November 9, 2017

TO: Planning Commission

FROM: Tyler Barrington, Principal Planner

HEARING DATE: November 9, 2017

SUBJECT: Additional Public Comments

Dear Commissioners,

Enclosed are additional public comments received following the Planning Commission’s October 26, 2017 certification of the project specific Environmental Impact Report (EIR) and Motion of Intent to deny the proposed Alta Sierra Dollar General project and its associated Oak Tree Management Plan. Four of the comments implore the Planning Commission to deny the project. One expresses their displeasure regarding the Planning Commission’s approval of the Penn Valley Project. Two express concern over the Planning Commission’s impending denial of the Alta Sierra project. One is from the applicant’s attorney detailing why their client believes the Planning Commission should approve their project focusing on the draft denial findings and how they conflict with the original staff recommendation. The final letter is from the attorney who filed the appeal regarding the Planning Commission’s certification of the Environmental Impact Report (EIR) and the Penn Valley project to outline why they appealed the Penn Valley project, but support the Planning Commission’s denial of the Alta Sierra project. Please review the enclosed comments in consideration of the final action on the Alta Sierra project and adoption of the project denial findings that were based upon the Planning Commission’s direction when making a motion of intent to deny the Alta Sierra project.

Enclosure: Public comments following Oct. 26, 2017 Planning Commission Meeting
From: Holly Rice <hollyrice2@gmail.com>
Sent: Friday, October 27, 2017 12:25 PM
To: Planning
Subject: Dollar General

Name: Holly Rice 15735 Thiel Way Grass Valley CA
Re: Dollar General Alta Sierra/ My submitted Letter of Opposition yesterday to Planning.
I further Oppose Any Dollar General in Nevada County at any of the 4 Sites.
Support Green Local Businesses
Sincerely

Holly Rice
Sent from my iPad
Hello,
My name is Junet Bedayn and I live on Bernice Drive in Grass Valley. I am writing out of concern for our community, our economy, and our environment. I feel that it is both irresponsible and unnecessary to allow an additional dollar store to clutter our town. We already have three dollar stores in our area, thus making a fourth store, superfluous. If we as a nation -- and a community -- are genuinely concerned about creating more jobs, we should be focused on manufacturing sustainable, quality products in our own nation -- not allowing cheap goods to be shipped in. Finally -- as has become incredibly obvious with the intensity of the most recent storms and hurricanes -- climate change has accelerated and we, as humans, are only helping to accelerate it. It would be irresponsible of our community to allow another store to come in that sells mostly plastic, easily breakable, goods (which can rarely be recycled and have not been proven to decompose... ever).
Please take my concerns into consideration and always inform the community as to how we can be a part of the decision-making process.
Regards,
Junet Bedayn
We do not want this project. Deny the build.

Sent from iPhone Yvonne ANAST-ERB Assistant Principal TB

On Oct 27, 2017, at 3:48 PM, Tyler Barrington <Tyler.Barrington@co.nevada.ca.us> wrote:

Hello,

Attached is the public hearing notice for the final action to deny the Alta Sierra Dollar General Project based on the Nevada County Planning Commission’s October 26, 2017 Motion of Intent to deny the project specific Management Plan and Development Permit.

I sure hope this doesn’t happen in our lovely county. ~ Joyce

On Friday, October 27, 2017 3:49 PM, Tyler Barrington <Tyler.Barrington@co.nevada.ca.us> wrote:

Hello,

Attached is the public hearing notice for the final action to deny the Alta Sierra Dollar General Project based on the Nevada County Planning Commission’s October 26, 2017 Motion of Intent to deny the project specific Management Plan and Development Permit.
I just saw the headline in the Union Direct that your planning commission has okayed the Dollar General Store proposed for Penn Valley. The meeting on Thursday was billed as a report from the environmental impact report only... not a final opportunity for public comment. I am extremely disappointed (livelid comes to mind) that this has been approved for Penn Valley. It seems that Penn Valley is the county's dumping ground for anything opposed by other Nevada County communities for their own communities, thus Penn Valley's reputation as a lower class community in this area. Even Lake Wildwood residents once, several years ago proposed having their own zip code to disassociate themselves from the rest of Penn Valley.

The following comments are the ones I have submitted to you in earlier stages of the process. Since I wrote these comments, I have traveled by car through southern California and Nevada to the Tucson area of Arizona. In multiple cases, each small town that had a Dollar General Store there was also a Family Dollar and/or a Dollar Tree store. In one town they were directly across the road from each other. The implication is that when one is allowed the others follow. Grass Valley already has Dollar General and Dollar Tree. Those are close enough for Penn Valley residents. Penn Valley needs much more solid QUALITY retail businesses.

It is my understanding that the proposal for three new Dollar General stores for Penn Valley, Alta Sierra, and Rough and Ready is proceeding to the next step before the Nevada County planning commission. Below is my initial response to this proposal, and though I was told my comments were premature--- this proposal was not yet ready for public comment --- I have heard a radio announcement that the proposal is proceeding.

This is in response to your announcement regarding the proposal for three new Dollar General stores for Penn Valley, Alta Sierra, and Rough and Ready, particularly for Penn Valley. While I have been told that Dollar General has initiated this proposal, and that county has an obligation to consider all proposals, please keep in mind the following points from the communities' point of view.

1. Dollar General is incompatible with the Hospice Gift and Thrift Store, the thrift store run by the Penn Valley Fire Department Auxiliary in Penn Valley, and with other such shops run by charities in any of these communities.

2. Dollar General does not fit the desire by the residents of these communities for better quality goods. Dollar General will not improve the quality of goods offered to these communities. Therefore sales tax dollars will continue to flow to adjacent counties.

3. Dollar General will provide minimal jobs at minimal wages for this area. Dollar General will not add a diversity of jobs to this community.
4. Surveys have been done in some nearby communities to compile a list of the desirable kinds of stores the community would like to see added to the local economy. I recommend the planning commission review those results for acceptable businesses.

Even though I have been unable to attend previous meetings regarding this proposal, I would like to remain apprised of further meetings and further developments concerning this proposal and process.

Please reconsider whatever decisions of approval your Planning Commission has made. Do what is best for Penn Valley.

Sincerely,
Nadeane Diede

408-432-2052
Attached please find my input to the intent to deny the approval for the Dollar General in Alta Sierra. I am concerned that we have led the applicants down the road that continues to be laid with new landmines (requirements) while we have had them investing a great deal of money thinking that approval was a sure thing each time. I fear that a costly law suit could be filed against the county since weak objections were accepted at the last meeting and the intent to deny was based on them.

Lee French
530-273-3069
DOLLAR GENERAL PRESENTATION

PLANNING COMMISSION MEETING
NOVEMBER 9, 2017

This meeting is to discuss the intention for denial of approval for the Alta Sierra location and the reasons for denial.

I was in attendance at the October 26, 2017 Planning Commissioners Meeting where the commissioners voted their intent to deny the approval of the Dollar General store. I felt at the time that they had not really analyzed the project and were listening to the "feelings" of the few in the community who were against it and not to the few who gave valid reasons for their support. I am not for or against the approval but recognize that re-evaluation of this decision is necessary for the future of decisions which impact both communities and businesses in the future. Here are the reasons for denial as I understand them.

REASONS FOR DENIAL:

- UNSUITABLE LOT
  - ASTHETICS:
    - THIS BUILDING IS HIDDEN COMPARED TO THE CURRENT UGLY MARKET BUILDING WHICH IS VERY VISUAL TO ALL TRAFFIC AT THE 4 WAY STOP. THE MARKET VISUALS DO NOT REPRESENT THE RURAL QUALITY OF THE COMMUNITY.
    - THE CURRENT GAS STATION IS AN EYESORE AND NEEDS UPDATING FROM ITS' 1950'S LOOK. IT ALSO DOES NOT PROVIDE A QUALITY REPRESENTATION OF OUR COMMUNITY AND IS VERY VISUAL IN ITS LOCATION AT HIGHWAY 49 AND ALTA SIERRA DRIVE.
- ALL BUILDINGS NEED UPGRADING AND PAINTED.

  o LACK OF PARKING:

    - THERE IS NO LACK OF PARKING FOR THIS BUSINESS MODEL. IT IS BASED ON ONE STOP CONVENIENCE SHOPPING.
    - THE CURRENT ALTA SIERRA MARKET HAS 42 PARKING SPACES FOR AN 8500 SQ. FT. BUILDING. MOST TIMES THERE ARE ONE (1) TO SIX (6) CUSTOMERS PARKED THERE.
    - 35 PARKING SPACES IS ADEQUATE FOR A CONVENIENCE STORE OPERATION WHERE THERE IS A QUICK INGRESS/EGRESS AND THE BUILDING IS ONLY 9XXX SQ. FT.
    - THE BRUNSWICK STORE HAS 37 PARKING SPACES AND EVERYONE SAYS THAT THEY HAVE NEVER SEEN MORE THAN 10 VEHICLES THERE. USUALLY 1 TO 3.
    - DOES THE REQUIREMENT FOR 45 PARKING SPACES MEAN THAT THE COUNTY PLANS FOR THEM TO FAIL AND SOME UNKNOWN BUSINESS WILL NEED THEM IN 10 YEARS OR SO?

  o LIGHTING OVERFLOW:

    - THE CURRENT ALTA SIERRA MARKET IS VERY ILLUMINATED AND PROBABLY CREATES MORE OVERFLOW TO THE SURROUNDING AREA THAN WILL BE EXPERIENCED FROM ANY NEW BUSINESS.

  o RETAINING WALL HEIGTH:

    - THERE WAS A LOT OF DISCUSSION ON THE HEIGHT OF THE RETAINING WALL OF 8 FT. AND 12 FT. ON TWO CORNERS. THESE ARE REQUIRED NO MATTER WHAT GOES THERE.
SIZE OF LOT:

- I think this lot is adequate for its intended use. What is the alternative?
- Will future applications run into the same problem?
- What type of business that goes on this lot should not be something to be determined by the planning commission if it complies to code.

LOCAL SUPPORT FOR STORE HAS NOT BEEN ACKNOWLEDGED:

- Trailer parks near by
- Elderly convenience
- Reduces Grass Valley trips and the possibility of resulting accidents on Highway 49

NOTE: I feel that the county does not have the legal right to stop development.

- It is an approved site for C-1 development.
- The applicants have met all the planning departments requirements and changes costing thousands of dollars.

- The county is trying to deny on minor unknown and unprovable fears:
  - Increased water run-off
  - Increased traffic
  - Doomed to financial failure at this location
  - Visual disaster - aesthetics
  - Lighting overflow
• INCREASED ACCIDENTS

• DENIAL WILL STOP:
  • DEVELOPMENT OF THIS COMMERCIAL SITE
  • FUTURE INVESTMENTS IN THE C-1 AREA FOR MODERNIZATION TO THE BUILDINGS AND NEW BUSINESSES
  • ATTRACTION OF POTENTIAL CUSTOMERS TO THE AREA.
  • COMPETITION -- THE MAJOR INFLUENCE TO UPGRADING THE WHOLE AREA AND ITS' BUSINESSES.
  • STAGNATE THE COMMERCIAL AREA AND COMMUNITY.

CONSIDERATION OF THE INFORMATION PROVIDED SHOULD BE SERIOUSLY CONSIDERED PRIOR TO ANY FINAL DECISION.
Gentlemen,
As the Chairman of the Republican Party, I wanted to offer some comments about the Dollar General planning process. As I understand it, the Alta Sierra location has met all requirements and any impacts are to be fully mitigated. I agree with The Union editorial board position in its recent opinion piece. This location deserves a full and fair re-assessment. Our communities need all the new jobs and tax revenues that such compliant developments can bring.

Thank you,
Bob Hren
Chairman,
Nevada County Republican Party
November 8, 2017

Via Electronic & U.S. Mail

County of Nevada Planning Commission
Community Development Agency, Planning Department
950 Maidu Avenue, Suite 170
Nevada City, CA 95959-8617

Re: Applicant’s objections to proposed findings in support of denial of DP14-001 and MGT14-010: Alta Sierra Dollar General

Dear Commissioners:

We have reviewed the Planning Commission’s November 2, 2017 “Project Denial Findings for DP14-001 and MGT14-010: Alta Sierra Dollar General” (“Project Denial”) for the proposed Dollar General store and related improvements at 10166 Alta Sierra Drive, Grass Valley California 95949 and APNs 25-430-10 and 25-430-12 (off-site septic system parcels) (collectively, “the Project”). (DEIR, p. 2.0-1 [project location].) Planning Commission Staff recommended approval of the Project in their October 2017 Staff Report and in additional comments. (October 2017 Staff Report, pp. 23-25; October 26, 2017 Staff Report, pp. 1-3 [letter re: additional public comments].) We concurred then and now with Staff’s original findings and urge the Commission to reconsider it’s October 26, 2017 “Motion of Intent to Deny” the Project, for the following reasons.

I. Oak Management Plan MGT14-010

The October 2017 Staff Report recommended approval of MGT14-010 (“Oak Management Plan”). The minor changes to MM AS-6.1.3e, proposed since publication of the final EIR and in response to the last-minute comments provided by the Bear Yuba Land Trust (“BYLT”), did not alter Staff’s conclusion, and do not warrant denial of the Project.

The Project would disturb a 1.40-acre landmark oak grove and remove four landmark trees (three on the building site, and one on an off-site septic parcel). In total, 85 oak trees will be removed, including 71 California black oaks and three small valley oaks. (DEIR, pp. 6.0-9 to 6.0-10; FEIR, p. 6.0-10; October 2017 Staff Report, pp. 6-8.) “The County Zoning Code allows for disturbance of sensitive oak trees and groves” when, as here, a Code-compliant management plan has been approved. (Staff Report, p. 12.) Impacts to these resources were analyzed in both the draft and final EIRs and an
Oak Management Plan was prepared by a certified biologist (Staff Report, Attachment 5.)

Impact 6.1.3 (AS) and 6.1.5 (AS) were identified as potentially significant and Mitigation Measures AS-6.1.3a, b, c, d, e and MM AS-6.1.5 were proposed. (Draft EIR, pp. ES-13 to ES-19, 6.0-13 to 6.0-16.) Planning Commission staff extensively reviewed this data and found that the Project, as mitigated and conditioned, was consistent with the Nevada County Land Use and Development Code and recommended Project approval. (Staff Report, pp. 11-13.) Staff found that the mitigation measures were “adequate for the anticipated project impacts” and that removal of oaks was unavoidable because of the small size of the site. Staff noted that this would be an issue for any development at the location.

MM AS-6.1.3e required payment of a fee to the Bear Yuba Land Trust for replanting, restoration, and maintenance of oak trees, with monitoring by a forestry professional. Simon would contract with BYLT prior to permit approval. MM AS-6.1.3e was later proposed to be modified, per input from the BYLT in an October 26, 2017 letter to the Planning Commission. These minor changes did not alter Staff’s conclusions, and do not warrant denial of the Project. Specifically, in response to the BYLT’s concerns about the variable cost of implementing the mitigation plan, staff revised the language of MM AS-6.1.3e to remove references to a specific dollar amount for mitigation (substituting it for “an amount agreed to by the Bear Yuba Land Trust”) and expressly stating that any change in the Oak Management Plan must meet or exceed the effectiveness of the current plan, as described in the draft EIR. Planning Staff reviewed these minor changes and continued to recommend Project approval, without recirculation of the EIR. (October 26, 2017 report from Tyler Barrington to Planning Commission, pp. 1-2 and attached letter from BYLT.)

These changes are still consistent with CEQA’s requirements for legally adequate deferred mitigation measures under Endangered Habitats League v. County of Orange (2005) 131 Cal.App.4th 777, 793–794 and Riverwatch v. County of San Diego (1999) 76 Cal.App.4th 1428. The Endangered Habitats League court explained that deferral of mitigation for restoration of tree habitats is proper when the agency “articulate[s] specific performance criteria and makes further approvals contingent on finding a way to meet them.” (Endangered Habitats League, supra, 131 Cal.App.4th at p. 795.) An acceptable tree loss mitigation plan “requires a tree restoration, maintenance, and a monitoring plan to be prepared and approved prior to issuing grading permits” and monitoring by a certified professional. (Ibid.) In Riverwatch, the court found a legally adequate deferred analysis when there is “nothing in the record which suggests that the impact cannot be mitigated in the manner described in the final EIR.” (Riverwatch, supra, 76 Cal.App.4th at p. 1448.) MM AS-6.1.3e and the Oak Management Plan contain the key provisions cited with approval in Endangered Habitats League and Riverwatch. MM AS-6.1.3e articulates specific performance criteria in the Oak Management Plan, states that the Project must meet or exceed them, and requires Plan approval and monitoring by a biologist. Per Riverwatch, there is nothing to suggest that the impacts will not be
mitigated as specified—Simon’s payment of BYLT’s fees, requirement for a contract with BYLT before permits can be issued, and assurances that changes to the restoration proposal will be consistent with the Oak Management Plan. In short, the record does not support the proposed Project Denial Findings, even in light of these minor changes.

II. Development Permit DP14-001

Findings A, B, C, D, E, and F of the Project Denial concern the aesthetic impacts of the Project and related land use inconsistencies under the Nevada County General Plan. Simon concurs with Planning Commission Staff’s original recommendation that the Project, as conditioned and mitigated, conforms to the General Plan and should be approved. CEQA does not require that significant and unavoidable impacts mandate denial of a project; only that, consistent with the EIR’s purpose as an informational document, such impacts be analyzed, alternatives considered, feasible mitigation measures incorporated, and conclusions supported by substantial evidence. (See Laurel Heights Improvement Assn. v. Regents of the University of Cal. (1988) 47 Cal.3d 376, 391.) The EIR and conclusions drawn by staff comport with CEQA’s requirements.

The Project site is a vacant lot, in an area designated by the General Plan for Neighborhood Commercial (“NC”) and a zoning district of Neighborhood Commercial (“C1”). (Staff Report, p. 3.) Under the standard applied in the EIR, any commercial development on this site allowed by the zoning would have significant and unavoidable visual impacts against the baseline of a vacant, vegetated lot. (Staff Report, pp. 19, 17.) As discussed in further detail below, given the Project’s size relative to existing development, its compatibility with applicable zoning, and the proposed mitigation measures, there is no factual basis for the Planning Commission’s findings that the overall size, mass and scale of the Project will result in visual degradation of the area, unacceptable impacts from light and glare, interruption of the enjoyment of local residences, conflicts with central and supportive themes in the Nevada County General Plan, or conflicts with both current land uses and potential future uses.

The October 2017 Staff Report and EIR extensively analyzed the Project’s design, aesthetics, and land use consistency. (Staff Report, pp. 3-5 [existing and surrounding land uses], 15-17 [aesthetics], 17-18 [design], 20-23 [zoning and General Plan consistency]; draft EIR, pp. 4.0-1 to 4.0-54 [Chapter 4, aesthetics], 12.0-1 to 12.0-18 [Chapter 12, land use and planning]; Final EIR, pp. 4.0-1 to 4.0-3 [minor edits to aesthetics and land use planning chapters].)

Regarding aesthetics, the EIR identified two significant impacts and attendant mitigation measures (Impact 4.1.1(A.S) and Impact 4.1.2(A.S) and Mitigation Measure AS-4.1.1a, b, and d) and one cumulatively considerable impact (Impact 4.4.1(A.S)). (Draft EIR, pp. 4.0-6 to 4.0-12.) Regarding land use planning, Impact 12.4.1 was identified as less-than-cumulatively considerable. (Draft EIR, pp. 12.0-6 to 12.0-10.)

After thorough review and analysis of the impacts and mitigation measures, Staff recommended Project approval, as mitigated and conditioned. (Staff Report, pp. 23-25
[project approval], 26-35 [conditions of approval].) Simon concurs with Staff's analysis and conclusion that the Project warrants approval.

As Staff concluded, the Project is compatible with commercial zoning, which allows “retails sales conducted indoors” in order to “provide for the local needs of nearby neighborhoods.” (Staff Report, p. 14.) The site is an in-fill project, which is appropriate for areas already impacted by existing human activity. (Id., pp. 12.) The Project is consistent with its zoning and “set within a cluster of small scale commercial retail operations.” (Staff Report, p. 3; see also pp. 14 [site within 35 acres of commercial development], 4-5 [zoning and land use maps], 14 [no Planning Commission policy or standards that restrict or dictate the type of tenant allowed in commercial zoning].) This cluster includes similarly-sized development, including the 9,000-square-foot Alta Sierra Market and a 10,000-square-foot, three-building shopping center. (Staff Report, pp. 3, 14.) Although the Project would be highly visible to residences on Little Valley Road and other viewpoints surrounding the site, Staff found that it is “visually compatible with the adjacent commercial development and would not result in a substantial change in views.” (Staff Report, p. 16.) Staff made this finding although acknowledging that the Project was somewhat larger in scale and style than existing retail development. (Staff Report, p. 16.)

The Project incorporated several features to mitigate the unavoidable visual impacts of converting the vacant lot to a retail store. The Project will retain 15% of the site as open space, as required. (Staff Report, p. 17; Draft EIR Figure 2.0-8a.) Staff found either no conflict or minimal conflict with the building’s signage, exterior colors, and elevations. (Staff Report, pp. 17-18.) Regarding light and glare, “given the rural character” of the area “it is expected that only minimal” daytime or nighttime impacts will occur. (Draft EIR, p. 4.0-6.) Mitigation Measures AS-4.1.1a, b, c, and d “would reduce the project’s anticipated visual impacts by requiring the addition of architectural features to further break up exterior walls and screening/retaining walls, requiring existing mature trees to be preserved, requiring a continuous wall to better screen the site from the adjacent roadway and residential uses, and requiring more aesthetically pleasing signage.” (Draft EIR, p. 4.0-6; see also Staff Report, pp. 16-17.) On this basis, Staff concluded “that the project will conform to the Western Nevada County Design Guidelines.” (Staff Report, p. 18.) The Project will require grading, but due to the removal of the secondary access road, less grading will be required than originally anticipated. (Staff Report, pp. 12-13.) For the above stated reasons, Simon urges the Planning Commission to reconsider and reject Findings A, B, C, D, E, and F regarding aesthetics and land use consistency.

Finding G concerns the reduction of parking spaces, from the 46 stalls required to the 34 that were proposed. In contrast to Finding G, Staff concluded that such a reduction “is allowed by LUDC Sec. L-II 4.2.9K.12” when a licensed, professional traffic engineer determines that less parking is required. (Staff Report, p. 15.) This study was completed by Kunzman Associates, and reviewed by Staff from DPW and Planning, who concurred with Kunzman Associates, and concluded that the “proposed reduction
in the number of required spaces is consistent with the County Code requirements" as even peak parking demands would only require 15 parking spaces. (Staff Report at p. 15; see also Draft EIR 12.0-9.) The Commissioners cited no facts casting doubt on the Kunzman study; thus, there are no facts warranting an increase in the proposed parking. Furthermore, if the County were to require 46 stalls, this will only increase the level of grading required, increase impervious surfaces at the site, and potentially create additional visual impacts.

Finding H states that the site is "over developed" because it requires off-site septic systems on two additional parcels. Figures 2.0-8b and 2.0-8c of the draft EIR are site maps of these parcels and the septic improvements. The parcels are zoned for commercial development and under the control of the Project applicant. (See Draft EIR 2.0-2.) The Finding cites no applicable statute, local ordinance, or other controlling land use document that limits or proscribes development of septic infrastructure to a project's building site parcel. Nor were any such restrictions described in the October 26, 2017 hearing. Therefore, this Finding is unsupported by fact or law and should be rejected.

Finding I contends that the benefits of the Project are not outweighed by the detriments. When a project will have significant and unavoidable impacts, the CEQA Guidelines require that the lead agency adopt a Statement of Overriding Considerations ("SOC"), as was recommended here. (CEQA Guidelines, §§ 15093, subd. (a) & (b); Staff Report, pp. 19-20; see generally Staff Report Attachment 4 [Statement of Overriding Considerations].) Simon urges the Commission to consider these cited benefits as outweighing the visual impacts: 1) the economic benefits of job creation, property and sales tax revenue, and making productive use of vacant commercially zoned land by the addition of a quality retail facility; 2) greenhouse gas reduction, from decreasing car trips by residents to farther outside of the community in order to obtain household goods and groceries; and 3) the Project’s consistency with the relevant land use goals and policies of the Nevada County General Plan. (SOC, pp. 44-45; see also Staff Report at p. 16 [Project is a “logical expansion” of the existing retail center and will provide needed services to the surrounding community].)

Simon respectfully urges the Commission to reconsider its intent to deny the project on these suggested grounds, as they are unsupported by facts and law.

Very truly yours,

Sabrina V. Teller

cc: Tyler Barrington
    Alison Barratt-Greene
November 9, 2017

VIA ELECTRONIC MAIL
planning@co.nevada.ca.us

Nevada County Planning Commission
Nevada County Planning Department
950 Maidu Ave., Suite 170
Nevada City, CA 95959

Re: Proposed Dollar General Store at Alta Sierra

Dear Planning Commissioners:

This office represents Charise Lolli regarding the proposed Dollar General Stores. Ms. Lolli fully supports the Planning Commission’s denial of the proposed Alta Sierra Dollar General store. Despite this support, Ms. Lolli appealed the Planning Commission’s certification of the Final Environmental Impact Report (EIR) and subsequent approvals in order to protect her right to seek judicial review in the event the applicant appeals the Commission’s denial and the Board of Supervisors grants that appeal.

This matter contains the unique circumstances of a Final EIR covering three proposed Dollar General stores and the Commission approved only one application. Prior to denying the application for the store in Alta Sierra, the Commission certified the Final EIR and approved the application for the Penn Valley Dollar General Store. As a result of that approval, the Planning Department filed a Notice of Determination with the County Clerk. The filing of the NOD started the 30-day statute of limitations on seeking judicial review on the legal adequacy of the Final EIR. (See Pub. Resources Code, § 21167.) Ms. Lolli’s appeal of the certification and subsequent approvals stays the issuance of the NOD and preserves her ability to challenge the legal adequacy of the Final EIR in the event the applicant appeals this Commission’s denial and the Board of Supervisors grants the appeal. If Ms. Lolli did not appeal the certification and subsequent approvals she may be precluded from seeking judicial review of the Final EIR and/or approval of the Alta Sierra store.

Sincerely,

Donald B. Mooney

Donald B. Mooney
Attorney
cc: Charise Lolli
Brian Foss, Nevada County Zoning Administrator
brian.foss@co.nevada.ca.us
Tyler Barrington, Principal Planner
tyler.barrington@co.nevada.ca.us