

1 BEFORE THE LAND USE BOARD OF APPEALS
2 OF THE STATE OF OREGON

3
4 L. CALVIN MARTIN
5 and MARK HANEBERG,
6 *Petitioners,*

7
8 and

9
10 DAVID SMITH,
11 *Intervenor-Petitioner,*

12
13 vs.

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15 CITY OF CENTRAL POINT,
16 *Respondent,*

17
18 and

19
20 COSTCO WHOLESALE CORPORATION,
21 and CHARLES E. BOLEN,
22 *Intervenors-Respondents.*

23
24 LUBA No. 2016-042

25
26 FINAL OPINION
27 AND ORDER

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29 Appeal from City of Central Point.

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31 L. Calvin Martin, Jacksonville, and Mark Haneberg, Ashland, filed the
32 petition for review and argued on their own behalf.

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34 David Smith, Medford, filed a petition for review and argued on his own
35 behalf.

36
37 H. M. Zamudio and Sydnee Dreyer, Medford, filed a response brief and
38 argued on behalf of respondent. With them on the brief was Huycke O'Connor

1 Jarvis, LLP.

2
3 David J. Peterson, Portland, filed a response brief and argued on behalf
4 of intervenor-respondent Costco Wholesale Corporation. With him on the brief
5 were Sarah Einowski and Tonkin Torp LLP.

6
7 Mark S. Bartholomew, Medford, filed a response brief on behalf of
8 intervenor-respondent Charles E. Bolen. With him on the brief was Hornecker
9 Cowling LLP.

10
11 RYAN, Board Member; BASSHAM, Board Member, participated in the
12 decision.

13
14 HOLSTUN, Board Chair, did not participate in the decision.

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16 AFFIRMED 09/22/2016

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18 You are entitled to judicial review of this Order. Judicial review is
19 governed by the provisions of ORS 197.850.

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NATURE OF THE DECISION

Petitioners appeal a decision by the city council approving a conditional use permit for a Costco store.

FACTS

Intervenor-respondent Costco Wholesale Corporation (Costco) applied for a conditional use permit to site a 160,000-square-foot warehouse and a 24-pump fueling station on property zoned Industrial (M-1). The property is located in the City of Central Point, approximately one mile southeast of Interstate 5 (I-5) exit 33, the East Pine Street exit. The property is bounded on the east by Table Rock Road, on the north by Hamrick Road, and on the west by Federal Way. Table Rock Road intersects with Airport Road approximately 1300 feet south of Hamrick Road.

The various off-site roads and intersections that may be affected by the proposed development are subject to the planning authority of the county, the City of Central Point, the City of Medford, or the Oregon Department of Transportation (ODOT), depending on their location. Table Rock Road is owned and operated by Jackson County.¹ The affected intersections are shown in the Appendix to this opinion, copied from Record 1900.

¹ The centerline of Table Rock Road is the boundary between the City of Central Point, to the west of the center line, and the City of Medford, to the east of the center line.

1 Costco prepared and submitted with its application a Transportation
2 Impact Analysis (TIA), and the city hired an independent consultant to review
3 the TIA. The TIA analyzed the impacts from the proposed development on
4 twelve affected off-site intersections, as well as impacts from the access points
5 to and from the property on adjacent roads. In analyzing the affected
6 intersections, the TIA assumed that planned transportation improvements in the
7 City of Central Point’s Transportation Systems Plan (City TSP), the Jackson
8 County’s Transportation Systems Plan’s (County TSP’s) Table Rock Road
9 Widening Project, and ODOT’s Interchange Access Management Plan (IAMP)
10 for exit 33 would be constructed, based on their funding priority as “Tier 1”
11 projects.²

12 The Table Rock Road Widening Project is scheduled to be constructed in
13 2017. The project will widen Table Rock Road from its intersection with
14 Biddle Road, located approximately 500 feet to the north of the subject

² The City TSP includes planned improvements scheduled in 2018 (Project 216), at the intersection of East Pine Street and Hamrick Road, located to the northwest of the property. Those improvements include north-south traffic receiving lanes, a through lane, and designated right and left turn lanes on Hamrick Road.

ODOT has adopted a final draft IAMP for I-5, exit 33 that includes Project 9, a project to widen the exit and add dual right turn lanes from the northbound off-ramp to East Pine Street. In its review of Costco’s application, ODOT proposed that Costco pay a proportionate share of the project costs, and that prior to construction, the project must be fully funded and scheduled for construction. The city imposed ODOT’s requirements as a condition of approval.

1 property south to Airport Road, from a two-lane road to a four-lane road with a
2 continuous center turn lane, and include bike lanes and sidewalks on both sides
3 of the road. The widening project includes a new signal at the intersection of
4 Table Rock Road and Airport Road. South of Airport Road, Table Rock Road
5 will be widened to include a continuous center turn lane and bike lanes and
6 sidewalks on both sides.

7 As relevant here, the TIA concluded that the traffic generated from the
8 proposed development would cause the performance of two affected
9 intersections, the I-5 exit 33 interchange and the Biddle Road/Airport Road
10 intersection (located in the city of Medford), to worsen when the store opens.³
11 The TIA also found that the traffic generated by the store would cause one
12 already failing intersection located south of the property, Table Rock Road and
13 Airport Road, to worsen in performance until the completion of the Table Rock
14 Road Widening Project, after which it will operate within acceptable level of
15 service and vehicle to capacity levels. Finally, the TIA concluded that with the
16 traffic added from the store, in 2020 the intersection of East Pine Street and

³ The city imposed a condition of approval that, prior to commencement of construction of the store, the IAMP for exit 33 be scheduled for construction and that Costco pay a prorated share of the costs of the project. The city also imposed a condition of approval requested by the city of Medford that Costco pay a proportionate share of future signalization of the Biddle Road/Airport Road intersection.

1 Hamrick Road (located to the north of the property, in the city of Central Point)
2 would fall below acceptable performance levels.

3 The TIA also analyzed the effects on the transportation system of the
4 proposed site accesses. Costco proposed six new driveway accesses to the site,
5 including two “full access” driveways on Table Rock Road. In analyzing the
6 development site’s access points, the TIA found that the left turn movement
7 from the site’s northeast driveway onto Table Rock Road would fail to meet the
8 operational standard during the weekday p.m. peak hour until the Table Rock
9 Road Widening Project was constructed. After the road widening is completed,
10 all accesses will operate within acceptable limits. For the time period between
11 the opening of the store and the completion of the Table Rock Road Widening
12 Project, the city approved interim mitigation measures to temporarily limit
13 access from the store’s northeast driveway to right in/right out. That temporary
14 mitigation measure will, in turn, temporarily worsen the performance of the
15 Table Rock Road/Hamrick Road intersection at the northeast corner of the
16 property, so the city approved a temporary center turn lane on Table Rock Road
17 and a northbound left turn lane and center refuge area north of Hamrick Road
18 to address impacts to that intersection that are caused by the temporary
19 mitigation at the northeast driveway.

20 The planning commission approved the application, and one of the
21 petitioners, Martin, and intervenor-petitioner Smith (Smith) appealed the

1 decision to the city council. The city council approved the application, and this
2 appeal followed.

3 **REPLY BRIEF/MOTION TO TAKE EVIDENCE**

4 **A. Reply Brief**

5 Petitioners move for permission to file a reply brief to respond to the
6 arguments in the city’s response brief that (1) petitioners failed to state in their
7 petition for review where the issues raised in the petition for review were
8 preserved, as required by OAR 661-010-0030(4)(d), and (2) the issues that
9 petitioners raise in the petition were not raised below and may not be raised for
10 the first time at LUBA. ORS 197.763(1); ORS 197.835(3). The city objects to
11 the reply brief.

12 The reply brief responds to the city’s arguments that several issues were
13 waived. Those arguments are “new matters” within the meaning of OAR 661-
14 010-0039.⁴ The reply brief is allowed.

15 **B. Motion To Take Evidence**

16 In their response brief, Costco took the position that the summary of
17 facts in petitioners’ petition for review failed to comply with OAR 661-010-
18 0030(4)(b)(C) because it failed to include citations to the record. Petitioners

⁴ OAR 661-010-0039 provides in part:

“A reply brief may not be filed unless permission is obtained from the Board. * * * A reply brief shall be confined solely to new matters raised in the respondent's brief, state agency brief, or amicus brief. * * *.”

1 then filed a “motion to take evidence not in the record” that seeks to provide
2 record citations to support facts and arguments set out in the petition for
3 review. Costco objects to the motion as failing to comply with OAR 661-010-
4 0045(2)(a), and also argue that the motion is closer in substance to a reply brief
5 that is not limited to responding to new matters raised in Costco’s response
6 brief.⁵

7 We understand the motion to take evidence to provide citations to the
8 record to support arguments on the merits set out in the petition for review, and
9 for that reason is similar to an addendum to petitioners’ petition for review.

⁵ OAR 661-010-0045 provides in relevant part:

“(1) Grounds for Motion to Take Evidence Not in the Record:
The Board may, upon written motion, take evidence not in
the record in the case of disputed factual allegations in the
parties’ briefs concerning unconstitutionality of the
decision, standing, ex parte contacts, actions for the purpose
of avoiding the requirements of ORS 215.427 or 227.178, or
other procedural irregularities not shown in the record and
which, if proved, would warrant reversal or remand of the
decision.* * *

“(2) Motions to Take Evidence:

“(a) A motion to take evidence shall contain a statement
explaining with particularity what facts the moving
party seeks to establish, how those facts pertain to the
grounds to take evidence specified in section (1) of
this rule, and how those facts will affect the outcome
of the review proceeding.”

1 Petitioners have not demonstrated that their motion satisfies OAR 661-010-
2 0045. Petitioners’ motion to take evidence outside the record is denied.

3 **FIRST ASSIGNMENT OF ERROR (PETITIONERS)**

4 Central Point Municipal Code (CPMC) 17.76.040(B) requires the city to
5 find that “the site has adequate access to a public street or highway and that the
6 street or highway is adequate in size and condition to effectively accommodate
7 the traffic that is expected to be generated by the proposed use[.]” In their first
8 assignment of error, we understand petitioners to argue that the city improperly
9 construed CPMC 17.76.040(B) when it concluded that Table Rock Road and
10 other affected roads and intersections are “adequate in size and condition to
11 effectively accommodate the traffic” from the store.⁶ Petition for Review 15,
12 26. We also understand petitioners to argue that the city’s decision is not
13 supported by substantial evidence in the record.⁷ Petition for Review 26.

⁶ ORS 197.835(9)(a) provides in relevant part that LUBA will reverse or remand a land use decision if LUBA finds that the local government:

“(C) Made a decision not supported by substantial evidence in the whole record; [or]

“(D) Improperly construed the applicable law[.]”

⁷ The petition for review includes a reference to Statewide Planning Goal 12 (Transportation) and the Transportation Planning Rule (TPR) at OAR 660-012-0060. Petition for Review 24. We do not understand the reference to Goal 12 or the TPR to be a developed argument that assigns error to the city’s decision on the basis that the city’s decision fails to comply with those provisions. *Deschutes Development v. Deschutes Cty.*, 5 Or LUBA 218, 220 (1982)

1 **A. Table Rock Road/Airport Road intersection**

2 The intersection of Table Rock Road and Airport Road is located
3 approximately 1,000 feet south of the site.⁸ The intersection currently fails to
4 meet applicable performance standards during the weekday afternoon hours.⁹
5 Traffic from the proposed store will cause this failing intersection to worsen in
6 performance. Upon completion of the Table Rock Road Widening Project in
7 2017, the intersection will perform within acceptable levels at all times.

8 In their first assignment of error, we understand petitioners to argue that
9 the city erred in approving the application because a city of Medford code
10 provision cited by petitioners prohibits development of property whenever the
11 level of service is below level D, unless the developer makes necessary
12 improvements to maintain a level of service D.¹⁰ According to petitioners, this
13 City of Medford code provision requires the city of Central Point to either deny
14 the application or require Costco to make the improvements to the Table Rock
15 Road/Airport Road intersection.

(LUBA does not consider arguments that are unclearly stated and undeveloped).

⁸ That intersection is labeled on the Appendix as “1.”

⁹ The County TSP requires a vehicle to capacity (v/c) ratio of .95 or less for the intersection. Jackson County Transportation Systems Plan, Section 5.2, page 61.

¹⁰ Petitioners cite and quote Medford Municipal Code 10.462.

1 The city responds, initially, that no issue regarding compliance with any
2 provisions of the Medford Municipal Code was raised during the proceedings
3 before the planning commission and therefore the issue may not be raised for
4 the first time at LUBA. In their reply brief, petitioners do not identify any place
5 in the record where an issue regarding compliance with provisions of the
6 Medford Municipal Code was raised. We agree with the city that the issue may
7 not be presented for the first time at LUBA. ORS 197.835(3).

8 Even if the issue was not waived, Costco and the city (together,
9 respondents) respond that provisions of the City of Medford’s code do not
10 apply to the application for a conditional use permit in the city of Central Point,
11 and that Jackson County level of service standards apply to the intersection.
12 We agree. Petitioners have not established that any provisions of the Medford
13 Municipal Code apply to the application, and accordingly their argument that
14 relies on the City of Medford’s code provide no basis for reversal or remand of
15 the decision.

16 We also understand petitioners to argue that the city’s decision to rely on
17 pending commencement of the Table Rock Road Widening Project to mitigate
18 temporary impacts from store traffic on the Table Rock Road/Airport Road
19 intersection until the project is completed improperly construes CPMC
20 17.76.040(B), because there will be a limited period of time during which
21 construction of the road widening project is occurring, the criterion will not be

1 satisfied during the construction period, and no temporary mitigation measures
2 were imposed to remedy that failure until construction is completed.

3 The city concluded that CPMC 17.76.040(B) was met and that no interim
4 mitigation measures at the intersection of Table Rock Road and Airport Road
5 were required because construction of the Table Rock Road Widening Project
6 that is scheduled to begin shortly after store opening will mitigate all impacts
7 on the intersection so that it performs within acceptable levels. The city
8 responds that the city council's interpretation of CPMC 17.76.040(B) as
9 allowing a short temporal separation between store opening and completion of
10 mitigation measures that will address all deficiencies in an off-site impacted
11 facility is not inconsistent with the express language of CPMC 17.76.040(B).
12 Respondent's Response Brief 8. Absent any argument from petitioners
13 explaining why that interpretation is inconsistent with the express language of
14 CPMC 17.76.040(B), we agree with the city. ORS 197.829(1)(a); *Siporen v.*
15 *City of Medford*, 349 Or 247, 243 P3d 776 (2010).

16 Finally, we understand petitioners to argue that the city's decision is not
17 supported by substantial evidence in the record because, according to
18 petitioners, the status of the Table Rock Road Widening Project is uncertain.
19 Costco responds by citing Jackson County's comments on the application that
20 refer to mitigation to be provided during construction of the Table Rock Road
21 Widening Project and the county's testimony before the planning commission
22 regarding the county's plans to manage traffic during construction. Record

1 1287-88, 1571. Costco responds that the city properly relied on that evidence
2 from the county to conclude that the road widening project will occur and will
3 mitigate the identified impacts to affected intersections. We agree. *Dodd v.*
4 *Hood River County*, 317 Or 172, 179, 855 P2d 608 (1993) (substantial
5 evidence is evidence a reasonable person would rely on in making a decision).

6 **B. East Pine Street/Hamrick Road Intersection**

7 The intersection of East Pine Street and Hamrick Road is located
8 approximately 1/2 mile to the northeast of the property.¹¹ The TIA concluded
9 that even with the added traffic from the store, the intersection will operate at
10 acceptable performance levels until 2020. The city's TSP includes Project 216,
11 which will improve the intersection to perform at acceptable levels, scheduled
12 in 2018. *See* n 2. The city concluded that CPMC 17.76.040(B) is met because
13 the intersection is currently performing at acceptable levels, Project 216 is
14 scheduled in 2018, and its construction will avoid the projected failure in 2020.
15 We understand petitioners to argue that the city erred in relying on completion
16 of Project 216 because the status of Project 216 is uncertain. Respondents
17 respond that the evidence in the record is that the city has scheduled Project
18 216 for completion in 2018 and there is nothing to call into question that
19 evidence. We agree.

¹¹ That intersection is labeled on the Appendix as "2."

1 **C. Table Rock Road Adjacent to the Property**

2 Until completion of the Table Rock Road Widening Project, the city
3 imposed temporary mitigation measures that require a temporary center turn
4 lane and also limit the northeast driveway from the property onto Table Rock
5 Road to right in, right out only. That mitigation, however, will add additional
6 left turn northbound traffic to the intersection of Table Rock Road and
7 Hamrick Road on the northeast boundary of the property and will result in over
8 capacity of that turn movement until the Table Rock Road Widening Project is
9 complete.¹² To address that issue, the city required a temporary additional left
10 turn lane to be added to that intersection, and a temporary center refuge area
11 north of Hamrick Road to be added until the Table Rock Road Widening
12 Project is completed.

13 In this section of the first assignment of error we understand petitioners
14 to again argue that CPMC 17.76.040(B) does not allow temporary failures of
15 affected intersections and to argue the city did not impose sufficient mitigation
16 during the interim period between store opening and the completion of the
17 Table Rock Road Widening Project. We also understand petitioners to again
18 argue that there is not substantial evidence in the record that the Table Rock
19 Road Widening Project will occur. Respondents argue, and we agree, that the
20 city’s finding that the temporary mitigation measures on Table Rock Road and

¹² That intersection is labeled on the Appendix as “3.”

1 to the intersection of Table Rock Road and Hamrick Road will mitigate any
2 impacts from traffic from the store until the road widening project is complete,
3 and that the road widening project will allow Table Rock Road to
4 accommodate all traffic from the store, is supported by substantial evidence,
5 and is sufficient to establish compliance with CPMC 17.76.040(B), as
6 construed by the city council.

7 The first assignment of error is denied.

8 **SECOND ASSIGNMENT OF ERROR**

9 CPMC 17.48.020 lists the uses allowed in the Industrial zone.
10 Membership warehouse clubs are not specifically listed in CPMC 17.48.020.
11 CPMC 17.48.020(W) allows the planning commission to approve “[o]ther uses
12 not listed in [the Industrial] district, if the planning commission finds them to
13 be similar to those listed above and compatible with other permitted uses and
14 with the intent of the M-1 district.”¹³ In 2009, the city council adopted a
15 resolution, Resolution 1217, that determined that membership warehouse clubs
16 are similar to other uses allowed in the Industrial (M-1) zone and therefore may
17 be allowed as conditional uses in the zone. Petition for Review Exhibit V. In
18 reviewing Costco’s application, the planning commission and the city council

¹³ CPMC 17.60.140 sets out the city’s procedure to authorize similar uses.

1 relied on Resolution 1217 to conclude that membership warehouses are
2 allowed as a conditional use in the Industrial zone.¹⁴

3 In their second assignment of error, petitioners argue that ORS 227.186
4 required the city to adopt Resolution 1217 by ordinance because the city's act
5 was a "legislative act[]." ¹⁵ We understand petitioners to argue that the city may
6 not rely on Resolution 1217 to authorize the Costco store as a similar use in the
7 Industrial zone because the city failed to comply with ORS 227.186 and adopt

¹⁴ The findings provide:

"Membership warehouses, per Section 17.48.020(W) and 17.60.140, are allowed as a conditional use in the M-1 zoning district per * * * City Council Resolution No. 1217. As such, the planning commission considered and approved the Costco Conditional Use Permit (CUP) application in accordance with the conditional use permit standards and criteria set forth in CPMC 17.76. Per the Applicant's Findings * * * and testimony provided in the record, evidence was submitted into the record as to each criterion under 17.76.040 and was found to comply with all such standards and criteria.

"* * * The Council concludes that the Planning Commission did not err in finding that membership warehouses are permitted subject to a conditional use application under CPMC 17.76 and/or that there was substantial evidence in the record to find that all such standards and criteria were met under 17.76.040." Record 18.

¹⁵ ORS 227.186 was enacted in 1998 when the voters enacted Ballot Measure 56. ORS 227.186(2) provides that "[a]ll legislative acts relating to comprehensive plans, land use planning or zoning adopted by a city shall be by ordinance." Other provisions of ORS 227.186 require individual written notice when a local government adopts an ordinance rezoning property.

1 Resolution 1217 as an ordinance. Petitioners request that LUBA “remand for a
2 Type IV legislative decision.”¹⁶ Petition for Review 39.

3 The city responds that petitioners failed to raise any issue regarding
4 Resolution 1217’s compliance with ORS 227.186(2) during the proceedings
5 below, and therefore petitioners may not raise the issue presented in the second
6 assignment of error for the first time at LUBA. Petitioners have not responded
7 to the city’s argument. Absent any citation to places in the record where the
8 issues raised in petitioners’ second assignment of error were raised, we agree
9 with the city that the issues are waived. ORS 197.763(1); ORS 197.835(3).

10 Respondents also respond that petitioners’ second assignment of error is
11 an impermissible collateral attack on Resolution 1217, a final unappealed land
12 use decision. Even if the issues were not waived, we agree that petitioners’
13 second assignment of error challenges a decision other than the decision on

¹⁶ Exhibits A through U to the petition for review include materials that are not a part of the record of this appeal. In an order dated June 10, 2016, we denied petitioners’ motion to take evidence not in the record that sought consideration of those materials. *Martin v. City of Central Point*, __ Or LUBA __ (LUBA No. 2016-042, Order, June 10, 2016). In an order dated July 20, 2016, we granted Costco’s motion to strike exhibits A through U appended to the petition for review, because those exhibits included the same materials that are not a part of the record and that were the subject of petitioners’ unsuccessful motion to take evidence. *Martin v. City of Central Point*, __ Or LUBA __ (LUBA No. 2016-042, Order, July 20, 2016).

In our June 10, 2016 order, we granted petitioners’ motion to take official notice of Resolution 1217, which is appended to the petition for review as Exhibit V.

1 appeal. The second assignment of error argues that Resolution 1217 is invalid
2 because the city failed to follow notice procedures that apply to decisions to
3 amend a comprehensive plan or land use regulation to rezone property.
4 Resolution 1217 is not the decision challenged in this appeal and any
5 procedural error committed in adopting Resolution 1217 is not subject to
6 challenge in this appeal. Accordingly, petitioners' second assignment of error
7 does not provide a basis for reversal or remand of the decision before us. *Butte*
8 *Conservancy v. City of Gresham*, 47 Or LUBA 282, 296, *aff'd* 195 Or App 763,
9 100 P3d 218 (2004) (assignments of error that collaterally attack a decision
10 other than the decision on appeal do not provide a basis for reversal or
11 remand); *Olson v. City of Springfield*, 56 Or LUBA 229, 233 (2008); *Lockwood*
12 *v. City of Salem*, 51 Or LUBA 334, 344 (2006); *Corbett/Terwilliger Neigh.*
13 *Assoc. v. City of Portland*, 16 Or LUBA 49, 52 (1987).

14 The second assignment of error is denied.

15 **ASSIGNMENT OF ERROR (INTERVENOR-PETITIONER)**

16 Intervenor-petitioner Smith filed a petition for review in which he
17 incorporates petitioners' first and second assignments of error. For the reasons
18 set forth above, those assignments of error are denied.

19 We also understand Smith to assign error to the city's decision to allow
20 Costco to increase the number of parking spaces beyond the amount of spaces
21 required by CPMC 17.64.040 and Table 17.64.02B, pursuant to CPMC

1 17.64.040(B)(2).¹⁷ CPMC 17.64.040(B)(2) allows the city to approve an
2 increase in the off-street parking requirements based on a parking demand
3 analysis that “demonstrate[s] and documents[s] justification for the proposed
4 increase.”

5 Costco responds, initially, that Smith failed to raise the issue in his
6 appeal of the planning commission’s decision and therefore may not raise the
7 issue for the first time on appeal to LUBA. ORS 197.825(2); ORS 197.835(3);
8 *Miles v. City of Florence*, 190 Or App 500, 510, 79 P3d 382 (2003) (if a local
9 appeal is available, LUBA’s review is limited to issues raised, and therefore
10 exhausted, in the local appeal). Smith has not responded to Costco’s waiver
11 argument. According, we agree with Costco that the issue is waived, because it
12 was not raised in either Smith’s or Martin’s appeal of the planning commission
13 decision to the city council.

¹⁷ CPMC 17.64.040(B)(2) provides:

“Adjustments to Non-Residential Off-Street Vehicle Parking. The off-street parking requirements in Table 17.64.02B, Non-Residential Off-Street Parking Requirements, may be reduced, or increased in any commercial (C) or industrial (M) district, as follows:

“ * * * * *

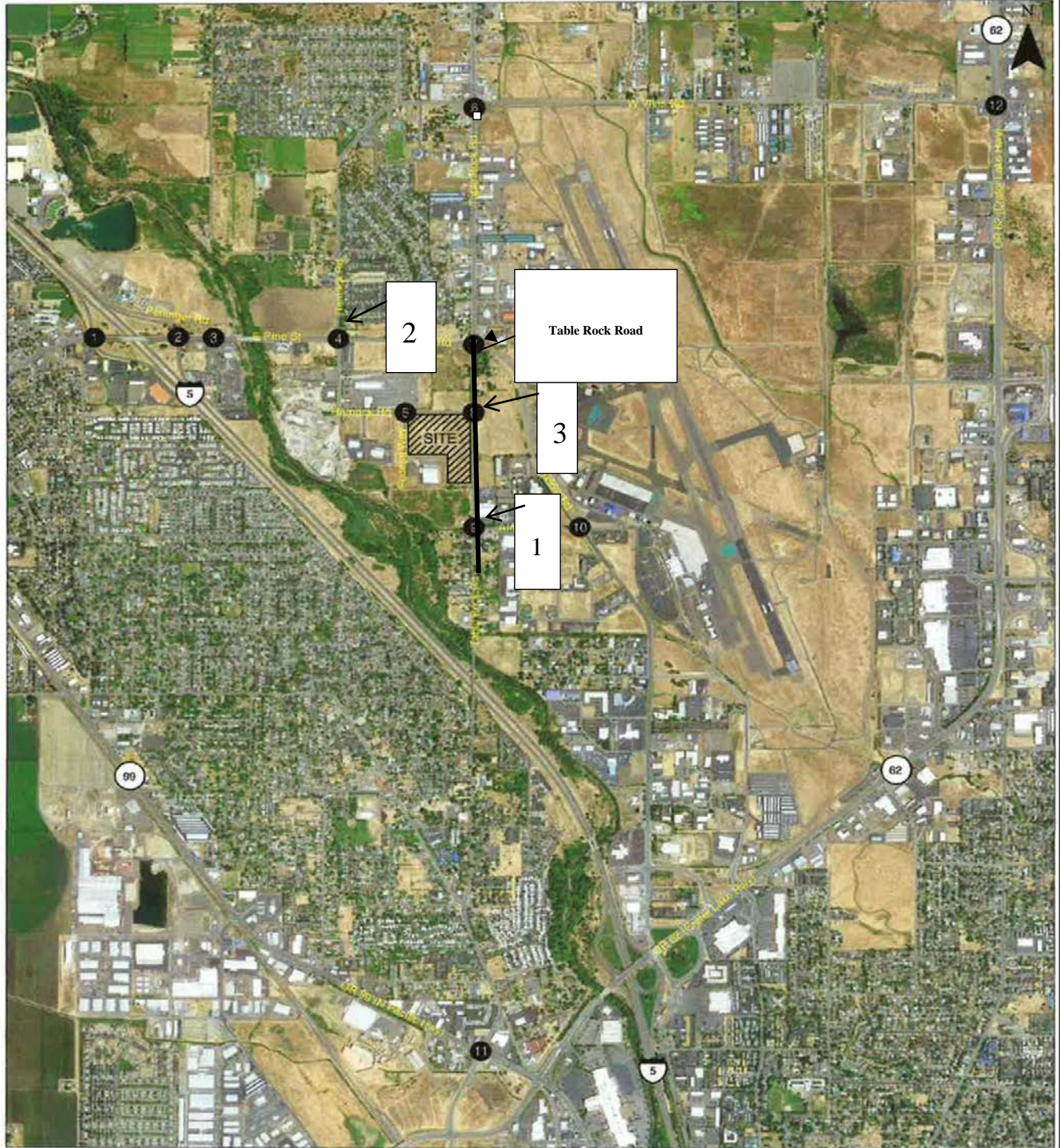
“2. Increases. The off-street parking requirements may be increased based on a parking demand analysis prepared by the applicant as part of the site plan and architectural review process. The parking demand analysis shall demonstrate and document justification for the proposed increase.”

1 Even if the issue was not waived, we agree with Costco’s alternative
2 response that the city’s decision to allow Costco to increase the amount of its
3 off-street parking in accordance with CPMC 17.64.040(B)(2) is supported by
4 the parking demand analysis submitted by Costco that “demonstrate[s] and
5 document[s] justification for the proposed increase.” Record 1943-44.

6 Smith’s first assignment of error is denied.

7 The city’s decision is affirmed.

Central Point Costco TIA



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