGES: 3
SUBMITTED BY: David Peterson w/ TenKon Corp

RESPONDENTS' SUBMITTAL

BEFORE THE LAND CONSERVATION AND DEVELOPMENT COMMISSION

IN RE THE MATTER OF JOYCE MORGAN (PETITIONER)
V. DOUGLAS COUNTY (RESPONDENT)
LUBA NO. 2009-014

March 11, 2009

The Respondents (and Intervenors-Respondent) in the above-referenced action, namely Douglas County, Powell Development Company, Old School Offices, Inc., Perry-Johnson Development, and Costco Wholesale Corporation, hereby object to the intervention of the Department of Land Conservation and Development in the above-referenced LUBA proceeding for the following reasons:

First, DLCD's characterization (in its agenda) of the issue, ". . . an interpretation by the county to allow a **retail use** in an industrial zone" (emphasis added) is inaccurate and misleading. The issue has never been whether a retail use in general is being allowed in an industrial zone. Rather, the real issue is whether a Costco Wholesale membership warehouse club specifically, which possesses many attributes of wholesale operations (addressed below), is allowed in the County's M-2 (or Medium Industrial) zone.

Second, the resolution of the foregoing question is purely local in nature, and thus has little or no impact on matters of state importance. Virtually all of the local stakeholders have answered such question in the affirmative; only one individual has appealed the County's widely-supported interpretation.

- The interpretation was made by the Douglas County Planning Commission following a hearing in which significant public testimony was given.
- The Douglas County Board of Commissioners declined review of the interpretation, which rendered the Planning Commission decision final.
- The City of Roseburg, to which the subject project will likely be annexed following its construction, has reviewed and approved the proposed development.
- More than 6,000 local citizens have signed petitions in favor of the proposed development.

The local nature of the proposal is evident from its potential employment impact on Douglas County: about 175 to 225 new jobs, roughly half of which are full-time and with a starting wage of $11 per hour and an average wage over $17 per hour. All jobs, both full and part-time, include benefits.

Third, the use permitted in this case, a Costco Wholesale membership warehouse club, possesses many attributes of wholesale operations, thus making the subject interpretation appropriate. The wholesale attributes include, but are not limited to:

- A Costco warehouse does not look or feel like a typical retail store. The elaborate and eye-catching facilities common to many retailers are not found in Costco warehouses. Floor plans are designed for economy and efficiency in the use of selling space, the handling of merchandise and the control of inventory. Merchandise is generally stored on warehouse-style racks above the sales floor and displayed on the original shipping

pallets containing large quantities of each item. Costco offers a relatively limited number of items, about 4,000 in the average warehouse, as opposed to an average supermarket inventory of about 30,000 items and an average retail supercenter inventory of about 200,000 items.

- A Costco warehouse does not offer typical retail prices. Unlike typical retailers who commonly have much higher markups, the average Costco markup is less than 10%, and the maximum markup is 15%.
- Costco warehouses are not open to the general public (like true retailers). Instead, one must purchase and maintain a membership to gain access. Memberships are available in both Business and Gold Star (individual) categories. The most recent membership data for the Roseburg trade area (for those who shop at Costco warehouses many miles away) includes 8,666 Business members and 10,349 Gold Star members. However, while Gold Star members outnumber Business members, in Fiscal Year 2008 Business Members were responsible for more total visits to Costco warehouses and approximately 71% of the total sales, as reflected in the following table

Membership Class	**Number of Members**	**Total Visits**	**Total Sales** (rounded to nearest $100K)	**Sales per Visit**	**Sales per Member**
Gold Star	10,349	75,948	$11,500,000	$152	$1,113
Business	8,666	77,401	$28,000,000	$363	$3,241

- Costco does not utilize distribution warehouses like many retailers. Most merchandise is purchased directly from manufacturers and is shipped through a consolidation depot straight to the individual warehouses. Thus, the warehouses themselves double as both a sales floor, and a warehouse (for inventory storage).
- The average size of each Costco transaction is larger than for traditional retailers, and the average length of time for each shopping visit is longer too. Because merchandise is commonly sold in bulk quantities (both for resale and commercial use, and to individual end users), shoppers on average make fewer trips per week or per month to Costco than to traditional retailers. Also, Costco is more of an end destination than traditional retailers, meaning that Costco members tend to plan their trips to Costco in advance, whereas traditional retailers get more spur-of-the-moment visits and visits from people happening to be passing by. Costco shoppers generally are willing to drive farther to visit Costco than to visit other stores; the practical effects of this can be seen by the relatively large number of current Costco members in the Roseburg trade area despite the nearest existing warehouses being in Eugene and Medford. This also suggests that Costco warehouses compete more on a regional level and less on a local level.
- Costco warehouses are generally open between 10:00 a.m. and 8.30 p.m., with earlier closing hours on the weekends. These are shorter hours of operation than most traditional retailers. Because of the later opening time, Costco warehouses generate no traffic during the a.m. peak hour.
- Several existing Costco warehouses are located in zones and districts more suited to warehouse and related industrial uses. For example, seven existing Costco warehouses in the Pacific Northwest are located in industrial zones, including two in Oregon.

Finally, the Petitioner (Joyce Morgan) is represented by an attorney who is well accomplished and experienced in land use matters. Ms. Morgan's attorney will do a more than adequate job

defending DLCD's concerns before LUBA. Respondents intend to provide public testimony before the Commission as well.

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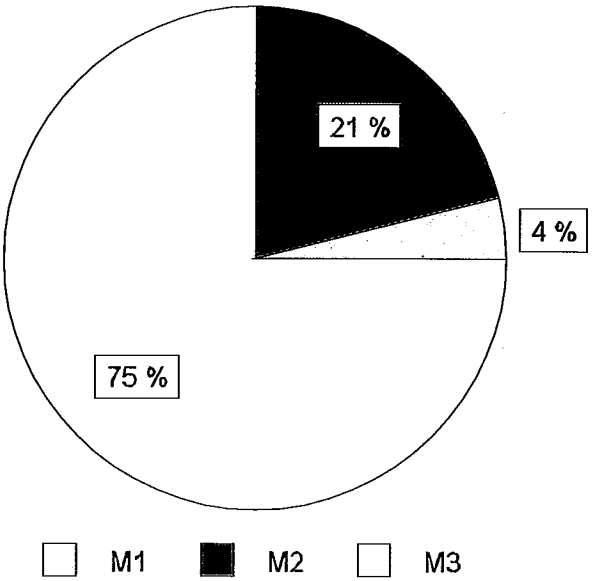
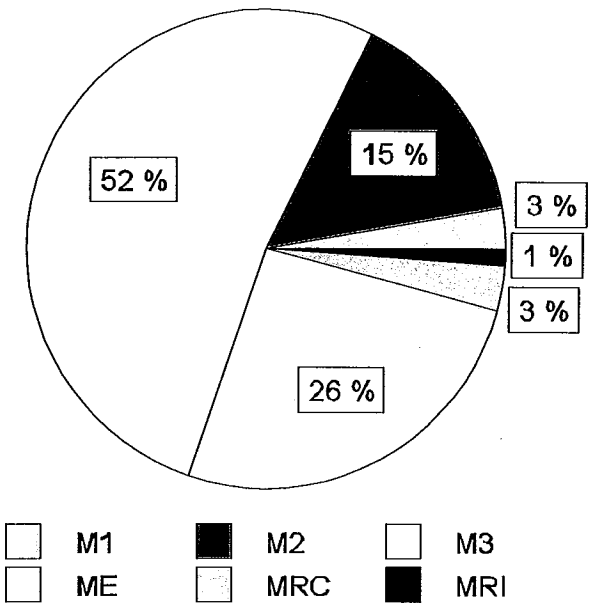
Douglas County Industrial Zoning



Urban Industrial Zoning		
Zone	Acres	Percent
M1	125.3	4 %
M2	739.0	21 %
M3	2669.7	75 %
totals	3534	100 %



Total Industrial Zoning in Douglas County		
Zone	Acres	Percent
M1	125.3	3 %
M2	739.0	15 %
M3	2669.7	52 %
ME	1299.6	26 %
MRC	132.4	3 %
MRI	37.5	1 %
totals	5003.5	100 %

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COSTCO SITE IN ROSEBURG UGB

1.89 Miles
from I-5 Exit 129

NE STEPHENS ST

1.18 Miles
from I-5 Exit 127

EXIT 129

INTERSTATE 5

NW EDENBOWER BLVD

EXIT 127

N

Legend

Douglas County Roads
Jurisdiction

- CITY OF ROSEBURG
- COUNTY
- ODOT
- Costco Site
- Roseburg UGB
- Roseburg City Limits
- Parcels

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MAP PRODUCED BY
DOUGLAS COUNTY PLANNING DEPARTMENT
MARCH 2009