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#42

April 3, 2016

Public Comment
Cheryl Langley
Board of Supervisors
April 5, 2016
Agenda Item #42; File # 15-1409

Supervisors--

Thank you for the opportunity to comment on the **Dollar General**, Georgetown project.

At the January 14, 2016, and February 25, 2016, hearings before the Planning Commission, I spoke about the inadequacies of the onsite wastewater treatment system (OWTS) (septic system) proposed for the Dollar General project.

Basically, the proposed OWTS violates State Water Resources Control Board (SWRCB) Tier 1 standards. Without an approved septic system, the project cannot move forward. The specifics regarding the inadequacies of the proposed OWTS are included in public comment under my name in Legistar file 15-1409 dated January 14, 2016 and February 25, 2016.

The basic message in my testimony on January 14, 2016 was that the proposed septic system is not likely to be effective; I also describe the specifics of its SWRCB Tier 1 standards violations. Subsequent to my testimony, Mr. Fred Sanford of Environmental Management testified that El Dorado County (EDC) was not bound by Tier 1 standards, and therefore the proposed OWTS was ultimately approvable.

OWTS Terminology

In my February 25, 2016 testimony, I challenged the testimony by Mr. Fred Sanford that EDC is not bound by Tier 1 standards by citing two documents from the County that indicate the County *is* currently operating under (and complying with) Tier 1 standards for "septic systems." In response Mr. Sanford testified that:

"It is not a septic system. That needs to be clarified. It is not a septic system. It's totally different. Basically you have a complete sewage treatment package plant for an onsite sewage disposal system."

This statement *confuses* the issue—but it does not *change* the issue. The term "septic system" is generally acknowledged as a colloquial term for an OWTS system. In fact, the EDC Zoning Ordinance reads:

TITLE 130 – ZONING ORDINANCE

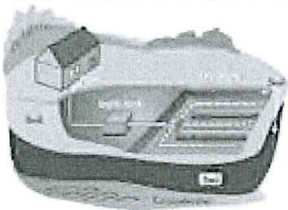
CHAPTER 130.80 – GLOSSARY

130.80.020 Definitions of Specialized Terms and Phrases

Septic System. An on-site sewage disposal system, including any combination of septic tanks and leaching or evaporative systems or areas, subject to the requirements of the Environmental Management Department.

El Dorado County Code Title 130 Adopted 12/15/2015 (SCH# 2012052074)

And, alternatively, here's the definition of "septic system" provided on the EDC Web site:



An on-site individual sewage disposal system, also referred to as a septic system, is used for the disposal of wastewater from structures that do not have access to a public wastewater treatment facility. Wastewater from a septic system may contain many types of contaminants such as nitrates, harmful bacteria, chemicals, and viruses. If a septic system is designed incorrectly or is not constructed in conformance with applicable codes and construction practices, contaminants may enter the groundwater supply or may result in the ponding of sewage above ground causing direct exposure to people and animals.

Source: EDC Web Site; available at: https://www.edcgov.us/Liquid_Waste_Program.aspx. (Accessed: March 31, 2016.)

The system being proposed for the Dollar General is clearly a sewage disposal system—a septic system—an OWTS.

The following definition is from the SWRCB OWTS Policy:

“Onsite wastewater treatment system(s)” (OWTS) means individual disposal systems, community collection and disposal systems, and alternative collection and disposal systems that use subsurface disposal. The short form of the term may be singular or plural. OWTS do not include “graywater” systems pursuant to Health and Safety Code Section 17922.12.

Source: SWRCB OWTS Policy, June 29, 2012, page 9. (See document under Legistar item # 16 Under file 15-1409.)

Mr. Sanford describes the system as a “packaged treatment plant,” a “supplemental treatment system,” a “sewage treatment package.” And any of this terminology is fine—but it all boils down to one thing: an OWTS. **And as a OWTS, it must meet SWRCB Tier 1 standards. But the system proposed for the Dollar General, Georgetown project—does not meet Tier 1 standards.**

So let's not be sidetracked by terminology—let's have a frank analysis of the viability—or lack thereof—of the proposed OWTS. If approved by Environmental Management, EDC will violate SWRCB Tier 1 standards, which—by its own admission—it is bound to, and has documented, **“The County will not approve development that violates the State Board's standards.”** Unless the project OWTS can be

modified to comply with SWRCB Tier 1 standards—or the project can connect to a *public sewer*—it cannot legally be approved.

Leach Line Placement

Regarding the system’s violation of the EDC standard that prohibits the placement of leach lines in fill material, it was stated the proposed OWTS, “...has no leach field; it has a field of drip irrigation system that drips out on a zone setup...” While not disputing the fact that it is likely the drip system is not referred to as “leach lines,” the **function** is what matters here. **This system disperses liquid into fill material**, which raises **soil stability issues**. And, in this case, the consultant for the project states, “no testing of the perc response for this [fill] material has been conducted.”

System Acceptability

When asked if the proposed OWTS was acceptable to the County and State, Mr. Sanford replied, “Yes, we have... certain criteria that will allow us to allow alternative systems like this to be installed. That’s why we have 4 or 5 of them in the County.” (It is likely all of these systems were installed in violation of Tier 1 standards.)

A final justification for allowing such a system was, “And also, if you want to get back to [Assembly Bill] AB 885...when they first started to start writing regulations for AB 885, they were pushing towards everybody having to put this type of system in.” Regardless—**EDC does not currently have the authority to approve such a system**. In fact, it seems likely the State would *not* approve the installation of such a system under the circumstances present at this project site. After all, **this project will be built on wetlands**.

So, the conclusion? In a January 7, 2016 email Mr. Greg Stanton, Division Director, Environmental Health, wrote regarding the proposed OWTS “...this is a proposal in concept and has not yet been approved for installation by this division.” This was confirmed at the February 25, 2016 Planning Commission meeting by Mr. Sanford, who stated, “We have not approved it to go in. It is a concept that we like the idea of it, but we haven’t approved it.” **How can this project move forward without a viable, legal, OWTS?**

OWTS (Septic System) Setback

Among other issues, the proposed system does not comply with SWRCB **setback requirements** (under Tier 1). The County applies only a **50 foot septic system setback** from “*seasonal streams*”; the State Board prescribes **100 feet from springs and flowing surface water**, and **200 feet from wetlands** under Tier 1 standards. This lack of appropriate setback runs contrary to both State and EDC policy:

Policy 130.30.030(G)(3)(h):

All new septic system construction shall comply with standards established by the Environmental Management Department, or applicable state and federal regulations for setbacks from lakes, rivers and streams.

While it is clear there is an “or” in the sentence in this policy, it is also clear from the policy language that EDC must comply with State *and* Federal regulations; it cannot be in violation of those standards.

Not only does this setback appear to be violated, the project will be *filling* wetland to implement the project. The proposed development will cover three parcels; the *mid-parcel* has several small “patches” of isolated *wetland*, and there are two small wetlands adjacent to this that will be filled to accommodate the project.

The proposed project violates policies that protect wetlands and riparian habitat.

OBJECTIVE 7.3.3: WETLANDS

☒ **Protection of natural and man-made wetlands, vernal pools, wet meadows, and riparian areas from impacts related to development for their importance to wildlife habitat, water purification, scenic values, and unique and sensitive plant life.**

Policy 7.3.3.4 ☒ Until standards for buffers and special setbacks are established in the Zoning Ordinance, the County shall apply a minimum setback of 100 feet from all perennial streams, rivers, lakes, and 50 feet from intermittent streams and wetlands. These interim standards may be modified in a particular instance if more detailed information relating to slope, soil stability, vegetation, habitat, or other site- or project-specific conditions supplied as part of the review for a specific project demonstrates that a different setback is necessary or would be sufficient to protect the particular riparian area at issue.

Policy 7.3.3.5 ☒ Rivers, streams, lakes and ponds, and wetlands shall be integrated into new development in such a way that they enhance the aesthetic and natural character of the site while disturbance to the resource is avoided or minimized and fragmentation is limited.

Policy 7.3.4.1 ☒ Natural watercourses shall be integrated into new development in such a way that they enhance the aesthetic and natural character of the site without disturbance.

OBJECTIVE 7.3.1: WATER RESOURCE PROTECTION

☒ **Preserve and protect the supply and quality of the County’s water resources including the protection of critical watersheds, riparian zones, and aquifers.**

OBJECTIVE 7.4.2: IDENTIFY AND PROTECT RESOURCES

☒ **Identification and protection, where feasible, of critical fish and wildlife habitat including deer winter, summer, and fawning ranges; deer migration routes; stream and river riparian habitat; lake shore habitat; fish spawning areas; wetlands; wildlife corridors; and diverse wildlife habitat.**

Zoning Ordinance

130.30.030: Setback Requirements and Exceptions

G. Protection of Wetlands and Sensitive Riparian Habitat.

1. **Content.** This subsection establishes standards for avoidance and minimization of impacts to wetlands and sensitive riparian habitat as provided in General Plan Policies 7.3.3.4 (Wetlands) and 7.4.2.5 (Identify and Protect Resources).
2. **Applicability.** The standards in this subsection apply to all ministerial or discretionary development proposed adjacent to any perennial streams, rivers or lakes, any intermittent streams and wetlands, as shown on the latest 7.5 minute, 1:24,000 scale United States Geological Survey (USGS) Quadrangle maps, and any sensitive riparian habitat within the county.

130.30.030(G)(3)(f)

Any setback or buffer required by this subsection shall be measured from the ordinary high water mark of a river, perennial or intermittent stream, and the ordinary high water mark or spillway elevation of a lake or reservoir.

Violation of General Plan / Zoning Ordinance Policy for Adequate Services, etc.

The following goals, objectives and policies apply to the proposed project.

The proposed project violates policies that require adequate public services (including wastewater disposal, water quality protection, traffic mitigation, etc.):

- **Policy 2.2.5.7:** “The County reserves the right to deny development plans...where adequate findings for approval (including adequate public facilities and services) cannot be made.”
- **Policy 2.2.5.7:** “The County shall implement a program to promote infill development in existing communities...[where] D. Approval of a project would not result in any significant effects relating to traffic, noise, air quality, or water quality. E. The site can be adequately served by all required utilities and public services.”
- **Goal 5.1:** “Provide and maintain a system of safe, adequate, and cost effective public utilities and services...ensure ...safe and adequate...wastewater disposal...”
- **Objective 5.1.2:** Ensure...that adequate public services and utilities, including...wastewater treatment and disposal...are provided concurrent with discretionary development...”
- **Policy 5.1.2.3:** “Lack of available public or private services or adequate infrastructure to serve the project...shall be grounds for denial of any project...”
- **Goal 5.3:** “Wastewater Collection and Treatment. An adequate and safe system of wastewater collection, treatment, and disposal to serve current and future County residents.”
- **Objective 5.3.1:** Wastewater Capacity. “Ensure the availability of wastewater collection and treatment facilities of adequate capacity to meet the needs of...commercial...areas.”

- Policy 5.3.1.3 In Rural Centers, the County may allow community wastewater systems and other alternative solutions as an acceptable option to traditional wastewater treatment for mobile home parks, commercial and industrial centers, and multifamily residential. The applicant must prove and the County must find that the proposed system will be adequately and safely operated and can accommodate the highest possible demand of the project.
- Policy 5.3.1.6 The County shall encourage the wastewater treatment operators to design and implement future wastewater treatment capacity expansions in a manner that avoids or minimizes associated environmental impacts to the extent feasible.
- Policy 5.3.1.7 In Community Regions, all new development shall connect to public wastewater treatment facilities. In Community Regions where public wastewater collection facilities do not exist project applicants must demonstrate that the proposed wastewater disposal system can accommodate the highest possible demand of the project.
- Policy 5.3.2.3 Consider private community wastewater collection and on-site disposal systems and/or package wastewater treatment plants as an acceptable alternative to traditional wastewater treatment if managed by a public entity.

The proposed project violates policies that require adequate management of storm water drainage.

STORM DRAINAGE

GOAL 5.4: STORM DRAINAGE

Manage and control storm water runoff to prevent flooding, protect soils from erosion, prevent contamination of surface waters, and minimize impacts to existing drainage infrastructure.

- Policy 5.4.1.1 Require storm drainage systems for discretionary development that protect public health and safety, preserve natural resources, prevent erosion of adjacent and downstream lands, prevent the increase in potential for flood hazard or damage on either adjacent, upstream or downstream properties, minimize impacts to existing facilities, meet the National Pollution Discharge Elimination System (NPDES) requirements, and preserve natural resources such as wetlands and riparian areas.

Policy 5.4.1.2 Discretionary development shall protect natural drainage patterns, minimize erosion, and ensure existing facilities are not adversely impacted while retaining the aesthetic qualities of the drainage way.

Response to SALEM Comments

On March 30, 2016, SALEM Engineering Group, Inc., provided a written response to comments from the public. In it, they provide the following discussion:

Comment: The bulk of Ms. Langely’s comments regard the specific OWTS standards under which EDC is authorized to regulate the proposed Dollar General OWTS system in Georgetown.

Response: Based on SALEM’s communications with Mr. Fred Sanford, Environmental Health Supervisor for the EDC Environmental Management Department, EDC is currently developing Tier 2-Local Area Management Program (LAMP) OWTS standards for review and approval by the State Water Resources Control Board (SWRCB). Until those standards are adopted by the State, EDC continues to regulate OWTS under its current standards as codified in the EDC Private Sewage Disposal System Ordinance (El Dorado County Ordinance-Chapter 15.32 including Resolution #259-99, *Design Standards for the Site Evaluation and Design of Sewage Disposal Systems*). SALEM’s OWTS design for the Georgetown site is based upon those standards.

SALEM notes that SWRCB Tier 1 standards are intended for sites with “optimal conditions” regarding percolation rates, depth to groundwater, soil depth, OWTS density, and others. The purpose of a Tier 2 standards is to allow, with local agency oversight and guidance, the design and installation of OWTS where Tier 1 conditions do not exist. The current EDC OWTS standards include a set of design criteria analogous to the intent of Tier 2 standards for “non-ideal” sites. These criteria are stipulated in County Resolution No. 259-99, Section 2-Design Procedures, and include the following pertinent subsections:

- Subsection 2.C – Special Design System Requirements (which allows the use of Fill in disposal areas).

The problem here is—once again—that **EDC has documented they are currently operating under Tier 1 standards**. Approval of this system will mean EDC has violated SWRCB Tier 1 standards for OWTS.

Comment: Ms. Langley believes the proposed OWTS violates the County minimum setback requirements and use of fill in the disposal area.

Response: SALEM notes that El Dorado County Resolution No. 259-99, *Design Standards for the Site Evaluation and Design of Sewage Disposal Systems*, Section 2.C.6.f. allows the use of fill in the sewage disposal area provided that the percolation rate of the fill material is equal to or slower than the percolation rate of the native material (to limit the potential for “daylighting” of effluent). The March 3, 2015 design report shows dispersal of a portion of the effluent to a proposed fill area to the south of the building. To meet the requirement of the above County standard, the design report recommends that “After construction of the fill slope, percolation testing of the shallow slope soils should be conducted to verify the design specifications.”

Regarding the use of fill material in the disposal area, while SALEM has indicated they "should conduct" a percolation test on the fill material after construction of the fill slope, doesn't that assume project approval prior to testing the percolation rate of the fill material? Or does the project applicant expect to perform site improvements, but abandon the project if the fill material does not perform as expected?

That said, the excerpt below indicates testing will be performed "until passing criteria are obtained"; this contradicts the statement that says testing "should" be conducted. Also, it is clear that the current percolation rate of "native material" exceeds Tier 1 percolation rates, with the exception of one test site (P-4 with a percolation rate of 32 minutes per inch) that appears to be in a location planned for the driveway/parking lot, but was described as "...an area available for dispersal system expansion, if required."

SALEM proposes to obtain this fill material from grading operations at the site to insure its percolation compatibility with the existing site soils. Fill placement will be carefully observed so that SALEM's design report recommendations are followed. Following placement, the percolation rates of the fill will be tested to ensure it meets the County and our design report requirements. Further design recommendations include:

- Fill that does not meet the requirements should be removed and replaced, and tested again for percolation rates. These steps should be repeated until passing criteria are obtained.

While I will acknowledge EDC has noted in County Resolution No. 259-99 Section 2(C)(6)(f) that "Percolation rate of fill material must be equal to or slower than the percolation rate of native material" (see 6(f) below)...

6. Use of Fill in Sewage Disposal Area - The following are criteria which must be followed in developing fill for a leach field:

Area to receive fill must have vegetation removed.

(b) Area to receive fill must be plowed, ripped, scarified or disked on contour.

(c) The imported material shall have consistent characteristics as the native soil.

(d) Area to receive must or less than 20% slope, unless sites specific justification is made by the designer.

(e) Compaction test data shall be provided to ensure proper compaction to nearly the same degree as natural soil.

(f) Percolation rate of fill material must be equal to or slower than the percolation rate of native material.

(g) Compaction will be completed in six (6) inch lifts supervised by a Registered Civil Engineer, or another appropriately registered individual.

Source: Resolution 259-99.

...that is contradicted by the excerpt that follows that says EDC policy does not allow the use of fill in the sewage disposal area: (see final line of the following table)

Leach Lines

From ephemeral (seasonal) stream/swale	50 feet
From flowing stream	100 feet
From well, spring, lake, or pond	100 feet
From lake or reservoir used for drinking water	200 feet
From trees	5 feet
From lot lines, roads, driveways, or buildings	10 feet
From a cut or fill (e.g., pool)	Four (4) times the cut or fill height
Shall not be placed under asphalt, concrete, or under areas subject to vehicular traffic	
<u>Shall not be placed in fill material</u>	

Also problematic is the following excerpt from the SALEM document:

General Response: We would like to emphasize the following as to the conservative nature of the proposed OWTS design:

- The design includes a minimum 48 inches separation from the dispersal piping to the seasonal high water table — the placement of fill at certain locations will increase this separation. The minimum separations listed in most State and local guidelines assume a standard septic system, with no supplemental treatment to reduce the high biologic and nitrogen content that would normally be discharged using a simple *passive* septic tank and leach line system. The proposed NSF-certified *active* aerobic treatment system is designed to pump effluent to the dispersal system at rates specifically calculated to maximize soil absorption and minimize the potential for oversaturation. The nitrogen removal rates of active treatment systems produce an effluent with much lower biologic and nitrate contents compared to standard septic systems.

Notably, a groundwater study has not been performed on the project site, so the statement that “*The design includes a minimum 48 inch separation from the dispersal piping to the seasonal high water table...*” cannot be verified. SWRCB Tier 1 standards *require* a groundwater study.

OWTS Capacity

An additional concern regarding this OWTS is that it is designed for an estimated inflow of **300 gallons per day**. Because a single-family dwelling unit is expected to generate 250 gal/day of wastewater according to the SWRCB OWTS Policy document (see below)—300 gal/day seems a surprisingly small figure for this commercial operation.

“**Single-family dwelling unit**” means a structure that is usually occupied by just one household or family and for the purposes of this Policy is expected to generate an average of 250 gallons per day of wastewater.

Source: SWRCB OWTS policy, definitions: “Single Family Dwelling Unit”, page 10.

And in fact, EDC requires a single family residence with a single bedroom to accommodate 350 gallons of wastewater a day, and a two bedroom home 500 gallons per day, etc. (see table below). The Dollar General will apparently have one women's and one men's public restroom, each restroom will have one toilet and one lavatory; the store will also have one drinking fountain, and one mop sink.¹

<p>6. Minimum Sewage Flows</p> <p>(a) Individual sewage disposal systems shall be designed to accommodate a sewage flow of 350 gallons per day plus 150 gallons for each additional bedroom. Apartments (up to 5 dwelling units), granny flats, and hardship mobile homes shall be calculated as follows:</p> <p>Single Family Residence 1 Bedroom = 350 gpd 2 Bedrooms = 500 gpd 3 Bedrooms = 650 gpd 4 Bedrooms = 800 gpd</p> <p>(b) Commercial Facilities</p> <ul style="list-style-type: none">(1) Projected daily flows for commercial facilities shall be estimated using Table 2. The Department may approve, on a case by case basis, metered water use data or other supporting data in lieu of the estimated sewage flows set forth in Table 2.(2) Commercial facilities that prepare foods, (e.g., kitchens, restaurants) shall install a grease trap or interceptor pursuant to the requirement the most recently Board adopted edition of the Uniform Plumbing and amendments thereto. <p>(c) Other design flows may be approved by the Director of Environmental Management upon submission of supporting data and calculations.</p>
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Source: Resolution 259-99.

While Resolution 259-99 indicates EDC can approve a system based on other supporting data in lieu of these standards, it seems likely the facility may exceed the 300 gallon per day estimate. Perhaps additional supporting documentation could be provided in a complete Environmental Impact Report (EIR) to support that estimate.

Approvals Required

For this particular system, which Mr. Sanford has described as a “packaged treatment plant,” the following requirements apply:

C. SPECIAL DESIGN SYSTEM REQUIREMENTS

<p>J. PACKAGE PLANT SYSTEMS</p> <p>1. A package plant system is defined as a proprietary self-contained wastewater treatment and disposal system.</p> <p>2. Criteria for Approval</p> <p>(a) A package plant system may be considered on a case by case basis.</p> <p>(b) <u>These systems will only be considered in areas serviced by a community services district or other public entity.</u></p> <p>(c) <u>The system must be approved by the State of California Water Quality Control Board - Central Valley Region.</u></p>
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Source: Resolution 259-99.

¹ **Staff Report G**, page 326 of 517. See document **G - Staff Report** (Mitigated Negative Declaration) which can be accessed in the “**Attachments**” section at the El Dorado County Web site: <https://eldorado.legistar.com/LegislationDetail.aspx?ID=2538205&GUID=93082C60-68C2-4211-8FA0-981FB7CED640&Options=&Search=>

Item (J)(b) and Policy 5.3.2.3 make it clear the system proposed for the Dollar General **must be managed by a public entity**:

Policy 5.3.2.3 Consider private community wastewater collection and on-site disposal systems and/or package wastewater treatment plants as an acceptable alternative to traditional wastewater treatment if managed by a public entity.

And, the system must be approved the the State Central Valley Regional Water Quality Control Board (CVRWQCB). I have not seen documentation that has indicated the CVRWQCB has been contacted by either the applicant or EDC regarding the viability/legality of installing such a system at the project site.

Job Data Not Identified, Historic Identity Impacted, Wetlands Impacted...

Concerns regarding the Dollar General, Georgetown project are covered at length by Joann Eisenbrandt in a news article in the Lake Tahoe News (see attached article). Covered in the article are discussions with residents and Planning Commissioners that are relevant to this hearing today.

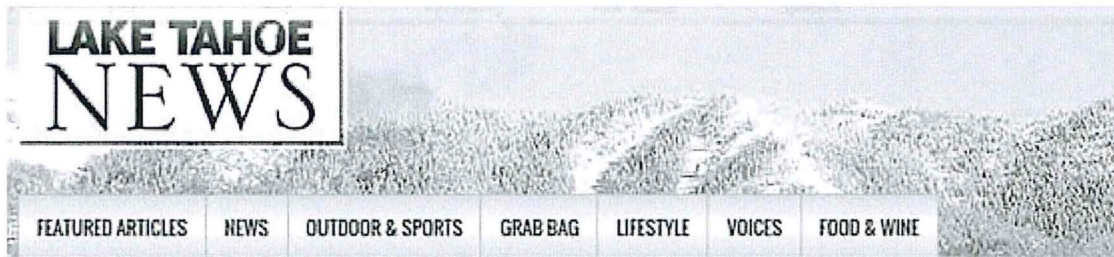
Conclusion

As Planning Commissioner James Williams stated in the article by Joann Eisenbrandt, *"The applicant chose a very challenged property and it needs more study and due diligence"* (see excerpt below). I agree. **I request evaluation of the project under a full EIR**, during which time project impacts and mitigations for those impacts can be adequately explored. In the absence of a full EIR, I ask for project denial.

District Four Planning Commissioner James Williams was the lone vote on Feb. 25 opposing denial of the appeal. Williams explained to *Lake Tahoe News* why he voted that way. "This was the wrong place (for the project) from Day 1. The applicant chose a very challenged property and it needs more study and due diligence." Williams went on, "I asked about how many jobs and they refused to answer that for us. We absolutely need jobs here, but we need living-wage jobs. We don't need minimum wage part-time jobs. A lot of people have the perception that instead of helping the people and protecting the community, (the county) is just saying yes to projects; that staff is just there to help the applicant get their project through instead of helping the community."

Source: Joann Eisenbrandt, Lake Tahoe News, March 26, 2016.

Attachment (1)



Strategy of planning: Who speaks for El Dorado County?

PUBLISHED: MARCH 26, 2016 BY: ADMIN. IN: FEATURED ARTICLES, NEWS.

"We are really tired of having to sue our own county to get you to do the right thing."

— Sue Taylor, Save Our County, public comment at the Feb. 23, 2016, El Dorado County Board of Supervisors meeting

By Joann Eisenbrandt

NOTE: A portion of this article has been deleted to include only the portion that discusses the Dollar General project...

The planning process in action: Georgetown Dollar General project

The proposed construction of a Dollar General store on Main Street in downtown Georgetown, while a private project on private land, still illustrates how conflicts between rural lifestyle and economic development can play out in the planning process. It has not reached lawsuit status, but may be well on its way there.

Dollar General, a national chain of reduced-price, mixed merchandise box stores, wants to construct a 9,100-square-foot store in downtown Georgetown fronting on Main Street. Georgetown is a small, rural historic former mining community located between Placerville and Auburn in District Four. The project was submitted to County Planning staff for a design review. They reviewed the application and prepared a mitigated negative declaration, saying in effect that the larger, more intense environmental review required by a full EIR was not necessary and that what impacts had been found could be mitigated into "insignificance."

This staff-level approval was appealed by Georgetown resident Dennis Smith to the Planning Commission, which is made up of members from each of the five supervisorial districts, appointed by that district's supervisor. At its second meeting on the appeal, on Feb. 25, the Planning Commission denied it by a vote of 4-1, with Commissioner James Williams of District Four voting no. This Planning Commission decision was then appealed by Georgetown resident Dave Souza and the Georgetown Preservation League to the Board of Supervisors. The hearing on that appeal is set for the April 5.

Conflicting viewpoints

The appeal focuses on two allegations: what is termed a "conflict of interest" on the part of District 5 Planning Commissioner Brian Shinault because he helped the project applicant refine part of their building design, but then did not recuse himself from voting on the appeal. Shinault, who lives in South Lake Tahoe, is an architect. Second is the failure of the mitigated negative declaration to fully address environmental impacts including the adequacy of

the septic system, the filling in of a wetlands, potential stormwater and drainage issues, and traffic and public safety. Not specifically mentioned in the appeal is the feeling by many that even though the property is zoned commercial-design community, the location of such a large box store in the middle of historic Georgetown is inappropriate.

The Dollar General project is located within the Georgetown Rural Center. New buildings in historic communities such as Georgetown should, "generally conform to the types of architecture prevalent in the gold mining areas of California during the period of 1850 to 1910." The board has adopted El Dorado County Historic Design Guidelines (HDG) that outline what this conformity means in terms of look, height, style, lighting, and building materials. "The project, as designed and conditioned," the Dec. 10, 2015, planning department staff report concluded, "has been determined to substantially conform to the HDG and would be compatible with the surrounding residential, community park, and commercial uses within the Georgetown Main Street commercial area."

Not everyone agrees.

Dave Souza, who filed the latest appeal, told the commissioners, "(Property owner Denton) Beam has the right to sell his land, but to have that (Dollar General) on those three parcels is a gigantic hernia to Main Street."

In a conversation with *Lake Tahoe News*, Souza said, "I want a full EIR. Most people in Georgetown are against it. I told the Planning Commission that Denton has every right to sell this property, but we don't want a Dollar General in downtown Georgetown. (El Dorado County Chamber CEO) Laurel (Brent-Bumb) said it will bring jobs to Georgetown. No, it won't."

Commissioners were told by project proponents on Feb. 25 that there would be eight to 10 jobs created, but the representative declined to say how many jobs were full time.

Not everyone agrees with the completeness of the environmental review either. Ed Hawkins of Georgetown told the Planning Commission at its Feb. 25 meeting that he had written to them in December 2015 about the stormwater drainage system he believes is inadequate. "(County planning) staff," he told the Commissioners, "has an annoying habit of trying to get to yes by using a mitigated negative declaration. This site calls out for a full EIR."

Hawkins expanded on his concerns when he told *Lake Tahoe News*, "I believe this is an environmentally sensitive area. You are putting a large project in the middle of a historic district. The county needs to consider the impact of this project on the historic downtown, and it isn't ... the county has decided that our history and Georgetown is not worth preserving."

Dennis Smith, a retired U.S. Forest Service mineral specialist, pointed to concerns at the February Planning Commission meeting regarding an open mine shaft on the property filled with water, the possibility of aquatic species in the wetlands being affected, and concerns with traffic and lack of adequate crosswalks. He told the commission, "I request you deny this project until at least an EIR is done to address these concerns."

Smith and his wife, Barbara, later told *Lake Tahoe News*, "We are not against development. This is a historically designated area. We want to retain the history of the area on Main Street, but it's commercial property and there needs to be something on Main Street that is viable. We also have commercial land and if someone said we couldn't do what we wanted to do, we wouldn't like it. It's more that they need to meet all the environmental issues like traffic."

District Four Planning Commissioner James Williams was the lone vote on Feb. 25 opposing denial of the appeal. Williams explained to *Lake Tahoe News* why he voted that way. "This was the wrong place (for the project) from Day 1. The applicant chose a very challenged property and it needs more study and due diligence." Williams went on, "I asked about how many jobs and they refused to answer that for us. We absolutely need jobs here, but we need living-wage jobs. We don't need minimum wage part-time jobs. A lot of people have the perception that instead of helping the people and protecting the community, (the county) is just saying yes to projects; that staff is just there to help the applicant get their project through instead of helping the community."

With regard to the possibility that this project might lead to a lawsuit, Williams noted, "Developers have come to staff for many years and threatened lawsuits and lawyers started overthinking things worrying about these lawsuits and a pattern potentially develops where (the county) is sued by developers. So now, instead, they are being sued by citizens."

Supervisor Ranalli has followed the Dollar General project for some time since it is in his district. He told *Lake Tahoe News*, "This is a very challenging issue for me because I am conflicted on so many levels. As a policymaker duty bound to follow the law, I don't want to position the county for a lawsuit. If Dollar General appeals, then taxpayer dollars go to that fight. If the public is unsatisfied, they could potentially sue and we're also talking about thousands of dollars. I have heard from Georgetown residents who are both for and against the project. The community is divided."

As to the rural lifestyle versus economic development question, the supervisor explained, "I don't believe when people say they want to be rural that they also want to be poor."

Ranalli noted that unlike in other communities, there is no longer an active Design Review Committee for Georgetown. Members of these supervisor-appointed committees only act in an advisory capacity, but he believes they facilitate a better exchange of information between communities and the county.

For stores proposed for other small town locations, Dollar General does not usually modify its original design. In the case of Georgetown, however, Dollar General has revised their architectural plans "at least six times" Ranalli noted, attempting to make it blend in better. One of the concerns addressed in the appeal is that Commissioner Shinault helped Dollar General with a redesign of building "elevations." At the Feb. 25, commission meeting, Shinault noted, "After the last meeting they approached me and they sent me the elevations and I talked to them on the phone, helping them make it not look like one large building. We went through three or four elevations and colors and this is what they came up with and I think it meets the intent of what we are trying to do. I need to be upfront that, yes, I did help them."

Lake Tahoe News reached out to Commissioner Shinault for comments on several occasions but received no response.

Outside agency requirements

Totally independent from the county planning approval process, but related to some of the same environmental issues are permits that need to be approved by other agencies. The county referenced these in its Initial Study, but it is the responsibility of the project proponent to finalize these requirements with the appropriate agencies. One is a Storm Water Prevention Plan through the Central Valley Regional Water Quality Control Board and a certification from them that the project will uphold state water quality standards. Another is a requirement by the U.S. Army Corps of Engineers (ACOE) for a permit under the federal Clean Water Act Section 404 regarding the discharge of fill or dredge materials into "the waters of the United States," over which they have jurisdiction. The Dollar General project would fill in wetlands on the subject property. These wetlands drain into Empire Creek, which then drains into the American River.

Lake Tahoe News learned that a private citizen had contacted the EPA's National Tips Database regarding the Dollar General project and contacted EPA to see what, if any, impact that would have on the ongoing county approval process. The EPA administers the federal Clean Water Act. Michele Huitric of the Office of Public Affairs for the Environmental Protection Agency, Region 9, confirmed the citizen's report in an email to Lake Tahoe News. The EPA then contacted the Army Corps of Engineers to, "find out more about the Clean Water Act Section 404 permit request." The ACOE invited EPA to visit the site, "subject to the property owner's consent." The property owner declined.

Subsequent to this, the (ACOE) did receive permission from the property owner for a site visit. Peck Ha, project manager for the U.S. Army Corps of Engineers, Regulatory Division, South Branch, told *Lake Tahoe News* that they received the permit request from the project proponent around six months ago and it is currently being reviewed. The ACOE team visited the property on March 21, and Ha was in Georgetown again on March 24. When asked if this would in any way impact the timeline for the ongoing county review process, he stressed that, "The Army Corps in this process is independent and non-biased. We are not for or against the development. We process the permit based on the regulations and guidelines." These two processes will continue on their individual timelines. Ha could not estimate how long the ACOE process will take or whether additional site visits will be required. For the project to go forward, this permit is required.

What's next?

If the board denies the Dollar General appeal on April 5, the next potential step would be the filing of a lawsuit. As the Dollar General project shows, land use planning can be a slow and complex process. Unfortunately, there isn't a bright yellow "Land Use Planning for Dummies" manual out there for concerned citizens to refer to. The Strategic Plan process has highlighted the need for better communication and transparency between county government and its residents and nowhere is it more important than when decisions that could alter the character of the county are involved. One mechanism, the creation of a public information officer, will be considered by the Board during upcoming budget hearings.

El Dorado County is obviously growing, but views on whether it is growing in a way that preserves its historic heritage while enhancing economic viability differ widely. The Strategic Plan process is intended to provide an overall framework for county decision-making over the next five years, but whether it is actually implemented won't be known right away. Asked by *Lake Tahoe News* why it won't join other such efforts as dusty volumes on a shelf, Supervisor Veerkamp responded, "The most important elements are the objectives and an action plan. Those action plans have timelines and accountability reports tied to them. We as the board put the timelines on staff to report back on their action plans and accomplish the goals. That follow-up and feedback and reporting are what was missing from prior strategic plans."



EDC COB <edc.cob@edcgov.us>

Dollar General in Georgetown

1 message

CP and Bunny <cpbj43@gmail.com>

Sun, Apr 3, 2016 at 10:25 PM

To: edc.cob@edcgov.us

To the Board of Supervisors:

It is obvious that the Dollar General corporation has enough money to do whatever is necessary to satisfy the El Dorado County requirements for building their store. Our question is why doesn't the Board of Supervisors honor the historical designation of Georgetown and not allow a chain store to be constructed on our Main St?

We are not opposed to development in the Georgetown area in general, but we are opposed to this relatively large chain store in our historic district. Dollar General does not offer anything that we do not already have available here. We are a small community and small businesses are fragile. This store will negatively impact them. The Dollar General corporation writes that the Georgetown community was opposed when El Dorado Savings Bank, MarVal Supermarket, and the gas station were proposed in Georgetown. We were not residents when that happened and find it hard to believe. **Those businesses are not on our historic Main St., and the services were not available in Georgetown at that time** so it's not surprising that having those services available was accepted.

We ask the Board of Supervisors to honor the desire of the residents of Georgetown and do not approve the construction of a Dollar General store in Georgetown.

Respectfully,

Charles and Bernadette Johnstone

Sent from Bunny and CP's iPad



EDC COB <edc.cob@edcgov.us>

Fwd: Dollar General in Georgetown

1 message

The BOSTHREE <bosthree@edcgov.us>

Mon, Apr 4, 2016 at 8:38 AM

To: EDC COB <edc.cob@edcgov.us>

Kathy Witherow

Assistant to Supervisor Brian K. Veerkamp
District Three - El Dorado County
530.621.5652

----- Forwarded message -----

From: **CP and Bunny** <cpbj43@gmail.com>

Date: Sun, Apr 3, 2016 at 9:34 PM

Subject: Dollar General in Georgetown

To: bosfour@edcgov.us, bostwo@edcgov.us, bosthree@edcgov.us, bosfive@edcgov.us, bosone@edcgov.us

To the Board of Supervisors:

It is obvious that the Dollar General corporation has enough money to do whatever is necessary to satisfy the El Dorado County requirements for building their store. Our question is why doesn't the Board of Supervisors honor the historical designation of Georgetown and not allow a chain store to be constructed on our Main St?

We are not opposed to development in the Georgetown area in general, but we are opposed to this relatively large chain store in our historic district. Dollar General does not offer anything that we do not already have available here. We are a small community, small businesses are fragile, and many of the small businesses owners are our friends. This store will negatively impact them. The Dollar General corporation writes that the Georgetown community was opposed when El Dorado Savings Bank, MarVal Supermarket, and the gas station were proposed in Georgetown. We were not residents when that happened and find it hard to believe. **Those businesses are not on our historic Main St., and the services were not available in Georgetown at that time** so it's not surprising that having those services available was accepted.

We ask the Board of Supervisors to honor the desire of the residents of Georgetown and do not approve the construction of a Dollar General store in Georgetown.

Respectfully,

Charles and Bernadette Johnstone

April 2, 2016

County of El Dorado Board of Supervisors

Re: April 5th public hearing on appeal of the Planning Commission's February 25, 2016 approval of Design Review DR14-0005-S.

We believe the Planning Commission failed to pursue or to be diligent on major issues present on the site.

The first is the existing abandoned mine. It is our understanding that, under California state law with regard to subsurface hazards, any liability would be placed onto the permitting entity, the County. To protect the County and its tax payers, the applicant should be required to have a licensed mine engineer complete a risk assessment on the present condition of the mine and any instability that might be caused by construction of the project.

The second is the site itself. Viewing the one acre parcel from Main Street, the entire middle one third appears to be at least five foot lower than either of the two outer thirds. Ground and foundation preparation for this project would require either a third of an acre of fill material or two thirds of an acre excavation of the existing surface materials, be it soil or rock. To protect the adjacent and surrounding properties from negative impacts caused by that degree of surface change an environmental impact assessment should be required.

The third is water related issues the project could affect. As is, a significant amount of water runoff is absorbed on the site during rain events. If developed, the site would create runoff rather than help control it, a change that would negatively impact other properties in the immediate area.

Also, through the introduction of contaminants which development on the site could cause, environmental damage could occur throughout the Empire Creek watershed.

We believe the County should not grant approval to this project until all of the above have been resolved.

Tom and Nancy Sandy [REDACTED] Georgetown