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REPLY TO: RENO OFFICE

Of Counsel ROSS E. DE LIPKAU (NV)

March 8, 2021

Via E-Mail & U.S. Mail

Office of El Dorado County Counsel
Attn: David A. Livingston, Esq.
330 Fair Lane
Placerville, CA 95667
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Via E-Mail & U.S. Mail

El Dorado County Board of Supervisors
Attn: Clerk of the Board
330 Fair Lane, Building A
Placerville, CA 95667
Email: edc.cob@edcgov.us

Re: Allegedly "Urgent" Chain Store Ordinance Proposed by Supervisors Parlin & Turnboo

Dear Mr. Livingston and Members of the Board of Supervisors:

Our office has been retained to represent Woodcrest Real Estate Ventures, a Division of Woodcrest Homes, Inc. (collectively, "Woodcrest"). We are writing you today in response to the illegal Urgency Ordinance 5140 (the "Illegal Ordinance") that was recently concocted and proposed by Supervisors Parlin and Turnboo and is scheduled for hearing on March 9, 2021. (See **Ex. 1** (Illegal Ordinance) enclosed herewith.) As you are all well aware, Woodcrest has two proposed Dollar General store projects before El Dorado County (the "County") – one in Cool and one in Somerset – and there can be no question that this "urgent" Illegal Ordinance being proposed is a blatant and illegal effort to block *both* projects, despite any suggestions to the contrary. As set forth in the pages below, the County Board of Supervisors (the "Board") should swiftly and unanimously reject the Illegal Ordinance because (1) it violates several Federal laws, (2) it violates several State laws, and (3) its language is ***extremely broad***, meaning its adoption and application would adversely impact innumerable small and medium-sized local businesses that its drafters misleadingly claim to protect.

Please be advised that if the Board votes to adopt this Illegal Ordinance, which will result in the loss of vested property rights and hundreds of thousands of dollars stemming from expenditures Woodcrest has already incurred on its Dollar General projects to date, Woodcrest will ***immediately*** explore all available legal options, including filing a lawsuit in Federal Court against El Dorado County *and* each of the Board members individually for blatant violations of numerous State and Federal laws, including our client's civil rights.¹ We understand that Supervisor Parlin has been and continues to try and use her position with El Dorado County to advance her own personal agenda of anti-development. This personal crusade ends now.

¹ In 2018, our firm secured a 9-0 jury verdict against the County of Sacramento for damages in excess of \$100,000,000 following blatant civil rights violations. See Hardesty v. Sacramento Metropolitan Air Quality Management District (E.D. Cal. 2018) 307 F.Supp.3d 1010, 1035, (E.D. Cal. 2018), aff'd in part, rev'd in part and remanded sub nom. Hardesty v. Sacramento County, 2020 WL 4816361 (9th Cir., Aug. 19, 2020, No. 18-15772).

A. Somerset Project Summary

On October 9, 2020, the County sent Woodcrest a “Zoning Verification Letter” clearly stating that the subject property located at 6715 Fairplay Road, Somerset, California (APN 094-020-023-000) (the “Property”) “is zoned Community Commercial (CC) in the County of El Dorado’s zoning code which *specifically designates Indoor Retail Sales and Service as an allowed use . . .*” (Ex. 2 (Zoning Verification Letter).) This means that construction of any retail establishment at the Property is “*by right*” pursuant to Property’s zoning, and thus the building permit issuance is a *ministerial action, meaning that it need only conform with the County’s fixed standards of approval, which it does, and thus requires little or no personal judgment by any public official as to the wisdom of carrying out the project.* In other words, this project is **not** a “discretionary” project – hence the urgently proposed Illegal Ordinance by Supervisors Parlin and Turnboo as an end-run around the rights attached to the Property.

Based upon these facts and confirmation of the Property’s commercial entitlements, Woodcrest submitted a building permit application on January 28, 2021 to build a commercial retail store at the Property.² The proposed Somerset project (“Somerset Project”) includes a 9,100sf commercial retail building to be leased to Dollar General. Notably, the subject property, which is 46,887sf, *already allows for a retail and/or restaurant establishment of up to 39,853sf.* At 9,100sf, the Somerset Project Woodcrest proposes is *less than 23% of the allowable square footage.* For additional comparison, the proposed Somerset Project is only *35% of the size of the existing Holiday Market in Cool,* which shopping center is approximately 25,644sf.

After Woodcrest submitted its building permit application to the County on January 28, 2021, the County, through its actions, promptly deemed the Somerset Project application complete by issuing permit numbers for both Building and Grading on February 5, 2021. (See Ex. 3 (Application Completeness Review).) On March 3, 2021, Woodcrest received comments back from the Building Department. (See Ex. 4 (County Comments on Somerset Project).) These comments are non-substantive, do not reverse the fact that the application is “deemed complete,” and Supervisors Parlin and Turnboo’s reliance on these comments thus appears to be solely directed at delaying Woodcrest’s permit approval until after the March 9, 2021 hearing on the Illegal Ordinance. Indeed, it appears to be no coincidence that Woodcrest received these inconsequential “comments” on March 3, 2021, and Supervisor Parlin’s allegedly urgent Illegal Ordinance was unveiled on March 4, 2021.

B. The Allegedly “Urgent” but Ultimately Illegal Ordinance

On March 4, 2021, Supervisors Parlin and Turnboo introduced “Urgency Ordinance 5140” to be considered just five days later, on March 9, 2021. Among other things, the Illegal Ordinance proposes to place *severe* restrictions on the types of restaurants and retail stores that may be constructed, so much so in fact, that even smaller local establishments will be impacted by its passage. Not only does the Illegal Ordinance require the Planning and Building Department to engage in the study and preparation of *dramatic* changes to the County’s General Plan and zoning code, but it also seeks to suspend *all currently pending applications* before the County. In short, what can only be described as a “nuclear” option to end all development in El

² A copy of the permit application is on file with the Planning and Building Department.

Dorado County *will devastate the local economy for years to come*. Notably, Supervisors Parlin and Turnboo deceptively claim the Illegal Ordinance is an emergency measure being enacted for the “immediate preservation of the public peace, health and safety” and is a “regulatory action taken by the County in accordance with Government Code Section 65858 to assure maintenance and protection of the environment.” (Ex. 1 (Illegal Ordinance) at §§ 6, 7.) As explained further below, however, **no emergency** exists here that could justify this attempted use of Government Code Section 65858; instead, this is a thinly disguised attempt to advance Supervisor Parlin’s personal crusade against Dollar General (and other all developments).

C. **The Illegal Ordinance Must be Promptly Rejected by this Board**

The Illegal Ordinance MUST be swiftly rejected by the Board for three simple reasons: (1) it violates several Federal laws, (2) it violates several State laws, and (3) its language is *extremely broad* such that its adoption and application would adversely impact innumerable small and medium-sized local businesses that its drafters misleadingly claim to protect.

1. *The Illegal Ordinance Violates Several Federal Laws*

a. The Illegal Ordinance Violates the U.S. Constitution’s Equal Protection Clause

The Illegal Ordinance is clearly, and unconstitutionally, aimed directly at Woodcrest. Indeed, the notice circulated by Supervisors Parlin and Turnboo specifically references the Dollar General stores as the impetus for this Illegal Ordinance. (See Ex. 5 (Illegal Ordinance Announcement – “The County has received an application for a formula business (Dollar General, Somerset, District 2) which necessitates the adoption of the urgency ordinance . . .”).) Further, the intent is well known in the community, as evidenced by the many public comments *received just hours after the Illegal Ordinance announcement* that specifically reference the Dollar General project in Somerset. (See Ex. 6 (Select Public Comments on Urgency Ordinance 5140).)³ No amount of artful drafting can cure the proposed Illegal Ordinance of this blatant attempt to discriminate against our client and their tenant. Indeed, one of the other Illegal Ordinance *dissenters* got it exactly right when he wrote on March 4, 2021:

Stripped down to its essentials, this proposed Pa[r]lin-Turnboo ordinance pits the interest of the relatively well-to-do homeowners who want to insure that the less well-to-do will not descend on their turf. . . . In other words, *this proposed Palin-Turnboo ordinance is openly elitist and subtly racist. In this County, a few non-rural pockets excepted, the majority of people have few options but to shop at Dollar Stores* that carry limited canned and frozen foods.

Ex. 7 (Illegal Ordinance Public Comment) (emphasis added).

The Fourteenth Amendment to the United States Constitution provides that no state shall deny to any person within its jurisdiction the equal protection of the laws. See, also, Cal. Con.,

³ Given the short timeframe between the issuance of the draft Illegal Ordinance and the myriad of public comments in support thereof, there is little doubt Supervisors Parlin and Turnboo improperly played a significant role in personally organizing and coordinating these comments; this will be proven through discovery.

art. 1, sec. 7. The concept of equal protection has been defined to mean that no person or class of persons may be denied the same protection of law that is enjoyed by other persons or other classes in like circumstances. See Hawn v. County of Ventura, 73 Cal.App.3d 1009, 1018 (1977). Importantly, under applicable Ninth Circuit case law, the County and individual Board members would have no viable defense against a suit alleging deprivation of the Woodcrest’s constitutional rights under 42 U.S.C. § 1983. See Village of Willowbrook v. Olech, 528 U.S. 562, 564–565 (2000) (recognizing “equal protection claims brought by a ‘class of one,’ where the plaintiff alleges that she has been intentionally treated differently from others similarly situated and that there is no rational basis for the difference in treatment”); Bateson v. Geisse, 857 F.2d 1300, 1303–1304 (9th Cir. 1988) (finding that the city and individual city council members were liable for violating the applicant’s substantive due process rights because they arbitrarily withheld a building permit); Del Monte Dunes at Monterey, Ltd. v. City of Monterey, 920 F.2d 1496, 1508 (9th Cir. 1990) (determining a substantive due process claim must be heard at trial where plaintiffs asserted that a city council “abruptly changed course” and rejected a plan motivated “not by legitimate regulatory concern but by political pressure from neighbors and other residents of the city to preserve the property as open space”); Merrill v. Cty. of Madera, No. 1:05-CV-0195 AWI SMS, 2013 WL 1326542 at *7 (E.D. Cal. Mar. 29, 2013) (recognizing “that a defendant’s ‘invention’ of an illegitimate reason to support a land use action and regulation can be arbitrary and capricious”); David Hill Dev., LLC v. City of Forest Grove, No. 3:08-CV-266-AC, 2012 WL 5381555, at *25 (D. Or. Oct. 30, 2012) (acting “simply to ensure compliance with all the applicable rules” may not be sufficient on its own to defeat claims the defendants acted “in an arbitrary and unreasonable manner” and with “improper” motives, especially where demands and burdens placed on the plaintiff “were unique to that plaintiff”).)

Based on the notice from the sponsoring Supervisors and the public comments of the supporters they organized, the record clearly shows that our client has been singled out for unequal treatment and egregiously deprived of its due process rights.⁴ Indeed, the only pending permit application purportedly affected by the Illegal Ordinance, as touted by the sponsors of the Illegal Ordinance, is our client’s Somerset Project. No such ordinance was imposed on the development of a similar retail store in Cool, which the drafters of the Illegal Ordinance lamented was too far along to be prevented.⁵ Therefore, adoption of the Illegal Ordinance would deprive our client of their constitutionally protected right to equal protection under the law.

b. The Illegal Ordinance Seeks to Strip Woodcrest of Vested Property Rights

To date, Woodcrest has spent approximately \$153,000 in reliance on the approved land use designations and planned infrastructure for the Somerset Project Property and its environs. These substantial funds were used to secure the Property, prepare project plans and engineering

⁴ The public comments enclosed as Ex. 5 indicate that there is an underlying current of protectionism involved in this Illegal Ordinance. However, “[z]oning and building laws cannot be used unqualifiedly to restrict competition, or simply to shield existing businesses from competition. While valid zoning regulations may affect competition and have other economic effects, a county does not have carte blanche to exclude a retail merchant that it, or some of its residents, do not like.” Friends of Davis v. City of Davis, 83 Cal.App.4th 1004, 1013 (2000) (quotations omitted).

⁵ As discussed further below, despite this concession by Supervisors Parlin and Tumboo, Woodcrest believes they will nonetheless try to use the Illegal Ordinance against the Dollar General project in Cool as well, which would be equally, if not more egregious and illegal than the attempt to torpedo the Somerset Project.

reports, and pay other direct and indirect expenses related to development of the Property. All of these expenses were incurred as a result of Woodcrest's pre-application due diligence, and specifically in reliance on the County's "Zoning Verification Letter" confirming that the proposed use of "Indoor Retail Sales and Service" was an allowed use of the Property. Critically, Woodcrest's building application is already deemed complete, resulting in a vested property right, and the County's failure to issue a permit to our client is a blatant attempt at delaying our client's Somerset Project pending a vote on the proposed Illegal Ordinance and unfairly single out Woodcrest. If this Board passes the Illegal Ordinance and strips Woodcrest's vested property right, it will constitute another blatant violation of federal law.

To wit, Woodcrest's application was submitted in its entirety, including all necessary documentation, on February 5, 2021. (See **Ex. 3** (Application Completeness Review).) Pursuant to El Dorado County Code of Ordinances ("EDC Code"), Section 8.38.100, "[t]he Director shall issue a decision within 30 days . . . of a completed application." An application is deemed complete when the applicant has provided "all information required by this chapter." EDC Code §8.38.160 The February 2, 2021 application contained all necessary documentation pursuant to the County's guidelines for commercial building permit applications. Indeed, pursuant to the County's own guidance, "[t]he plans will not be checked unless all elements [of the application] are present." (**Ex. 8** at p.2.) The comments received back from the County on March 3, 2021 (29 days after the submittal) were because the County had performed the plan check. (See **Ex. 4**.) In other words, the County would *not* have checked the plans unless the application had been deemed complete on February 5, 2021, which it unquestionably was. (See **Ex. 3**.)

A "deemed complete" application vests the applicant with certain property rights that cannot be affected by this Illegal Ordinance. See, e.g., Kaufman & Broad Central Valley, Inc. v. City of Modesto, 25 Cal.App.4th 1577 (1994) (city cannot charge development fees in excess of those in effect on the date a tentative map is deemed complete under Gov. Code § 66474.2.) In an attempt to circumvent this issue, the Illegal Ordinance also proposes to suspend EDC Code Section 130.10.040 C.1. This section requires that any pending permit applications be deemed in compliance with the County ordinances as of the date the application is deemed complete. By suspending this section, in an open attempt to single out our client's project, the drafters of the Illegal Ordinance have acknowledged that our client's application was deemed complete and therefore provided our client with vested rights, which cannot be so arbitrarily and capriciously stripped away as Supervisors Parlin and Turnboo clearly intend to do with the Illegal Ordinance.

In addition, and as a result of Woodcrest's reliance on the County's plans and policies, the County is estopped from applying the proposed Illegal Ordinance to Woodcrest's project. See, e.g., Hock Investment Co. v. City and County of San Francisco, 215 Cal.App.3d 438, 448–449 (1989) (if property owner reasonably and detrimentally relies upon agency's administrative rule, agency would be estopped from taking subsequent action in contravention of rule); Kieffer v. Spencer, 153 Cal.App.3d 954 (1984) (observing that estoppel was proper when a city "chose to pursue a course of conduct (for reasons not entirely clear) not only detrimental to petitioners but to public trust in local government"); accord Pardee Construction Co. v. California Coastal Comm'n, 95 Cal.App.3d 471, 481 (1979); see also Wilson v. City of Laguna Beach, 6 Cal.App.4th 543 (1992); Anderson v. City of La Mesa, 118 Cal.App.3d 657 (1981). Accordingly, this Board is estopped (i.e., legally precluded) from adopting the Illegal Ordinance.

c. The Illegal Ordinance Constitutes a Taking of the Somerset Property

If adopted, the Illegal Ordinance would also constitute a compensable taking of the Somerset Property for which El Dorado County and its Board would be obligated to pay. The Takings Clause of the 5th Amendment to the United States Constitution, made applicable to the states through the 14th Amendment, guarantees that private property shall not “be taken for public use, without just compensation.” Article I, section 19 of the California Constitution also provides that “[p]rivate property may be taken or damaged for public use only when just compensation . . . has first been paid to . . . the owner.” A land use regulation effects an impermissible taking of property if it deprives an owner of all economically beneficial or productive uses of his land, see Lucas v. South Carolina Coastal Council, 505 U.S. 1003 (1992), conflicts with an owner’s distinct investment-backed expectations, see Penn Central Transp. Co. v. New York City, 438 U.S. 104 (1978), causes the owner to suffer a permanent physical invasion of his property, see Loretto v. Teleprompter Manhattan CATV Corp., 458 U.S. 419 (1982), or imposes an exaction in violation of the “essential nexus” and “rough proportionality” standards respectively set forth in Nollan v. California Coastal Comm’n, 483 U.S. 825 (1987) and Dolan v. City of Tigard, 512 U.S. 374 (1994).

Adoption and subsequent application of the Illegal Ordinance by the County would prohibit approval of the Somerset Project, and thus deny the landowner all economically viable use of its land. The County would therefore have to pay just compensation (*i.e.*, the fair market value of the property based on its proposed commercial use) to the Property owner if it adopts the proposed Illegal Ordinance. This is true, even if the Property owner is left with *some* economically beneficial use of his property. See Kavanau v. Santa Monica Rent Control Board, 16 Cal.4th 761, 774 (1997); see also Penn Central Transp. Co., 438 U.S. at 124.

2. *The Illegal Ordinance Violates Several State Laws*

a. Improper Conduct of Members of the Board

In addition to blatantly violating Woodcrest’s civil rights, members of the Board, along with other County personnel, are believed to have willfully engaged in entirely improper and illegal activity by conspiring with members of the public to actively work with and organize opposition to Woodcrest’s proposed projects. As set forth in Government Code section 25042,

[a]ny supervisor who (a) refuses or neglects to perform any duty imposed on him, without just cause, or (b) wilfully violates any law provided for his government as a supervisor, or (c) fraudulently or corruptly performs any duty imposed on him, or (d) wilfully, fraudulently, or corruptly attempts to perform an act as supervisor which is unauthorized by law, in addition to any other penalty prescribed by law, forfeits to the county five hundred dollars (\$500) for every such act, to be recovered on his official bond, and is further liable on his official bond to any person injured thereby for all damages sustained.

Importantly, as the Board members are or should be aware, there is well-settled authority that individual members of a board of supervisors are “***not entitled to legislative immunity***” in circumstances similar to those at hand here. Kaahumanu v. Cty. of Maui, 315 F.3d 1215, 1219–

24 (9th Cir. 2003) (affirming district court’s conclusion that the county board’s denial of plaintiff’s application for a conditional use permit was “ad hoc” because the decision was “based on the circumstances of the particular case and did not effectuate policy or create a binding rule of conduct,” leading to the conclusion that the Maui County Council were “*not entitled to legislative immunity.*”) (emphasis added).

b. The Illegal Ordinance is a Blatant Misuse of Gov. Code § 65858

In order to adopt the Illegal Ordinance, the County must make a finding that there is “a current and immediate threat to the public health, safety, or welfare, and that the approval of additional subdivisions, use permits, variances, building permits, or any other applicable entitlement for use which is required in order to comply with a zoning ordinance would result in that threat to public health, safety, or welfare.” Gov. Code, § 65858(c). The Legislature’s insistence that an urgency ordinance be supported by finding(s) reflects the fact that an urgency ordinance has a high likelihood of substantially impacting the rights of affected property owners.

Among other baseless claims, the Illegal Ordinance purports that “County residents are concerned that ‘chain’ or ‘formula’ businesses will proliferate . . . which may detract from the unique character of the County by displacing unique local or other small businesses or by introducing standardized, non-unique establishments that will lessen the diversity and community character prized by County residents.” (Ex. 1 (Illegal Ordinance) at A 2 of 7.) Critically, the Illegal Ordinance asserts, *without any factual support whatsoever*, that

The absence of comprehensive regulations and procedures governing formula businesses, combined with the facts recited above and the fact that formula businesses may currently apply for land use entitlements to locate and establish in the County, *pose a current and immediate threat to the health, safety and welfare of the citizens of the County*. Moreover, the approval of use permits, variances, building permits, grading permits, other permits, licenses or other entitlements for use of land or structures by formula businesses in the areas described below *would result in an immediate threat to the public health, safety or welfare of the County and its citizens*.

Id. at A 3 of 7 (emphasis added).

Neither the mere absence of certain regulations regarding retail establishments, nor the mere approval of pending applications for certain retail establishments in the County in the manner proposed could possibly be construed as “*immediate threat[s] to the public health, safety or welfare.*” Gov. Code, § 65858(c). The Illegal Ordinance contains *zero findings or factual support* explaining how or why alleged “chain” or “formula” stores like Dollar General – *the admitted target of the Illegal Ordinance* – pose an “immediate threat to the public health, safety or welfare.” This is especially true when the project that the Supervisor sponsors claim triggers the need for the Illegal Ordinance (i.e., Woodcrest’s Somerset Project) would be only the second Dollar General within the entire County. See Topanga Assn. for a Scenic Community v. County of Los Angeles, 11 Cal.3d 506, 514 (1974); see also Village Laguna, Inc. v. Board of Supervisors, 134 Cal.App.3d 1022, 1033–1034 (1982) (boilerplate or conclusory findings that do not recite the specific facts upon which the findings are based are not legally sufficient.)

Instead, the proposed findings within the Illegal Ordinance consist of nothing more than *unsubstantiated opinions and speculation* that have no connection whatsoever to our client's Somerset Project, or to an immediate threat to the public health, safety and welfare. If the County were to adopt the Illegal Ordinance as proposed, the County will have failed to proceed in the manner required by law, and will subject itself to immediate and substantial litigation.

3. *The Illegal Ordinance is Overly Broad and Would Apply to Local Businesses*

The Illegal Ordinance classifies any retail establishment with 10 or more other activities or establishments, regardless of the location or ownership of any of the activities or establishments, as "**Prohibited**" if said establishment maintains any two of the following standardized features: business name, array of services and/or merchandise, décor, signage, trademark, logo, service mark, symbol, color scheme, façade, architecture, uniforms, advertising, or similar standardized features. The Illegal Ordinance classifies restaurants similarly.

This language is incredibly broad and will cover much more than just the Dollar General projects proposed by Woodcrest that Supervisors Parlin and Turnboo target; it impacts essentially *all* retail businesses and restaurants in El Dorado County. Indeed, it may cover a number of locally-owned businesses should they wish to expand operations. For example, the Cool Ranch & Feed Supply store in Cool will not be able to expand any existing business operations since it shares the same merchandise, décor, color scheme, architecture, and advertising of at least nine other feed supply stores in the County. Similarly, the Holiday Market, which operates three stores in the County and 15 stores throughout northern California and southern Oregon will not be permitted to expand its existing business operations. Finally, any brewery or winery which may want to open within a Rural Center is subject to the Illegal Ordinance's broad ban on business since it undoubtedly shares at least two, if not several, standardized features with ten other such businesses in the County. ***In short, the Illegal Ordinance unquestionably limits existing businesses, and in many cases prohibits new businesses, thereby substantially impacting property rights.***

Further, despite assertions that the Illegal Ordinance will not apply to applications already deemed complete, (see Ex. 1 at §5(A),) ***the actual effect of the Illegal Ordinance is to freeze the implementation of all permit applications for "Prohibited Uses" already deemed complete by the County.*** Specifically, Section 4 suspends the application of Section 130.10.040 C.1., *Pending Applications*, of the El Dorado County Code of Ordinances, which requires that applications deemed complete comply with the provisions of the ordinances in effect on the date that the application is deemed complete. ***The Illegal Ordinance pulls no punches here and makes clear it is suspending this Section in order to "prevent the establishment of or claim to vested rights based on an application being deemed complete."*** (*Id.* at §4) (emphasis added). This takes direct aim at Woodcrest's Dollar General project in Cool, despite statements to the contrary by Supervisors Parlin and Turnboo. (See Ex. 5 (Illegal Ordinance Announcement).)

While the Illegal Ordinance includes a grandfathering clause for any already-established retail store or restaurant that falls under the "Prohibited" groups, (*id.* at §5(B),) its actual effect will be to prevent *any* expansion or development of *any* businesses that meet the criteria, regardless of whether they are locally-owned, small businesses, or large, corporate chain stores. The Illegal Ordinance is thus overbroad and must be promptly rejected by the Board.

D. Obligation of County and All Personnel to Preserve All Potential Evidence

With all of the above in mind, please be advised that should the County and its Board choose to adopt and implement the Illegal Ordinance, Woodcrest intends to immediately file suit and we will obtain through all proper means of discovery **all relevant communications, documents, and other information between the County, members of the Board, and any individual with whom there were discussions – proper or improper – regarding the Illegal Ordinance and both the Somerset and Cool Dollar General projects. This will include emails, letters, text messages and other personal cell phone records, and any other means by which County personnel communicated.** See *City of San Jose v. Superior Court of Santa Clara County*, 2 Cal.5th 608 (2017) (finding that public “[e]mployees’ communications about official agency business may be subject to [California Public Records Act] CPRA regardless of the type of account used in their preparation or transmission.”)

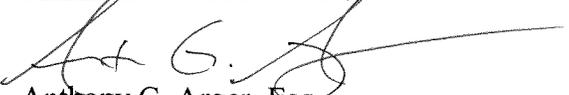
To that end, please be further advised that that this writing constitutes formal notification to the County, including, but not limited to, all members of the Board, and any other County personnel involved with the Illegal Ordinance and Woodcrest’s pending project applications concerning their responsibility to preserve *all* potential evidence that is electronically stored, in addition to paper copies. While our client has not yet initiated litigation, this letter makes plain that is a potential next step. **As such, your client and all involved members and personnel have a duty to retain evidence generally and, as a result of this notification, a duty to retain any evidence that even arguably pertains to the dispute, including all personal emails and cell phone records.** (See Preservation Letter enclosed as Ex. 9 for additional details.)

Conclusion

In summary, we sincerely hope those members of the Board, along with all other County personnel involved with the drafting, coordinating, and proposal of the Illegal Ordinance appreciate the severe implications of their recent (and proposed) actions, and **respectfully request that all members of the Board, regardless of their involvement with the Illegal Ordinance, unanimously vote to DENY adoption of the Illegal Ordinance at any hearing to adopt same,** which is currently scheduled to proceed on March 9, 2021. Our office, along with other representatives of Woodcrest will be in attendance at said hearing. Should there be any questions or comments regarding the above, please do not hesitate to direct them at us during the hearing, or at any time before or after the hearing by contacting our office. Thank you.

Sincerely,

ROBERTSON, JOHNSON,
MILLER & WILLIAMSON



Anthony G. Arger, Esq.

Encl: as stated

- cc: Supervisor Parlin (via email only at bosfour@edcgov.us)
- Supervisor Turnboo (via email only at bostwo@edcgov.us)
- Supervisor Hidahl (via email only at bosone@edcgov.us)
- Supervisor Thomas (via email only at bosthree@edcgov.us)
- Supervisor Novasel (via email only at bosfive@edcgov.us)

EXHIBIT “1”

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ORDINANCE NO. _____

AN URGENCY ORDINANCE OF THE EL DORADO COUNTY BOARD OF SUPERVISORS ADOPTING INTERIM RESTRICTIONS ON THE ESTABLISHMENT OF FORMULA BUSINESSES PENDING THE STUDY AND CONSIDERATION OF ZONING AND OTHER LAND USE REGULATIONS PERTAINING TO SUCH BUSINESSES

WHEREAS, Government Code 65858 allows a county to adopt, as an urgency measure, an interim ordinance for the immediate preservation of the public health, safety, and welfare without following the procedures otherwise required prior to adoption of a zoning ordinance; and

WHEREAS, such an urgency measure requires a 4/5 vote of the Board, becomes effective immediately and shall be of no further force or effect 45 days from its date of adoption unless otherwise extended; and

WHEREAS, the 2004 El Dorado County General Plan: A Plan for Managed Growth and Open Roads; A Plan for Quality Neighborhoods and Traffic Relief (General Plan) identifies distinct planning concept areas which includes Rural Centers and Rural Regions; and

WHEREAS, the many Rural Centers and Rural Regions in the County each have a small-town environment and unique character, which attracts residents and visitors because of the eclectic and diverse mix of businesses, and each of which must be protected and enhanced so that the unique character of the Rural Centers and Rural Regions of El Dorado County can flourish without incompatible changes; and

WHEREAS, the General Plan recognizes that “the rural character of the County is its most important asset. Careful planning and management can maintain this character while accommodating reasonable growth and achieving economic stability”; and

WHEREAS, among the General Plan’s listed strategies to achieve its visions and goals and to carry forward the General Plan’s principle purposes is to “provide that Plan goals, objectives, and policies reflect the significant differences in characteristics between the principal land use planning areas of Community Regions, Rural Centers, and Rural Regions;” and

WHEREAS, it is the explicit intent of the General Plan, through the appropriate

application of the planning concept areas to, among other things: foster a rural quality of life, sustain a quality environment, and develop a strong diversified, sustainable local economy; and

WHEREAS, the Objectives of the General Plan include: development of a strong diversified sustainable local economy, fostering a rural quality of life, and sustaining a quality environment; and

WHEREAS, General Plan Goal 2.1: Land Use includes “protection and conservation of existing communities and rural centers;” and

WHEREAS, General Plan Objective 2.1.2: Rural Centers, Policy 2.1.2.1 identifies the Rural Centers within the County as: Camino, Cedar Grove, Coloma, Cool, Fairplay, Garden Valley, Greenwood, Georgetown, Grey’s Corner, Grizzly Flat, Kelsey, Kyburz, Latrobe, Little Norway, Lotus, Mosquito, Mount Ralson, Mr. Aukum, Nashville, Oak Hill, Phillips, Pilot Hill, Pleasant Valley, Pollock Pines, Quintette, Rescue, Somerset, Strawberry, and Chrome Ridge; and

WHEREAS, some of the Rural Centers also have a Historic Design combining zoning district overlay to conserve the unique historic character of the Rural Centers; and

WHEREAS, General Plan Objective 2.1.3: Rural Regions, Policy 2.1.3.1 states that “All lands not contained within the boundaries of a Community Region or a Rural Center are classified as Rural Regions”; and

WHEREAS, County residents are concerned that ‘chain’ or ‘formula’ businesses will proliferate throughout the Rural Centers and Rural Regions of the County, which may detract from the unique character of the County by displacing unique local or other small businesses or by introducing standardized, non-unique establishments that will lessen the diversity and community character prized by County residents; and

WHEREAS, the El Dorado County Board of Supervisors desires to protect the character of the Rural Centers and Rural Regions of the County, to create a supportive environment for distinctive and unique small businesses and to encourage uses that form unique experiences enjoyable to both residents and visitors; and

WHEREAS, the vision for future growth in the County includes the goal to “maintain the rural character and lifestyle while ensuring the economic viability critical to promoting and sustaining community identity” (2004 General Plan – Statement of Vision); and

WHEREAS, if current regulations continue, formulaic businesses could proliferate in the Rural Centers and Rural Regions which would decrease the diversity of offerings to residents and visitors thereby negatively impacting the rural character and authenticity of the Rural Centers and Rural Regions and negatively impacting the quality of life for residents and visitors; and

WHEREAS, one method for preserving the rural, unique and/or historical

character of the Rural Centers and Rural Regions may be to place land use restrictions on formula business establishments; and

WHEREAS, notwithstanding the visual attractiveness of a storefront or other business structure, the standardized architecture, color schemes, décor and signage (which said signage almost universally includes the display of registered service marks which, under federal law, cannot be modified or changed through the application of local land use regulations) of many formula businesses can detract from the distinctive character of the Rural Centers and Rural Regions of the County; and

WHEREAS, the location of formula business establishments in the County, if not regulated, will hamper and irreparably impede the County's goal of a diverse business base with specific attention to the small town character of the County's Rural Centers and Rural Regions. Specifically, the unregulated and unmonitored establishment of formula businesses may change the character of the Rural Centers and Rural Regions of the County and unduly limit or eliminate business establishment opportunities for smaller or medium-sized businesses, many of which tend to be non-traditional or unique and which complement the small town character of the County's Rural Centers and Rural Regions; and

WHEREAS, the County needs a reasonable period of time to properly and carefully consider and further study the potential effects of formula businesses on the County's General Plan and specific plans, its commercial districts, the County's zoning and other development regulations and on the economic vitality and diversity of the County's business establishments. Additionally, the County needs a reasonable period of time to consider and study whether further regulating such formula businesses is warranted and, if so, what the scope, nature and form of such regulation should be; and

WHEREAS, the absence of comprehensive regulations and procedures governing formula businesses, combined with the facts recited above and the fact that formula businesses may currently apply for land use entitlements to locate and establish in the County, pose a current and immediate threat to the health, safety and welfare of the citizens of the County. Moreover, the approval of use permits, variances, building permits, grading permits, other permits, licenses or other entitlements for use of land or structures by formula businesses in the areas described below would result in an immediate threat to the public health, safety or welfare of the County and its citizens. The granting or permitting of such entitlements or uses, respectively, will likely be in conflict with, prevent the implementation of and/or seriously impair the efficacy of any general plan, specific plan, zoning or other land use policy which the County is considering or intends to study within a reasonable time, thus rendering such plans and policies ineffectual in preserving business diversity and the unique character of the County's Rural Centers and Rural Regions; and

WHEREAS, the County has existing areas in the unincorporated area where formula businesses are appropriately located without any adverse impacts; and

WHEREAS, the purpose of this ordinance is to prohibit the establishment of

formula businesses within any zoning districts of the Rural Centers and Rural Regions of El Dorado County pending the study and consideration of permanent regulations governing such formula business establishments; and

WHEREAS, it is also necessary to suspend application of Section 130.10.040 C.1., Pending Applications, of the El Dorado County Code of Ordinances, to applications related to or required for establishment of formula businesses because such provision regarding the determination of which ordinances are applicable to a project could potentially defeat the purpose of this ordinance and would likely be in conflict with, prevent the implementation of and/or seriously impair the efficacy of any general plan, specific plan, zoning or other land use policy which the County is considering or intends to study within a reasonable time, thus rendering such plans and policies ineffectual in preserving business diversity and the unique character of the County's Rural Centers and Rural Regions; and

WHEREAS, the County has received an application for a formula business which necessitates the action contemplated herein because issuing permits or entitlements for such use could conflict with potential future regulations that may be adopted within a reasonable time that will govern such formula business establishments.

**THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO DOES
ORDAIN AS FOLLOWS:**

Section 1. The above recitals are incorporated herein by this reference.

Section 2. The County and its agents, employees and departments shall not approve any application for subdivision, use permit, variance, building permit or any other applicable entitlement for use which is required in order to comply with the County's zoning ordinances for any of the Prohibited Uses, as defined by this section, or make any determination that would authorize the operation of a Prohibited Use ("land use entitlements or determinations"), in any zoning district within any Rural Center or Rural Region during the term of this ordinance. For purposes of this ordinance, "Prohibited Uses" shall mean either of the following:

A. Formula Restaurant, which is defined as a restaurant devoted to the preparation and offering of food and beverages for sale to the public for consumption whether on or off the premises which along with 10 or more other establishments, regardless of the location or ownership of any of the establishments, maintains two or more of the following standardized features: business name, menus, ingredients, food preparation, décor, signage, trademark, logo, service mark, symbol, color scheme, façade, architecture, uniforms, advertising, or similar standardized features.

B. Formula Retail, which is defined as a retail sales or rental activity or retail sales or rental establishment which along with 10 or more other activities or

establishments, regardless of the location or ownership of any of the activities or establishments, maintains two or more of the following standardized features: business name, array of services and/or merchandise, décor, signage, trademark, logo, service mark, symbol, color scheme, façade, architecture, uniforms, advertising, or similar standardized features.

Section 3. During the effective life of this ordinance, the County may process any and all applications for Prohibited Uses in the County, but if those applications are acted upon prior to the expiration of this ordinance, they shall be denied.

Section 4. During the effective life of this ordinance, Section 130.10.040 C.1., Pending Applications, of the El Dorado County Code of Ordinances, shall not apply to any applications for subdivision, use permit, variance, building permit or any other applicable entitlement for use which is required in order to comply with the County's zoning ordinances for the use or establishment of any Prohibited Use. The specific intent of this Section 4 is to prevent the establishment of or claim to vested rights based on an application being deemed complete.

Section 5. This ordinance shall not apply to:

- A. projects, including any associated ministerial permits, whose applications for land use entitlements or determinations were deemed complete prior to the adoption of this ordinance;
- B. applications for land use entitlements or determinations for the renovation or rehabilitation, but not expansion, of existing buildings already used as a Prohibited Use prior to the effective date of this ordinance;
- C. construction required to comply with fire and/or life safety requirements;
- D. work pursuant to the Americans with Disabilities Act; or
- E. banks and gas stations.

Section 6. The Board of Supervisors finds and determines that the immediate preservation of the public health, safety and welfare requires that this ordinance be enacted as an urgency ordinance pursuant to Government Code Section 65858. The Board of Supervisors hereby directs the Planning and Building Department to study and prepare for the consideration of the Board of Supervisors changes to the County's General Plan, specific plans or zoning code with respect to the regulation of Prohibited Uses, which process will take a minimum of 45 days to complete. Without this urgency ordinance, approval of new or expanded Prohibited Uses may be sought that would detrimentally affect the character of the County's Rural Centers and Rural Regions and could conflict with the use regulations and development standards ultimately adopted with respect to Prohibited Uses. Therefore, this ordinance is necessary for the immediate preservation of the public peace, health and safety

and its urgency is hereby declared. The urgency findings are based upon the facts stated herein, in the recitals above, and in the staff report dated _____, as well as oral and written testimony at the _____ Board of Supervisor's meeting.

Section 7. This ordinance is categorically exempt from the California Environmental Quality Act under (a) Section 15308 of the State CEQA Guidelines because it is a regulatory action taken by the County in accordance with Government Code Section 65858 to assure maintenance and protection of the environment; (b) Section 15060(c)(2) of the State CEQA Guidelines because it will not result in a direct or reasonably foreseeable indirect physical change in the environment; and (c) Section 15060(c)(3) of the State CEQA Guidelines because it is not a project within the meaning of CEQA since it has no potential for resulting in physical changes in the environment.

Section 8. This ordinance is an urgency ordinance adopted pursuant to Government Code Section 65858 and shall become effective immediately upon its adoption if adopted by at least a four-fifths vote of the Board of Supervisors and shall be in effect for forty-five days from the date of adoption, unless extended by the Board of Supervisors as provided for in Government Code Section 65858.

Section 9. Ten days prior to the expiration of this ordinance or any extension thereof, the Board of Supervisors shall issue a written report describing the measures taken to date to alleviate the condition which led to the adoption of this ordinance as required by Government Code 65858(d).

Section 10. If any section, subsection, sentence, clause phrase or portion of this ordinance is for any reason held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

PASSED AND ADOPTED by the Board of Supervisors of the County of El Dorado, State of California, on this _____ day of __, 2021, by the following roll call vote:

AYES:
NOES:
ABSENT:

John Hidahl
CHAIR, Board of Supervisors

ATTEST: Kim Dawson, Clerk of the Board

By: _____

APPROVED AS TO FORM:
David Livingston, County Counsel

By: _____

DRAFT

EXHIBIT “2”

EXHIBIT “2”

EXHIBIT “2”



PLANNING AND BUILDING DEPARTMENT

PLANNING DIVISION

<https://www.edcgov.us/Government/Planning>

PLACERVILLE OFFICE:

2850 Fairlane Court, Placerville, CA 95667

BUILDING

(530) 621-5315 / (530) 622-1708 Fax

bldgdept@edcgov.us

PLANNING

(530) 621-5355 / (530) 642-0508 Fax

planning@edcgov.us

LAKE TAHOE OFFICE:

924 B Emerald Bay Rd

South Lake Tahoe, CA 96150

(530) 573-3330

(530) 542-9082 Fax

Wade Wylie
Woodcrest Companies
1410 Main Street, Suite C
Ramona, California 92065

October 9, 2020

RE: Zoning Verification Letter (APN: 094-020-023)

The intent of this letter is to provide an official zoning verification letter in regards to APN: 094-020-023. The subject parcel is located at 6715 Fairplay Road in the County of El Dorado and is approximately 1.48 acres in size. The parcel is zoned Community Commercial (CC) in the County of El Dorado's zoning code which specifically designates Indoor Retail Sales and Service as an allowed use and a designated maximum Floor Area Ratio (FAR) of .85. Please note that a new Indoor Retail Sales and Service use located at this site would need to comply with the County's standards in regards to Parking, Lighting, Landscaping, Noise, Setbacks, as well as any other site design standards required as part of issuance of a building permit. Finally, while our tracking system does not show any active code violation cases for this property, it is important to note that any active code violation cases would need to be closed prior to the issuance of any building permits.

Sincerely,

Bret Sampson
Senior Planner
Planning and Building Department

EXHIBIT “3”

EXHIBIT “3”

EXHIBIT “3”

- Permits**
 - Search Permit
 - Pay Fees
 - Fees Estimator
 - View on Map
- Projects**
 - Search Projects
 - Pay Fees
 - View on Map
- Contractor**
 - Search Contractors
 - Pay Fees
- Properties**
 - Search Property
 - View on Map
- Inspections**
 - Schedule
 - Cancel
 - View on Map
 - Scheduled
- Violations**
 - Search
- CRM**
 - Report Issue
 - Search Issues
 - View on Map
- Map**
 - View Map
 - Locate My Address
- Shopping Cart**
 - Pay All Fees
 - Paid Items

Permit Search

Search By: PERMIT_NO Begins With 0337520 SEARCH

Review - APPLICATION COMPLETENESS REVIEW

Group: AUTO
 Type: APPLICATION COMPLETENESS REVIEW
 Status: APPROVED
 Date Submitted: 2/2/2021
 Date Due: 2/5/2021
 Date Completed: 2/5/2021
 Reviewer: JANICE POIRIER
 Remarks:
 Notes: 2/5/2021 12:03:48 PM plans recvd from Kyle z

MAP ON

Search Results

Search Results

PERMIT_NO
0337520

ns (0) Reviews (

Due Date	More Info
2/5/2021	More Info
3/2/2021	More Info
3/4/2021	More Info
2/3/2021	More Info
3/2/2021	More Info
3/5/2021	More Info
3/5/2021	More Info
3/5/2021	More Info

CLOSE

Should you need to contact us, Please send an email to etrakit@edcgov.us. Contractors, include your CSLB.

The County of El Dorado, CA makes every effort to produce and publish the most current and accurate information possible. No warranties, expressed or implied, are provided for the data herein, its use, or its interpretation. Utilization of this website indicates understanding and acceptance of this statement.

2850 Fairlane Court County of El Dorado, California 95667

HOME | CONTACT

EXHIBIT “4”

EXHIBIT “4”

EXHIBIT “4”



COMMUNITY DEVELOPMENT AGENCY

DEVELOPMENT SERVICES DIVISION

<http://www.edcgov.us/DevServices/>

PLACERVILLE OFFICE:

2850 Fairlane Court, Placerville, CA 95667

BUILDING

(530) 621-5315 / (530) 622-2705 Fax

bldgdept@edcgov.us

PLANNING

(530) 621-5355 / (530) 642-0508 Fax

planning@edcgov.us

LAKE TAHOE OFFICE:

924 B Emerald Bay Rd

South Lake Tahoe, CA 96150

(530) 573-3330

(530) 542-9082 Fax

March 3, 2021

Permit Application # 337520 (Building) and 337641 (Site)

Dollar General, 6715 Fairplay, Somerset

A Building Services plan check has been completed on your building plans. A list of comments follows. Please feel free to contact your plan checker at the phone number provided. Please return **two copies of stamped and signed documents** along with an **item by item response** to this list, indicating where the corrections have been made on resubmitted plans.

Site & Grading (Civil)

by Rachel McFatter (530) 621-5382

1. Provide an Engineer's Estimate for the proposed site improvements (exclude building valuations).
2. Engineer/Surveyor to stamp/sign all sheets prepared under their supervision, including date of signature (per Engineer's Act). Remove 'For Review' note.
3. Include the APN and address for the parcel on the cover and in title block of each sheet.
4. Include County Standard notes on plans (44 total - see attached).
5. Provide a legend for abbreviations used.
6. On sheet 5, the extent of grading is hard to depict/decipher. Clarify existing versus proposed topography lines by using distinct lineweights and linetypes for each. Label topography lines with elevation values.
7. Provide a Drainage Report in accordance with El Dorado County (EDC) Drainage Manual or incorporate these requirements into the Post Construction BMP report.
EDC Drainage Manual:
<https://www.edcgov.us/government/dot/manuals/documents/DrainageManual.pdf>
addendum:
https://www.edcgov.us/Government/dot/applications/Documents/Drainage%20Manual%20Runoff%20Table_2007%20Revision.pdf
 - a. Per EDC Drainage Manual, include requirements outlined in section 1.8.3

- under *Hydrologic and Hydraulic Analysis Report* (refer to 9 bullet points).
- b. Within the analysis, include discussion and consideration for any possible run-on drainage from uphill site(s).
 - c. Show in the Drainage Report that the post-development flows off of the parcel are less than the pre-development flows or show how increases are mitigated. This analysis shall be based on site specific Mean Annual Rainfall as mapped on EDC Drainage Manual page 2-35. Additional Design Criteria can be found within section 1.8. (Note that this analysis varies slightly from the state mandated Post Construction ‘capture and treat’ requirement, but the mitigation measure may overlap.)
 - d. Drainage Report and Post Construction BMP Report to be stamped and signed by the CA licensed Civil Engineer responsible for preparing (each) report.
8. Provide geotechnical recommendations/stabilization for graded slopes exceeding 2H:1V.
 9. Specify on plans the ‘area of disturbance’ in acres or square feet.
 10. Provide the WDID number on the cover sheet of the plans. If this is not known yet, it may be handwritten in prior to issuance.
 11. Indicate on the plans the ‘impervious area’ created by the proposed work.
 12. Specify material to be used for storm drain pipes.
 13. Show all site utility work using methods recognized by the industry.
 14. On underground pipes, label inverts and slopes.
 15. Clarify if culvert is necessary under driveway and/or how drainage is handled in this area.
 16. Provide construction details for the detention basin.
 17. Stormwater Review will be conducted separately and comments may be forthcoming.

Non-Structural & Structural

by Chris Simonson (530) 621-5766 & Rachel McFatter (530) 621-5382

18. Each sheet of plans shall be stamped and signed by preparer of that sheet.
19. Arrange plan sheets so that title sheet is first sheet in plans set and all plans are in same order as sheet index.
20. Provide access to roof in accordance with CMC 304.3.1.
21. Show compliance to California Green Building Code.

22. Apply for separate building permit for water storage tank.
23. Available water pressure to be provided to plumbing designer so there is pressure in the pipes after subtracting 15psi.
24. Show on site plan location of gas tank. Provide gas piping schematic. If no gas to be installed, remove references to this where applicable.
25. Provide electrical conduit(s) for future EVCS spaces..
26. Verify whether there will a parking lot light as shown on sheet C03 but not on electrical site design (in planter at property line to left of building).
27. Provide 2 copies of Engineering Calculations for the Metal Building Design.

Please return an **item by item response** to this list, indicating where the corrections have been made on resubmitted plans.

Note that additional other agency approvals are required in order to issue this permit. (See our web site <https://www.edcgov.us/Building/> > Building Permits > Permit Status for other agency contact telephone numbers).

Plans requiring corrections to the 2nd resubmittal are subject to additional plan review fees, with a minimum one hour charge.

EXHIBIT “5”

EXHIBIT “5”

EXHIBIT “5”

Chain Store Ordinance

Should Chain Stores Be in Rural Communities?

Board of Supervisors Meeting

Tuesday, 3/9/21 at 1pm

Supervisor Parlin and Supervisor Turnboo, recommending the Board:

- 1) Adopt and authorize the Chair to sign Urgency Ordinance 5140, pursuant to California Government Code Section 65858 and 65090, to adopt interim restrictions on the establishment of Formula Businesses pending the study and consideration of zoning and other land use regulations pertaining to such businesses, with the ordinance being in effect for forty-five (45) days from the date of adoption, unless extended by the Board; and
- 2) Find that the urgency ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines 15308, 15060(c)(2) and 15060(c)(3). (4/5 vote required)

Supervisor Parlin and Turnboo are bringing this item because County residents have expressed their concern that ‘chain’ or ‘formula’ businesses will proliferate throughout the Rural Centers and Rural Regions of the County, which may detract from the unique character of the County by displacing unique local or other small businesses or by introducing standardized, non-unique establishments that will lessen the diversity and community character prized by County residents. If current regulations continue, formulaic businesses could proliferate in the Rural Centers and Rural Regions which would decrease the diversity of offerings to residents and visitors thereby negatively impacting the rural character and authenticity of the Rural Centers and Rural Regions and negatively impacting the quality of life for residents and visitors.

This Ordinance is being proposed for the Rural Centers in El Dorado County, which include: Camino, Cedar Grove, Coloma, Cool, Fairplay, Garden Valley, Greenwood, Georgetown, Grey’s Corner, Grizzly Flat, Kelsey, Kyburz, Latrobe, Little Norway, Lotus, Mosquito, Mount Ralson, Mr. Aukum, Nashville, Oak Hill, Phillips, Pilot Hill, Pleasant Valley, Pollock Pines, Quintette, Rescue, Somerset, Strawberry, and Chrome Ridge.

The County has received an application for a formula business (Dollar General, Somerset in District 2) which necessitates the adoption of the urgency ordinance because issuing permits or entitlements for formula business establishments could conflict with potential future regulations that may be adopted that will govern such uses. The purpose of this ordinance is to temporarily prohibit the establishment of formula businesses within any zoning districts of the Rural Centers and Rural Regions of El Dorado County pending the study and consideration of permanent regulations governing such formula business establishments.

A Formula Business Ordinance has been in the works for several months and Supervisor Parlin had planned on implementing it as part of the 2021 Work Plan. However, the recent applications for chain stores in our rural areas has caused the need for the urgency ordinance. The urgency ordinance will not apply to the Dollar General in Cool because that application is deemed complete, whereas the application in Somerset has not been deemed complete.

The agenda details and documents for File #21-0378 are available here: <https://eldorado.legistar.com/Calendar.aspx>

Please email the Clerk of the Board at edc.cob@edcgov.us and let us know if you support the proposed Ordinance to restrict Formula Businesses (Chain Stores) in Rural Centers. The Clerk will forward your email

to all 5 Supervisors and add it to the public record. Do not email information that you do not want in the public record.

EXHIBIT “6”

EXHIBIT “6”

EXHIBIT “6”

3/4/2021

Edcgov.us Mail - Urgency Notice



Public comment #36

County of El Dorado Clerk of the Board <edc.cob@edcgov.us>

Bas Rcvd 3/4/21

Urgency Notice

1 message

Alan Candee` <alancandee@yahoo.com>
To: edc.cob@edcgov.us

Wed, Mar 3, 2021 at 6:55 PM

I support the Urgency Ordinance to Restrict Formula businesses, like Dollar General, in El Dorado County.

Alan Candee
Greenwood



County of El Dorado Clerk of the Board <edc.cob@edcgov.us>

Support for Urgency Ordinance 5140

1 message

Tricia Ciampa <tricialeigh4jc@gmail.com>
To: edc.cob@edcgov.us

Wed, Mar 3, 2021 at 8:15 PM

I am writing as a resident of Somerset to express my support for Urgency Ordinance 5140 and any future ordinances or regulations limiting formula/chain stores in the rural areas of our county. Particularly in areas such as Somerset/FairPlay and Camino that depend heavily on tourist traffic for revenue, maintaining the local character and "small-town" feel is critical to our community's continued prosperity. Further, it is clear in the community response to the dollar general that this type of business is not wanted in our community. I am in full support of strategic, locally owned growth that will bolster our wineries and other businesses; chain and discount stores do not do so. I thank the Board of Supervisors for listening to their constituents and implementing this urgency ordinance to prevent the establishment of formula/chain stores in our rural communities.

Best,

Tricia Ciampa, Somerset resident



County of El Dorado Clerk of the Board <edc.cob@edcgov.us>

NO DOLLAR GENERAL!

1 message

Christine Lansing <iparafew@gmail.com>
To: edc.cob@edcgov.us

Wed, Mar 3, 2021 at 8:17 PM

NO NO NO!

We want our small towns to be just that!

Just NO!!! What part of --oh wait - you do not live up here and you just want the tax dollars - build it in placerville or el dorado hills of some where that is very populated - NO IN THE FOOTHILLS!



County of El Dorado Clerk of the Board <edc.cob@edcgov.us>

Ordinance to restrict Formula Business in Rural Centers

1 message

Karen Mulvany <kmulvany@gmail.com>
To: edc.cob@edcgov.us

Wed, Mar 3, 2021 at 8:55 PM

I support an ordinance to restrict chain stores/formula businesses in rural centers in El Dorado County.

I am particularly concerned about formula businesses that target full service stores that serve rural centers, especially those that employ a parasitic business plan to drain the only certain higher margin sectors of a community full service store. For example, Dollar General is targeting local Holiday Markets so that it can siphon away non perishable food and household product revenue and ultimately drive a vital community resource into the ground, leaving the community bereft of fresh local produce and quality products. Such toxic business models harm small communities.

Thank you for taking public comment, and for the work on this emergency ordinance.

Karen Mulvany
Rural center resident and property owner



County of El Dorado Clerk of the Board <edc.cob@edcgov.us>

Restrict formula businesses- YES

1 message

Adrienne <adrienne@theforestgroup.com>
To: edc.cob@edcgov.us

Wed, Mar 3, 2021 at 10:28 PM

I agree with this and wish that it would apply to the Dollar store project in Cool, which I wholeheartedly oppose.

Please don't diminish the rural qualities of our county and hurt our small businesses including tourism, which rely on the rural characteristics for visitors and income.

Adrienne Graf
Lotus, CA

Sent from my iPhone



County of El Dorado Clerk of the Board <edc.cob@edcgov.us>

Support proposed ordinance

1 message

Diana Still <diana.dunn@gmail.com>
To: edc.cob@edcgov.us

Thu, Mar 4, 2021 at 5:12 AM

I support the ordinance that limits commercial chain stores from operating in rural areas. Our community's culture thrives on local businesses and there is no need for chain stores in these areas.

Chain stores along the freeway is acceptable to me. This allows people passing through to get goods and services as well as service needs from our rural community members.

Dollar stores provide more throw away items that wind up in our landfills, which goes against the very nature of this county. Pun intended 😊

Thank you for your service to our community!

-Diana
Sent from my iPhone



County of El Dorado Clerk of the Board <edc.cob@edcgov.us>

dollar store

1 message

Pamela Greer <pgcool@gmail.com>
To: edc.cob@edcgov.us

Thu, Mar 4, 2021 at 7:02 AM

Hello Supervisors,

PLEASE do not allow the Dollar Store to establish itself in Cool. These stores set up in 'food deserts' and encourage low income folks to buy 'junk' and 'cheap' items, the only things they carry. WE do not want anything to do with this system. We have 'normal' foods and decent options for all citizens in our small communities which are offered by our independent businesses and our grocery stores. We are not a 'food desert' and we do not want anything to do with that 'take over' by Dollar General.

And the traffic issues in Cool are a whole other mess that will increase dangerous turn outs.

Thank you,
Pamela Greer
Cool resident.



County of El Dorado Clerk of the Board <edc.cob@edcgov.us>

Dollar General Store in Fairplay

1 message

Dianna Jordan <dljordan@live.com>
To: "edc.cob@edcgov.us" <edc.cob@edcgov.us>

Thu, Mar 4, 2021 at 7:24 AM

Please email the Clerk of the Board at edc.cob@edcgov.us and let us know if you support the proposed Ordinance to restrict Formula Businesses (Chain Stores) in Rural Centers. The Clerk will forward your email to all 5 Supervisors and add it to the public record. Do not email information that you do not want in the public record.

I SUPPORT the proposed Ordinance to RESTRICT Formula Businesses (Chain Stores) in Rural Centers.

Dianna Jordan, Fairplay homeowner since 1978

Dianna Jordan, President Calpaca (California Alpaca Association)

DLJORDAN@LIVE.COM

530-744-7474

www.alpacasofsomersetfarm.com



County of El Dorado Clerk of the Board <edc.cob@edcgov.us>

no chain stores in fair play

1 message

Sandra Van Voorhis <sanvan@grapevinetrading.com>
To: edc.cob@edcgov.us

Thu, Mar 4, 2021 at 8:32 AM

I support Item #36, File #21-0378 on the 3/9/21 Agenda to sign Urgency Ordinance 5140. People are working hard to upgrade the image of the area – a Dollar Store cheapens it. I own property in Fairplay and depend on tourism

Sandra VanVoorhis

Grapevine Trading Co., Inc.

[1585 Terrace Way #526](#)[Santa Rosa, CA 95404](#)

TEL (707)849-6338



County of El Dorado Clerk of the Board <edc.cob@edcgov.us>

Proposed Ordinance 5140 to restrict Formula Business

1 message

Susan Yewell <sby813@gmail.com>

Thu, Mar 4, 2021 at 8:37 AM

To: edc.cob@edcgov.us

Dear EDC Supervisors,

I am writing to state my strong support for the Parlin and Turnboo Urgency Ordinance 5140 to restrict Formula Businesses (Chain Stores) in Rural Centers. This is an important ordinance for the preservation of rural areas. We live here to get away from Formula Businesses.

I am very disappointed that the proposed Cool Dollar General project is not included in this ordinance. Please deny the building of the Cool Dollar General project. We do not want it in Cool.

Sincerely,
Susan Yewell
Cool, CA



County of El Dorado Clerk of the Board <edc.cob@edcgov.us>

Restricting Formula Stores in Rural Areas

1 message

Susan Clark <sclark95684@gmail.com>
To: "edc.cob@edcgov.us" <edc.cob@edcgov.us>

Thu, Mar 4, 2021 at 8:55 AM

Dear Trusted Representatives of El Dorado County,

As a resident of Somerset for many years I am in support of restricting formula stores such as Dollar General in our rural community. We who live out here are willing to drive to Placerville businesses to support business in our county.

Please help us keep our rural community rural.

Susie Clark

--

Susie



County of El Dorado Clerk of the Board <edc.cob@edcgov.us>

Fair Play Winery Association Opposes Permit for Dollar General

DANIELA DEVITT <devittdaniela@comcast.net>

Thu, Mar 4, 2021 at 10:36 AM

To: "edc.cob@edcgov.us" <edc.cob@edcgov.us>

Cc: Les Heinsen <les@element79vineyards.com>, "DronbergerC@tntfireworks.com" <DronbergerC@tntfireworks.com>, "kimari@shadowranch.com" <kimari@shadowranch.com>, "bostwo@edcgov.us" <bostwo@edcgov.us>

Dear Board of Supervisors,

The Fair Play Winery Association representing 22 wineries in the Fair Play/Somerset area strongly opposes Dollar General's effort to move into our area. We are a lovely rural community that attract visitors because of the areas' beauty and uniqueness.

Over the past several years, we have made progress to make our area unique and attractive. One of the exceptional qualities of our area is that we consist of small businesses. Our area does not have commercial franchises or chains. To the contrary, without exception, our wineries and business are smaller, family owned and regionally focused. Dollar General, on the other hand, is a formula-based company, being able to exercise their huge purchasing power and the ability to realize economies of scale as a corporation with more than 16,000 locations, expanding by an additional 1000 locations this year alone.

There are many examples of how Dollar General have moved into areas where local businesses have been undercut and closed. See attachment A

As such, our businesses will be at a severe disadvantage, many will likely fail, and our community will be faced with picking up the pieces. In short, this expansion may very well decimate our community and businesses.

Fairplay road is the gateway to the Fair Play Wine Region. Our brand is that of a quaint country settings that are designed to blend with our beautiful vineyard vistas. Dollar General does not fit in with our clients expectations of our area in that location.

For the above reasons, all the members of Fair Play Winery Association strongly oppose this radical change to our culture and to our business community.

Daniela Devitt
President
Fair Play Winery Association
916 216-3306

**SENTIVO**VINEYARDS & WINERY
WWW.SENTIVOVINEYARDS.COM

2 attachments

**FPWA Opposition Attachment A to Dollar General permit.pdf**

415K

**Fair Play Winery Association Opposes Dollar General - Mar 4 2021 -.pdf**

449K



Attachment A

NPR "How Dollar General is transforming rural America

Progressive.org " How Dollar stores prey on the poor"

Washington Post "2019/02/15 As Dollar Stores move in residents see a steep downside"

fastcompany.com " Dollar General and Family Dollar are harming communities

propublica.org "How Dollar Stores became magnets for crime and killings" - 200 violent incidents involving guns since 2017 including 50 deaths . Lot of drugs.

Our area has only one supermarket that is full service with meat fruit, vegetables and bakery. This is providing a healthy food source unlike Dollar General would be. Dollar General could seriously affect the viability of this local supermarket and the local gas station with convenience store. We cannot afford to lose these or any of our other local business.

Review of this application and the El Dorado County Plan
Strategic Goals Themes and Priorities

"Encourage and support through policy and resources the pursuit of local, state and federal, private and public funding opportunities to support and promote healthy communities"

Need to support our local supermarket, Dollar General does not promote healthy food.

Economic Development

"Retain, develop and attract businesses that provide economic sustainability and quality job creation" Dollar General is likely to destroy the economic sustainability of businesses

"Nurture the County and Community's business friendly environment"

Dollar General is not business friendly.



March 1, 2021

Attn. Dollar General Permit

Dear Board of Supervisors,

The Fair Play winery association representing 22 wineries in the Fair Play/Somerset area strongly opposes Dollar General's effort to move into our area. We are a lovely rural community that attract visitors because of the areas' beauty and uniqueness.

Over the past several years, we have made progress to make our area unique and attractive. One of the exceptional qualities of our area is that we consist of small businesses. Our area does not have commercial franchises or chains. To the contrary, without exception, our wineries and business are smaller, family owned and regionally focused. Dollar General, on the other hand, is a formula-based company, being able to exercise their huge purchasing power and the ability to realize economies of scale as a corporation with more than 16,000 locations, expanding by an additional 1000 locations this year alone.

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For the above reasons, all the members of Fair Play Winery Association strongly oppose this radical change to our culture and to our business community.

Sincerely,

Daniela Devitt
President
Fair Play Winery Association

P.O. Box 346
Somerset, CA
www.fairplaywine.com
21-0434 A43 of 57



County of El Dorado Clerk of the Board <edc.cob@edcgov.us>

Support of the Proposed Urgency Ordinance 5140

1 message

Christine Schaufelberger <cschaufel@gmail.com>
To: edc.cob@edcgov.us

Thu, Mar 4, 2021 at 11:44 AM

Dear Clerk of the Boards,

I would like to recommend adoption of this Ordinance. I live in the Fair Play/ Somerset area and would oppose any chain store, such as Dollar General, being built in our rural community. We have many small shops and restaurants that would be financially harmed by these businesses.

The location is right across from our Pioneer Park where seniors and families gather and I am concerned that the traffic, noise and lights generated by a chain store business would be harmful to the peaceful surroundings of this area and cause undue safety hazards for those who live or travel through the area. The choice we made to live in a rural area should be an extremely important consideration in your review of this Ordinance.

I appreciate your consideration of my support for this Ordinance.

Christine Schaufelberger
3430 Derby Court
Somerset, CA 95684
530-400-5606



County of El Dorado Clerk of the Board <edc.cob@edcgov.us>

Dollar General-FairPlay area

Trisha McMurray <teemcmurray@gmail.com>
To: edc.cob@edcgov.us

Thu, Mar 4, 2021 at 2:44 PM

Hello.

I wanted to share my opposition to the idea of a Dollar General in the Somerset/FairPlay area. It seems inappropriate for our small community and I hope the input from the community will help stop this construction.

Trisha McMurray
3880 Sand Ridge Rd.
Placerville

Sent from my iPhone

EXHIBIT “7”

EXHIBIT “7”

EXHIBIT “7”



County of El Dorado Clerk of the Board <edc.cob@edcgov.us>

Ordinance to Restrict Formula Businesses in Rural Centers

1 message

John Garon <jcpagaron@gmail.com>
To: edc.cob@edcgov.us

Thu, Mar 4, 2021 at 12:00 PM

Stripped down to its essentials, this proposed Palin-Turnboo ordinance pits the interests of the relatively well-to-do homeowners who want to insure that the less well-to-do will not descend on their turf and bring with them the trash, noise and crime that will allegedly follow them to the Dollar Store. In other words, this proposed Palin-Turnboo ordinance is openly elitist and subtly racist. In this County, a few non-rural pockets excepted, the majority of people have few options but to shop at Dollar Stores that carry limited canned and frozen foods.

EXHIBIT “8”

EXHIBIT “8”

EXHIBIT “8”

Building Services

[Home](#) > [Government](#) > [Building Services](#)

Non-Residential and Multi-Family (Commercial)

How to Obtain a Building Permit

Obtaining a Building Permit

Prior to the development of building plans for any multi-family or non-residential project, please check with [Planning Services](#). Submittal requirements and processing times will vary based on location and/or type of project. A contact early in the process will help you make informed business decisions, keep your design costs down, and assist you in developing a reasonable projection of processing time.

1. Obtain an application packet from Building Services.
 - Complete the three part [application](#) and sign where applicable (signature must be verified by office personnel). If you are applying as owner-builder, you must be the owner of record and complete part four of the multi part application. If property ownership was recently changed a copy of the grant deed may be required at time of application. The only person authorized to sign an application is the owner of the property or a licensed contractor representing the owner. A lessee may sign for the owner if they present, to the Building Services, a copy of the signed lease allowing the lessee to obtain permits on the property.
 - Contractors must have both their [California Contractor License](#), Workers Compensation coverage, and current [County of El Dorado business license](#) up to date. Verification will be by the [Contractors State License Board website](#).
 - When other than the owner or licensed contractor is applying for the permit, the second half of part four of the form must be completed, giving authority to sign as the owner's agent.
 - Complete and sign a "[Deed Restriction Certificate](#)".
 - Complete the submittal checklist verifying that all the items are included to make a complete application. The actual submittal date starts when the application has been deemed complete
2. When served by a public water/sewer district, you must submit proof of service from the district prior to permit issuance.
3. All other agency approvals must be received by Building Services prior to permit issuance.
4. Submit your plans to Building Services and to the other agencies involved with your project. You will be responsible for keeping all other agencies updated with the most current building plans.
5. New buildings or structural changes to existing buildings shall be designed by a California licensed architect or registered engineer. A change in use of an existing building which places the building in a more hazardous occupancy classification shall be designed by an architect or engineer. The plans and design calculations shall be stamped and signed by the person or persons responsible for the design.
6. Electrical, mechanical or plumbing systems shall be designed by the installing electrical, mechanical or plumbing contractor (must be licensed by the state for that specialty), or by an architect or engineer.

7. Field modifications to plans or any design changes shall be done only with the approval of the designing architect or engineer. All such changes shall be submitted to Building Services for review and approval prior to construction.

Plan Requirements and Guidelines



BUILDING SERVICES WILL NOT ACCEPT AN APPLICATION FOR A BUILDING PERMIT WITHOUT THE MINIMUM SUBMITTAL CRITERIA LISTED.

TWO COMPLETE SETS OF PLANS ARE REQUIRED FOR PLAN CHECK AND ONE COMPLETE FLOOR PLAN WITH DIMENSIONS FOR THE ASSESSOR'S OFFICE.

Minimum plan requirements for submittal to Building Services. The plans will not be checked unless all elements are present.

1. **PLOT / SITE PLAN** (minimum scale 1"=20'). This plan must show the entire parcel and indicate and identify actual distances from all property lines and/or easements to structures, existing and proposed.
 - The plot plan shall also indicate the distances between structures.
 - Locate septic system(s), propane tank(s), HVAC equipment, pool equipment and well house (if applicable).
 - Contour lines (@ 2' vertical increments) must be shown which extend 20 feet beyond the building site and/or disturbed area, or to the property line, whichever is less.
 - If the plot plan, drawn as required above, is too large to fit on a 24" x 36" sheet of paper, a SITE PLAN, drawn to a smaller scale, shall be provided which locates the area covered by the PLOT PLAN on the parcel.
 - Site Design Measures for [Post Construction Storm Water Requirements](#)
 - The proposed method of compliance with [State Fire Safe regulations](#) regarding driveway slope, width, surface, turnouts and fuel modification shall be shown on these plans.
 - Driveways, are to be shown on the plot/site plans and accompanied by a profile indicating the existing elevation at edge of pavement (top of curb), elevations at all grade-breaks, and the distance between each given elevation.
 - Parking lot layout should show number of spaces, landscape features, and accessibility ramps and parking requirements.
 - Where there is more than one building on site, each building shall be labeled on site plan by a numeric or alphabetic system compatible with previous permit documents.
 - Check with [Department of Transportation](#) and [Planning Services](#) for additional information needed on plot/site plans submitted to their departments.
2. **COVER SHEET** of the construction drawings providing a summary of project. This may be combined with any other drawings as long as it is the first sheet of plan set.
 - Provide title block listing the owner, the designer(s), address of project, and the Assessor's Parcel Number. Provide a summary of the work to be done on the permit. As a minimum indicate: Use of building.
 - Number of stories.
 - Occupancy group(s) classified per California Building Code.
 - Floor area of: entire building, each occupancy, each story, additions, etc.

- Occupant load for exiting purposes.
 - Type of construction (VN, III-1 hour, etc.).
 - Whether the building is with or without fire sprinklers.
 - Current code years used in the design.
3. A **sheet index** shall be provided. Alternately, the sheets may be labeled "1 of x sheets", etc., where x is the total amount of sheets in plan set.
 1. If there is more than one building on the parcel, each building shall be designated by number or letter.
 2. Special inspections requirements of the building code shall be listed on cover sheet.
 3. Other information may be requested depending on the scope of the project.
 4. **FOUNDATION PLANS** with details and north arrow.
 - A soils report will be required for areas involved with the foundation.
 - Foundation plans shall be drawn to same scale as floor plans and framing plans.
 - Show location of all foundation bolts, hold downs or other hardware specified in engineering.
 - All footings shall be dimensioned.
 - Footing locations shall be delineated with dimension lines.
 5. **FLOOR PLAN(S)** drawn to scale. Choose appropriate scale for clarity. 1/8" = 1 foot minimum; 1/4" = 1 foot for small projects or complicated floor plans.
 - Standard drafting methods shall be used.
 - Obscure or insufficient drawings will not be checked.
 - Dimension lines shall be used to locate all walls, openings, etc.
 6. **FLOOR FRAMING PLAN** with details where necessary to clarify construction.
 - Where pre-manufactured or pre-engineered trusses, joists, etc., are used, the specifications shall be submitted for review.
 7. **ROOF FRAMING PLAN** If trusses are to be used, supply two wet-signed copies of engineered design.
 - Trusses must be keyed to roof framing plan.
 - The original building design professional (project engineer) must review and stamp truss specs as being compatible with their building design.
 8. **EXTERIOR ELEVATIONS** that show exterior finishes, architectural features, sloping site condition if applicable, building height.
 - Specify each elevation by cardinal orientation or front, rear, sides.
 9. **ELECTRICAL PLAN**
 10. **PLUMBING PLAN**
 11. **MECHANICAL PLAN**
 12. **FIRE SPRINKLER PLAN** showing standpipe sizing, head placement, and details of structural support.
 13. **CALIFORNIA ENERGY LOSS REPORT (TITLE 24)** includes all forms necessary to show conformance with the regulations.
 14. **PROFESSIONAL STAMPS** of the project architect and engineer.
 - The plans and the calculations shall be stamped and all stamps must have a "wet" signature in addition to the number and expiration date of the professional's California state license.
 15. **ENGINEERS DESIGN REPORT** containing design calculations and analysis, assumptions used in the calculations, and background data supporting any design waiver requests.
 - The analysis must accompany any structural design that justifies the proposed construction.
 - Building Services will not review a set of plans requiring structural analysis by an architect or engineer until the appropriate engineering analysis has been submitted.
 - Note: Conventional light-frame construction as defined in the building code does not require analysis.
 16. **A FOUNDATION INVESTIGATION "SOILS" REPORT** as prescribed by the California Building Code.

- Where any new foundation work is proposed, a soils report is required.
 - If there is an existing soils report for the site, it shall be updated for the new project.
 - Soils classification shall be based on tests by borings or excavations (exception: where no fill conditions exist and foundation design is based on 1500 psf or less, the soils report may be based on site observation(s) by foundation engineer). The following code provisions shall be addressed in the report:
 - Plot showing the location of all test borings or excavations, as applicable.
 - Description and classification of the soil.
 - Elevation of the water table, if encountered.
 - Recommendations for foundation type and design criteria, including bearing capacity, provisions to minimize the effects of expansive soils and the effects of adjacent loads.
 - Expected total and differential settlement.
17. **COMPLETE PLANS** printed from original tracings with no written modifications.

Checkpoints



WE'LL BE LOOKING FOR THE FOLLOWING ITEMS ON YOUR PLANS:

MINIMUM FOR PLAN CHECK (PC)

Although these items are not listed as needed for submittal, you should include them with your plans to help expedite your plan check

- **FLOOR PLANS** include the following for plan check:
 - All permanent walls, partitions.
 - All openings including doors, windows, skylights, etc.
 - Use of rooms or areas.
 - Walls required to of fire resistive construction.
 - Seating arrangements for assembly or dining areas if applicable.
 - Counters, fixtures, appliances, etc.
 - Location of columns, shafts or other features which impact floor layout.
- Other items may be required in order to show the nature of the project or delineate fire and life safety features. More than one floor plan may be necessary to clearly depict the above items without becoming too "busy". Additions and tenant spaces shall include floor plan of entire building, existing and proposed, showing location of proposed construction, adjacent occupancies, exiting, sanitary facilities, etc.
- **BUILDING SECTIONS:** Provide at least one complete building section showing materials and methods of construction. Provide additional sections as necessary to portray other portions of building where the construction differs from complete building section. Show foundation, framing, connections, insulation, exterior and interior wall finish, etc. where not shown on other sections or details.
- **DETAILS:** All structural and nonstructural building components shall be detailed. Notes on plans describing codes or general methods of construction will not be deemed as substitutes for details. All connections, assemblies, structural and nonstructural framing, finish materials, foundations, etc. shall be shown. Details do not have to be drawn to scale; however, they must be drawn large enough to clearly portray the intended construction. With the prior approval of the building official, shop drawings and other deferred submittal items may be specified on plans, with the understanding that they must be reviewed by the project designer and Building services for approval prior to installation. All details shall be referenced on applicable plan sheets. If "shotgun sheets" are used, the unused

details are to be deleted prior to submitting plans for review. Where the plan set has poor details or lacks sufficient details, the plans may not be checked any further until a complete set of details has been submitted.

- **MISCELLANEOUS FRAMING:** Provide plans for ceiling, nonbearing walls and partitions, architectural features, windows, doors, storefronts, etc. to show materials and methods of construction. Provide details as necessary. Reference to detail blocks as applicable.
- **DISABLED ACCESSIBILITY:** Generally speaking, any space or building feature that is useable by non-disabled persons shall be made accessible to persons with disabilities. All features showing accessibility shall be included in plans. Site accessibility, building access features, and facility accessibility shall be shown on plans in accordance with the California Building Code. If a code provision allows an exception, cite code section and reason why a particular building feature does not need to be made accessible.
- **ENERGY COMPLIANCE:** If space is directly or indirectly conditioned, Title 24 requires documentation showing that it meets an energy budget for the proposed use. All compliance measures shall be shown on the plans in accordance with the energy code and the attached compliance documents.
- *Electrical, plumbing and mechanical plans shall be prepared by either an architect or engineer, or the installing electrical, plumbing or mechanical contractor licensed by the state for that specialty.*
- **ELECTRICAL PLAN:** Specify all wiring methods and equipment. Provide symbol legend. Provide load calculations and panel schedule(s). Provide one line diagram for service, subpanels, control panels, etc.. Electrical plan shall show as a minimum: 1) Lighting, receptacle, switch outlets 2) Branch circuits labeled to match panel schedules 3) Smoke detectors, automatic controls, fire alarms, other electrical installations for fire/smoke control 4) Exit signs, emergency exit illumination 5) Outlets/branch circuits for all specific equipment served 6) Location of service and subpanels.
- **PLUMBING PLAN:** Provide plan view of drains and water distribution. Where necessary, provide isometric drawings for drains and vents, showing traps, trap arms and their vents, lateral drains and tie-ins to main drains. Provide gas piping schematic. Show all plumbing fixtures on floor plan. The number of plumbing fixtures shall be provided in accordance with 2001 California Plumbing Code Appendix C, or California Building Code Appendix Chapter 29. Specify materials for all major components of system, including DWV, water piping, gas piping, etc. Specify fittings, valves, etc. Specify fixtures. Water demand shall be calculated for sizing water piping when total of fixture units exceeds 30.
- **MECHANICAL PLAN:** Show location, manufacturer and model of all space conditioning equipment. Show location, size and construction of all ducts, plenums and registers. Show all exhaust equipment and ducting, including environmental ducts, product-conveying ducts, kitchen hood exhaust, makeup air, outside air, etc. Indicate all fan sizes (cfm). Show electrical ratings for each piece of equipment. Provide details for the installation of all equipment in accordance with manufacturers' specifications and applicable codes. Provide legend for mechanical symbols.

EXHIBIT “9”

EXHIBIT “9”

EXHIBIT “9”

Robertson, Johnson, Miller & Williamson

ATTORNEYS AND COUNSELORS AT LAW

G. DAVID ROBERTSON (NV & CA)
KIRK C. JOHNSON (NV, AZ & CO)
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REPLY TO: RENO OFFICE

Of Counsel ROSS E. DE LIPKAU (NV)

March 8, 2021

Office of El Dorado County Counsel
Attn: David A. Livingston, Esq.
330 Fair Lane
Placerville, CA 95667
Email: david.livingston@edcgov.us

Re: Litigation Hold Letter, Woodcrest Real Estate Ventures – Dollar General Projects

Dear Mr. Livingston:

As set forth in our demand letter, please be advised that should the El Dorado County (the “County”) Board of Supervisors (“Board”) choose to adopt and implement the illegal Urgency Ordinance 5140 (the “Illegal Ordinance”) on or after the March 9, 2021 hearing to be held regarding same, our client, Woodcrest Real Estate Ventures, a Division of Woodcrest Homes, Inc. (collectively, “Woodcrest”) intends to file suit and we will obtain through all proper means of discovery **all relevant communications, documents, and other information between the County, members of the Board, and any individual with whom there were discussions – proper or improper – regarding the Illegal Ordinance and either of Woodcrest’s Dollar General projects. This will include emails, letters, text messages and other cell phone records on personal phones, and any other means by which your client and County personnel communicated.** To that end, please be further advised that that this writing constitutes formal notification to your client, including, but not limited to, all members of the Board, all members of the Planning Commission, all members of the Planning Department, and any other County personnel involved with the Illegal Ordinance, concerning their responsibility to preserve potential evidence that is electronically stored, in addition to paper copies. While our client has not yet initiated litigation, the demand letter makes plain that is a potential next step. **As such, your client has a duty to retain evidence generally and, as a result of this notification, a duty to retain any evidence that even arguably pertains to the dispute, including personal email and cell phone records.**

Electronically-stored information (ESI) is an important and irreplaceable source of evidence. The laws and rules prohibiting destruction of evidence apply to ESI in the same manner that they apply to other evidence. Due to its format, ESI is easily deleted, modified or corrupted. Your client must take every reasonable step to preserve this information until the final resolution of these matters. *The intentional or negligent failure to preserve relevant evidence can result in severe adverse consequences.*

Mr. David Livingston, Esq.

March 8, 2021

Page 2

The definition of ESI is very broad, and other relevant ESI may include, without limitation, e-mail, word processing documents, spreadsheets, calendars, voicemail, fax servers, personal digital assistants, mobile telephones, telephone logs, contact manager information, internet usage files, and network access information.

Please ensure that all electronic data and information about such electronic data (such as metadata, logs of system usage, etc.) on any media in the possession, custody, or control of any of your clients, or their agents or employees, that may contain electronic information that is relevant to this matter are preserved immediately, in their native file format, with all metadata intact. Your client should adopt appropriate safeguards against destruction of potential evidence. Until this matter is fully and finally resolved, or another agreement is reached, measures your client should take include, but are not limited to:

- Suspend the recycling of backup tapes with information from any system which may contain information relevant to the claims and defenses in this matter. For ongoing backup operations, new media should be used in every instance;
- No data should be deleted from any media that might contain relevant information;
- No media that may contain any relevant information should be disposed of in any manner; and
- No hard drive or other media that may contain any relevant information should be de-fragmented or compressed.

Implementing a proper litigation or preservation hold, particularly on potentially relevant ESI, frequently requires affirmative intervention in a person or company's routine document retention and destruction policies, and notwithstanding the parameters of any existing policy, your clients should immediately take all reasonable steps to preserve this information through the final resolution of this matter.

As Magistrate Judge Piester observed in 2007:

When the prospect of litigation is present, parties are required to preserve documents that may be relevant to the issues to be raised, and their failure to do so may result in a finding of spoliation of evidence. The obligation to preserve evidence begins when a party knows or should have known that the evidence is relevant to future or current litigation. See Stevenson v. Union Pac. R.R. Co., 354 F.3d 739, 746 (8th Cir. 1993) (Sanctions not abuse of discretion in pre-litigation destruction of evidence without showing of bad faith); see also Zubulake v. UBS Warbrg LLC, 220 F.R.D. 212, 216-18 (S.D.N.Y. 2003) (“Once a party reasonably anticipates litigation, it must suspend its routine document retention/destruction policy and put in place a ‘litigation hold’ to ensure preservation of relevant documents.” *Id.* at 218) (citing Fujitsu Ltd. v. Federal Express Corp., 247 F.3d 423, 436 (2d Cir. 2001); Kronish v. United States, 150 F.3d 112, 126 (2d Cir. 1998)). At a minimum, that means counsel must direct the client to ensure that documents are preserved, not deleted from an electronically stored information system or otherwise destroyed or made unavailable. Failure to do so has been found to be ‘grossly negligent.’ Zubulake, 220 F.R.D. at 221.

Mr. David Livingston, Esq.

March 8, 2021

Page 3

Board of Regents of the Univ. of Nebraska v. BASF Corp., Case No. 4:04CV3356, 2007 WL 3342423 at 4-5 (D. Neb., Nov. 5, 2007).

In addition, federal courts have started to take a more proactive approach to litigants' increasing reliance on the electronic storage and communication of information. The decision in Zubulake addressed the issues of evidence preservation with an emphasis on the preservation of electronically-stored information. Although it is a decision from the Southern District of New York, the guidance and standards which United States District Judge Shira A. Scheindlin set out in the Zubulake case may influence a judge in this matter. Moreover, federal and state courts across the nation frequently look to Zubulake, and many have applied its standards for preservation of documents and electronically-stored information.

Importantly, Zubulake emphasizes that a party's counsel should be actively involved in ensuring compliance with a litigation hold. As Judge Scheindlin explained "[o]nce a party reasonably anticipates litigation, it must suspend its routine document retention/destruction policy and put in place a 'litigation hold' to ensure the preservation of relevant documents." Zubulake, 220 F.R.D. at 218 (S.D.N.Y. 2003). In accordance with these and other preservation duties, counsel must make certain that all sources of potential, relevant information are identified and placed on hold.

In addition, although this letter focuses on the duty to preserve ESI, it bears mention that your client is under the same duty with respect to hard copy records. **"Preservation" is to be interpreted in the broadest possible sense to accomplish the goal of maintaining the integrity of all documents, data, and tangible things reasonably anticipated to be the subject of discovery relating to matters at issue.** The duty to preserve means taking steps to prevent the destruction or alteration of materials described above. Thank you in advance for advising your client of its duty to preserve all potential evidence, including any and all personal cell phone records, and please do not hesitate to contact us with any questions or concerns.

Sincerely,

ROBERTSON, JOHNSON,
MILLER & WILLIAMSON



Anthony G. Arger, Esq.