

12/4/2015

Edcgov.us Mail - Fwd: Applicant's comments on appeal of approvals for Dollar General in Georgetown

PC 12/10/15

#3

6 pages



Charlene Tim <charlene.tim@edcgov.us>

Fwd: Applicant's comments on appeal of approvals for Dollar General in Georgetown

Planning Unknown <planning@edcgov.us>
To: Charlene Tim <charlene.tim@edcgov.us>

Thu, Dec 3, 2015 at 4:09 PM

Please see email.

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

From: **Elizabeth Sarine** <ESarine@rmmenvirolaw.com>

Date: Thu, Dec 3, 2015 at 3:37 PM

Subject: Applicant's comments on appeal of approvals for Dollar General in Georgetown

To: "planning@edcgov.us" <planning@edcgov.us>

Cc: Sabrina Teller <STeller@rmmenvirolaw.com>

Dear Mr. Peters:

We represent the project applicant for the proposed Dollar General in Georgetown, SimonCRE Abbie, LLC. Attached is a letter providing the applicant's comments on the appeal to the Planning Commission of approvals of the Staff Level Design Review DR14-0005-S and Lot Line Adjustment-Merge BLA14-0055 for the Dollar General in Georgetown. A hard copy of this letter is being mailed to your office.

Thank you. Please let me know if you have any questions.

Sincerely,

Elizabeth Sarine

Attorney

RMM

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12/4/2015

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Applicant's response to appeal for PC hearing (DR14-0005-S) (00338956xB0A85).pdf

1564K



REMY | MOOSE | MANLEY
LLP

Sabrina V. Teller
steller@rmmenvirolaw.com

December 3, 2015

Mr. Rob Peters, County Planner
County of El Dorado
Community Development Agency
Development Services Division-Planning Services
2850 Fairlane Court
Placerville, CA 95667
planning@edcgov.us

Re: Applicant's comments on appeal of approvals of Staff Level Design Review DR14-0005-S/Lot Line Adjustment-Merge BLA14-0055/Dollar General Georgetown

Dear Mr. Peters:

I represent the project applicant for the proposed Dollar General in Georgetown, SimonCRE Abbie, LLC. I have reviewed the appeal submitted by Dennis Smith, challenging the approval by the Development Services Division Director on October 28, 2015, of the Design Review and Lot Line Adjustment-Merge for the proposed store. I have also reviewed the mitigated negative declaration (MND) prepared by the County for the project pursuant to the California Environmental Quality Act (CEQA) and all public comments submitted regarding the project and the MND.

The appeal has no merit and should be denied.

In his appeal, Mr. Smith takes issue with the proposed sidewalk along the project frontage on Main Street and school zone crosswalk improvements at the intersection of Main Street and Harkness Street that the project would be required to implement. He also alleges, without any explanation or evidence demonstrating him to be an expert on traffic and safety issues, that the placement of the sidewalk and crosswalk does not comply with the Americans with Disabilities Act and poses potential pedestrian safety problems. These allegations are not specifically described or supported with any substantial evidence, however, and the bulk of the documentation provided by Mr. Smith in support of his appeal demonstrates that his primary aim seems to be to get the County and the project applicant to move the sidewalk and crosswalk improvements to benefit his own property, not to address safety problems. The MND prepared by the County adequately addresses traffic, vehicle access and pedestrian safety issues. The MND notes that The County Transportation Division and the Georgetown Fire Protection District both reviewed the proposed access and circulation for the project and have no unaddressed concerns with the project as designed and conditioned to construct the sidewalks and crosswalk. Mr. Smith's appeal provides no evidence or explanation

demonstrating why those agencies, who are presumed to have all requisite expertise in these technical areas, have reached the wrong conclusions. Rather, the appeal is merely unsupported opinion and speculation.

The applicant has worked hard to address all community concerns.

We think that the Commissioners would benefit from an understanding of the long history of the applicant's efforts to work with the community and the County to make this project as good a fit as possible for the project site.

The Georgetown market was first identified as a suitable future location by SimonCRE's broker and Dollar General in November 2012. The following year, SimonCRE and Dollar General toured the area a few times and selected a couple of potential suitable locations. In the summer of 2014, the project site seller and SimonCRE entered into a purchase agreement, which opened escrow the following summer. In July 2014, Simon CRE submitted a pre-application to the County and began the iterative process of project design and environmental review, culminating in the County's circulation of a mitigated negative declaration in September and October 2015 and design review approval at the end of October.

Starting from the onset of the project, the applicant's representatives have conducted extensive community outreach, to inform the public of the proposed project, its design details and future operations, and have made a number of changes to the project design to address community concerns. SimonCRE has changed the design details of the building on numerous occasions to better fit the historic aesthetic of the town and to address community and county concerns. Specifically, they hired an historical architect with "gold rush" era expertise to help design an elevation that would better fit in with the County's gold rush design guidelines. SimonCRE added and revised landscape plant choices to satisfy community comments and has also agreed to use significantly more expensive outdoor LED lighting systems that work with sensors to further residents' concerns about the visibility of the store's lights. Although not required by CEQA, SimonCRE conducted an economic study of the area to make sure that the sales from the store would not detract from the existing stores' wellbeing.

Josh Simon, SimonCRE's representative, has attended community meetings to answer questions about the project and personally contacted numerous community leaders, civic organizations, and the site's neighbors to seek input on how the store can be a better neighbor. Many people, like Leon Alevantis and Tara Gauthier, engaged in a productive dialogue with Mr. Simon, which resulted in all of their concerns being addressed, even if they still would prefer not to have the store.

While obviously not everyone in the community welcomes the store, several people who started off vehemently opposed have acknowledged and appreciated the

applicant's good faith attempts to address their questions and concerns. In particular, we highlight the November 22, 2015, letter from Leon Alevantis and Tara Gauthier, noting that the existing zoning allows for the project and commending the applicant for being responsive to the community's input with respect to the project design. Notably, Mr. Alevantis and Ms. Gauthier oppose the appeal on the basis that Mr. Smith's requested changes to the location of the sidewalks and crosswalks would not result in a safer configuration.

Additional responses to specific comments

While CEQA does not require any responses be provided to comments received on a negative declaration, we believe that a few of the comments submitted to the County merit a response because of the possibility that the Commission may be misinformed by the allegations made in the comments.

An October 1, 2015, email from Barbara Lubanes asserts that in addition to the sidewalks and crosswalk required on Main Street and Harkness Street as a condition of the project, the applicant should also be required to install sidewalks along Orleans Street because of the likelihood of pedestrians visiting both the post office and the future Dollar General store. As noted in the MND, Georgetown is generally lacking pedestrian facilities. Pedestrian facilities were not constructed with the post office, or the library projects at the time those projects were constructed.

The proposed store was conditioned appropriately to provide pedestrian connectivity from Orleans Street to the existing sidewalk on the east side of Harkness Street. We understand that the Transportation Division considered a sidewalk along Orleans Street during its review. However, since the properties to the south along Orleans Street were developed without sidewalks, a requirement to construct such facilities with the Dollar General project was dismissed.

In an October 11, 2015 email, Lisa Forma asserts that the location of the entrance/exit to the store is poorly placed in relation to the Main Street/Harkness intersection and only right turns should be allowed into and out of the store driveway as a result. The project traffic study adequately addressed access issues and issues of safety in the project vicinity and concludes there are no unmitigated significant traffic impacts, including any associated with ingress and egress from the store. Ms. Forma's comments do not provide any expertise or substantial evidence to suggest that the Transportation Division should have disagreed with the findings of the traffic study.

In his October 5, 2015, email, Mr. Ed Hawkins questions whether the drain system that serves the post office and library areas is adequate to handle additional flows from the project site. The March 2015 Drainage Report prepared by TTG indicates that the post development peak flows leaving the site have been reduced below the level of the pre-development peak flows by incorporation of detention and retention facilities into the

project design. Therefore, no further analysis is required because the project would be improving the existing peak flow runoff, not exacerbating the existing conditions.

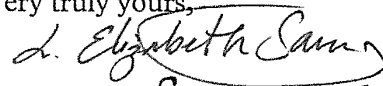
In a December 1, 2015, email, Alan Lubanes alleges that the project is adjacent to, and will fill, wetlands and for that reason should not be determined to have no significant impact on wetlands. We note that the MND prepared by the County discloses that the project would impact and fill approximately 0.05 acres of wetlands adjacent to the seasonal drainage feature next to the project site. The MND requires, and the applicant has agreed, to Mitigation Measures BIO-2 and BIO-3, which require the applicant to coordinate with the California Department of Fish and Wildlife and the U.S. Army Corps of Engineers to obtain the required permits, including, potentially, a Streambed Alteration Agreement pursuant to Fish and Game Code 1602, and a Nationwide Permit under the federal Clean Water Act. These are the standard mitigation measures required for wetland impacts of the size and type analyzed in the MND. The commenter does not provide any substantial evidence or expertise to suggest that these measures would not be effective in reducing the potential impact to wetlands to a less than significant level under the significance criteria used in the MND.

Conclusion

In addition to the substantive reasons detailed above for why the appeal should be denied, we also ask the Commission to consider how the Dollar General store will contribute to the community of Georgetown and to the County. First, the Dollar General store will create approximately 6 to 10 locally-hired jobs. Second, the store will generate thousands of dollars in sales tax and property tax revenue for the County each year. Finally, Dollar General has a proven track record of investing in local communities through charitable contributions to high schools, libraries, and non-profit organizations that promote literacy in the communities served by Dollar General stores. The Dollar General Literacy Foundation has given over \$100 million in grants to assist nearly six million people since the foundation's inception in 1993. Mr. Simon has already reached out to the Georgetown Library to begin the process of applying for a grant to benefit the library under this program.

As all of the foregoing demonstrates, the appeal has no merit. All of the potential environmental issues associated with the store have been adequately analyzed and will be mitigated as described in the MND. Moreover, the applicant has demonstrated in both word and deed that the store will be a good neighbor in the Georgetown community. I respectfully request that you deny the appeal and uphold the project approvals.

Very truly yours,


For Sabrina Teller

Sabrina V. Teller