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Public Comment #36

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

BOS 3/9/21

Ordinance 5140 and correction of my email address.

1 message

Joanne Thornton <joannethornton5@gmail.com>
To: edc.cob@edcgov.us

Mon, Mar 8, 2021 at 4:07 PM

Please correct my email address to joannethornton5@gmail.com

To all the Board of Supervisors of El Dorado County,

As a concerned Divide Area Resident of Cool for 29 years, and am vested in the rural community atmosphere, I STRONGLY support the passage of Ordinance 5140.

These formula businesses are literally the death of so many small mom and pop businesses across rural America. Also, we are no exception. With a small population in the Cool area of approximately 2500, our local businesses already struggle to keep their doors open. We already have vacant commercial space, as small businesses have had to open, then close, within our town.

I take exception to the idea that we cannot stop the proposed Dollar General store because it is deemed "complete". We are still awaiting the final EIR, so, is it really complete?

I am a member of the Cool Pilot Hill Advisory Committee (CPHAC), and support your concerned efforts in preventing large corporations, with BAD, AND WELL DESERVED, reputations, from creating blight upon our rural communities.

As a constituent, I am looking forward for your approval of Ordinance 5140.

Thanking you for your consideration,
Joanne Thornton



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

restrict

1 message

campkg <campkg@aol.com>
To: edc.cob@edcgov.us

Mon, Mar 8, 2021 at 4:18 PM

Yes, restrict chain/formula business in el dorado county.

Darleen Eagleton



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

File #21-0378 support

2 messages

krisjower <krisjower@gmail.com>

Mon, Mar 8, 2021 at 4:34 PM

To: edc.cob@edcgov.us

To Whom It May Concern:

This email is in support of Supervisor Parking and Supervisor Turnboo's recommendation to adopt and authorize Urgency Ordinance 5140 and exempt the ordinance from CEQA.

I am a resident of Cool and strongly oppose the proposed construction of the Dollar General store in our town. Chain/formula businesses do not provide the economic and cultural benefit that residents of rural areas are seeking. Please consider my email for submission prior to the 3/9/21 Board of Supervisors' meeting to discuss these matters.

Regards,
Kris Jower
530.823.8063

krisjower <krisjower@gmail.com>

Mon, Mar 8, 2021 at 4:34 PM

To: edc.cob@edcgov.us

[Quoted text hidden]



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

APPROVE Urgency Ordinance 5140

1 message

Sandy Ollen <sandyollen@cox.net>
To: edc.cob@edcgov.us

Mon, Mar 8, 2021 at 5:02 PM

Dear Members of the BOSEDC,

As 14 year residents of Cool and members of the Cool Pilot Hill Advisory Committee (CPHAC), we are writing to ask you to please approve the Urgency Ordinance 5140 that would preserve and insure the rural atmosphere of our Divide community. This is why we moved out here to the country from a big city in southern California that is full of big box stores on every corner~!! While they do have a place, it is a short hop and a jump for us to drive to Auburn or Placerville to access the few things we need that aren't available here in town or nearby in Greenwood or Georgetown.

What a shame it would be especially for all the many lovely local hardworking retail store owners and employees to be robbed of the hard fought living they are making to faithfully serve us here and to maintain the local homey community atmosphere of these towns we have so grown to love. We are talking about people's livelihoods and lives! They matter! The impact of "lockdown" protocols has almost destroyed our economies. We cannot further this tragedy. These people cannot not afford the slightest competition from any big box stores. From personal knowledge I am aware that the invasion of any such foreign businesses would surely precipitate many of them having to go out of business. Not only would this be a shame for them, it would ruin our local rural atmosphere.

Since the Final EIR has not been completed, it does not seem possible that a PROPOSED Dollar General Store in Cool could be deemed "complete" and therefore not subject to this Urgency Ordinance 5140!

We would bring to mind that we are your constituents and as such you serve as our elected officials. Please thoughtfully and seriously consider the consequences of your decision on your friends, neighbors and constituents here on the Divide. We are grateful for your selfless service. We trust and depend on you to make decisions that will preserve and nurture our way of life on the Divide.

Thank you for your thoughtful consideration of our heartfelt appeal.

Respectfully,

John and Sandy Ollen
2555 Black Horse Rd
Cool, CA 95614
sandyollen@cox.net



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

Urgency Ordinance 5140

1 message

Nikki <ntcostello@sbcglobal.net>

Mon, Mar 8, 2021 at 5:06 PM

To: edc.cob@edcgov.us

Dear Clerk of the Board,

I am writing in support of proposed Urgency Ordinance 5140 to disallow chain stores from locating within various rural centers in El Dorado County. These types of chain stores commonly drive away locally owned businesses and erode our sense of rural lifestyle. Chain stores belong in more suburban areas where cookie cutter strip malls proliferate.

Please forward this email to the five County Supervisors.

Thank you very much.

Sincerely,

Tim Costello

Shingle Springs



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

Urgency Ordinance 5140, Item #36

1 message

Bill Statti <bstatti@gmail.com>

Mon, Mar 8, 2021 at 6:40 PM

To: edc.cob@edcgov.us

Dear Clerk of the Board,

I want to voice my strong support for the proposed ordinance to restrict Formula Businesses in El Dorado County's Rural Centers.

Please forward this email to all five of our county Supervisors.

Thank you,

William Statti

Shingle Springs



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

County ordinance

1 message

Sherry prince <tyler.tyler@att.net>

Mon, Mar 8, 2021 at 7:07 PM

To: edc.cob@edcgov.us

To Whom it may Concern,

I am a resident of Cool, California in El Dorado County and I support the proposed Ordinance to restrict Formula Businesses (Chain Stores) in Rural Centers. Please pass this along to the County Board of Supervisors.

Thank you,
Sherry Prince
Sent from my iPhone



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

FairPlay Dollar General

1 message

Mike Sullivan <mikesul@yahoo.com>
To: edc.cob@edcgov.us

Mon, Mar 8, 2021 at 8:18 PM

To whom this may concern,

I would like to address some concerns that I have about the proposed Dollar General going in on Fairplay Road. I am the property next to the location of the potential project. The first concern is the increased foot and vehicle traffic on a road that people already treat as a race track. The cars making the blind left turn from Mount Aukum road onto Fairplay Road, many at speed, directly into a vehicle turning into or out of the entrance of the Dollar General. The second is the light and noise pollution from a store that would have business hours from 8:00 a.m. to 10:00 p.m. The Grays Market store closes at 9:00 p.m. and they shut almost all of their lights down at night. Third is the proximity of my well and ONLY source of drinking water to the proposed project. This property has been here since 1945, long before the idea of this monstrosity was ever thought of. Fourth is the run off of water and pollution from the proposed parking lot. My driveway entrance has already been damaged and undercut from the rain runoff from some of the large storms last year. I can not and will not continue to fork out money to make repairs to my driveway due to poor drainage and "gutter" systems that do not support the things that are already there. Fourth is the question of where will this business put their septic system?? Has there been a percolation test done?? The only area that I can see is in the area to the back of the property which would potentially run down the hill directly onto my property. So I get to deal with more of their crap rolling downhill!!!! I already have to deal with the trash from the tree company employees that is left to blow onto my property. Fifth is when are the large delivery trucks going to be coming in to delivery their products? My guess would be late at night and early in the morning. So now we will have to deal with large truck diesel engine and air brake noise!

Regards,

A concerned El Dorado County resident of 42 years who has seen a lot of changes to this community. Some bad, some good. This is one of the bad ones!



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

Box formula stores

1 message

shaun.wademan <shaun.wademan@yahoo.com>
To: edc.cob@edcgov.us

Mon, Mar 8, 2021 at 8:19 PM

To Whom It May Concern,

I am opposed to having our small community ruined with big box stores. Please keep these stores out of our communities.

Shaun Wademan
Georgetown

Sent from my Verizon, Samsung Galaxy smartphone



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

ordinance to restrict formal business

1 message

Dianne Wright <cooldiannew@gmail.com>

Mon, Mar 8, 2021 at 8:46 PM

To: edc.cob@edcgov.us

I am writing to you now to let you know of my **Total Support** of the proposed Ordinance to restrict Formula Businesses (Chain Stores) in Rural Centers.

I love the community where I live because of the environment, and the surrounding countryside.

I am confident most of us live here because we chose to live away from the Chain stores, Chain restaurants **and traffic**.

I urge you to vote for this ordinance, to allow us to continue living in the neighborhoods we chose. We don't need or want this type of business in our County's little towns, these drive small businesses, that we all enjoy doing business with, out of business.

Thank you so much for your help and concern.

Dianne Wright
530-401-0917



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

Should Chain Stores be allowed in Rural Centers?

1 message

Deana Visentin <caldixiechick48@gmail.com>

Mon, Mar 8, 2021 at 9:13 PM

To: edc.cob@edcgov.us

I support this emergency order to prohibit chain stores in rural centers. Unfortunately this doesn't include rural Shingle Springs where I believe it is also applicable. Unique characteristics of rural communities all over the state have been ruined by an influx of chain stores/restaurants where now every little borough you drive through they all look the same. Let's not repeat that here. Thank you.

Deana Visentin

Shingle Springs CA



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

(no subject)

1 message

Pheary Watkins <helmholst87@yahoo.com>
To: "edc.cob@edcgov.us" <edc.cob@edcgov.us>

Mon, Mar 8, 2021 at 9:58 PM

Vote in favor of ordinance 5140. Pheary Watkins



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

I Support the Ordinance to Restrict Formula Businesses in Rural Centers

1 message

Margaret <mslemmer@gmail.com>
To: Edc Cob <edc.cob@edcgov.us>

Tue, Mar 9, 2021 at 4:20 AM

Supervisors,

I am a resident of Cool, CA. I support the Ordinance to Restrict Formula Businesses in Rural Centers. Please protect our small, rural communities and vote in the affirmative for this action.

Best,
Margaret Slemmer



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

Urgency Ordinance

1 message

marianthomas530@outlook.com <marianthomas530@outlook.com>

Tue, Mar 9, 2021 at 6:17 AM

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

Please vote yes on this matter to ensure that reasonable research and study goes into each request to establish "formula businesses " in our community.

As a resident of Somerset I was deeply disturbed to hear that a permit for a Dollar General store was issued for Gray's Corner.

This is not what our community needs in this area and I am certain after looking more closely at this you will find many reasons why this is not a good thing for us.

Than you

M. Thomas

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

Support for Urgency Ordinance to protect rural character

Jennifer Chapman <jenchapman415@gmail.com>
To: Clerk of the Board <edc.cob@edcgov.us>

Tue, Mar 9, 2021 at 6:22 AM

March 9, 2021

Dear Clerk of the Board,

I have not yet been to Fairplay, but I am hoping to go there soon. One reason is to be sure I get to see a beautiful open spandral concrete arch bridge which I understand is proposed for demolition but which currently is part of the path of travel I would take to get to Fairplay. I support the desire of the Fairplay community to create protections so that chain stores do not destroy the ability of visitors to experience the uniqueness of this place, its people, its scenery and its way of life. **I am generally concerned about haphazard development taking place in El Dorado County without protection of historic resources, local culture, scenery and rural character.** The urgency ordinance restricting formula businesses would be a much needed "Time Out" to consider the forces that may be driving economic growth and to take time to consider an alternative path of "Growth with Preservation".

I am writing to urge the El Dorado County Board of Supervisors to listen to its constituents by taking the following actions proposed by Supervisors Parlin and Turnboo:

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).

I am also sharing the following letter I wrote last year in support of the nomination of the Bucks Bar Bridge in El Dorado County for listing on the California Register of Historical Resources:

August 3, 2020

Ms. Julianne Polanco
SHPO Office of Historic Preservation
Department of Parks & Recreation
1725 23rd Street, Suite 100
Sacramento CA 95816
and
Honorable Commissioners
State Historical Resources Commission
P.O. Box 942896
Sacramento, CA 94296-0001

RE: Bucks Bar Bridge Nomination to the California Register

Dear Ms. Polanco and State Historical Resources Commission,

I am writing to support the nomination of the Bucks Bar Bridge in El Dorado County for listing on the California Register of Historical Resources. It is an excellent example of an open spandral concrete arch bridge which is significant for its later timing and its particular location.

As you know, relatively recently, the eligibility of two other earlier examples of open spandral concrete arch bridges has been recognized. These are the 1917 Rainbow Bridge and the 1915 Orangevale Bridge, both in Folsom, Sacramento County and both associated with the Lincoln Highway. As the nomination points out, the 1924 Donnor Pass Road Bridge is another important example of this type of bridge in a natural / wilderness setting. Meanwhile, another open spandral

concrete arch bridge in El Dorado County was determined eligible in a 1986 survey-- specifically, the [1914 Forni Road Bridge](http://bridgehunter.com/ca/el-dorado/25C0116/) over Weber Creek. <http://bridgehunter.com/ca/el-dorado/25C0116/>

So why do we need to protect another open spandrel concrete arch bridge in El Dorado County?

With more building options available by 1941, the "lateness" of the Bucks Bar Bridge is indicative of a very intentional architectural choice. As the nomination points out, this location was without a bridge from 1869-1915 which is suggestive of the isolation of the area. The fact that the bridge crosses the North Fork of the Cosumnes River in a watershed that is well known for its importance to the indigenous people of California, suggests the significance of this transportation development to the native American history of California as well. Note that the 1851 Consumnes River Treaty is one of 18 unratified treaties that was the subject of a lawsuit in U.S. Court of Claims which was ruled on in 1942 and which is part of the context in which the bridge was built.

The nomination raises the question of why a 25 year-old covered bridge was replaced with this open spandrel concrete arch bridge. That answer may lie with federal stimulus funding available at the time through the WPA (Works Progress Administration) which would have allowed a more aesthetically pleasing and longer lasting bridge to be built. As the nomination explains, the existing bridge required a lot of maintenance, and the location of the Bucks Bar Bridge was prone to flooding and bridge washouts.

Finally, this Bucks Bar Bridge is significant to local identity. Connecting the southern part of El Dorado County with the transportation hub in Placerville, with an architectural reference to bridges on the Lincoln Highway, helped unify the county which had the original Lincoln Highway corridor running through it approximately where Highway 50 is now. Recognizing this bridge through listing, as the Rainbow and Orangevale bridges have also been recognized, serves to reinforce the relationship between Sacramento and El Dorado counties, as well as heritage values.

The online petition, "Save Bucks Bar Bridge" had 160 supporters and summarizes the feelings of a community that greatly values this bridge and its contribution to creating an enduring rural, scenic experience. The Bucks Bar Bridge allows travellers to savor the surroundings, rather than the fast paced experience of driving across more modern bridges. See comments at: <https://www.change.org/p/el-dorado-county-board-of-supervisors-save-bucks-bar-bridge> .

I hope you will concur with the nomination, and support adding the Bucks Bar Bridge to the California Register of Historical Resources.

Sincerely,

Jennifer Chapman

**** Please protect the rural character and historic resources of El Dorado County.****

Sincerely,
Jennifer Chapman
Placerville, CA 95667

--
Jennifer Chapman
415-419-4846



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

I Support the Ordinance to Restrict Formula Businesses in Rural Centers

Margaret <mslemmer@gmail.com>
To: Edc Cob <edc.cob@edcgov.us>

Tue, Mar 9, 2021 at 4:20 AM

Supervisors,

I am a resident of Cool, CA. I support the Ordinance to Restrict Formula Businesses in Rural Centers. Please protect our small, rural communities and vote in the affirmative for this action.

Best,
Margaret Slemmer



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

Support ordinance

1 message

Cassdraxler <cassdraxler@yahoo.com>

Tue, Mar 9, 2021 at 7:26 AM

To: edc.cob@edcgov.us

There is no place for box stores in our county. They create more traffic jams and takes away our rural feel, which is WHY we chose to live in this county
CD

Scent Detection Canine Handler



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

Chain Store Ordinance Proposed by Supervisors Parlin & Turnboo

1 message

Stefanie Smith <stefanie@nvlawyers.com>

Mon, Mar 8, 2021 at 5:55 PM

To: "david.livingston@edcgov.us" <david.livingston@edcgov.us>, "edc.cob@edcgov.us" <edc.cob@edcgov.us>

Cc: Anthony Arger <anthony@nvlawyers.com>, "bosfour@edcgov.us" <bosfour@edcgov.us>, "bostwo@edcgov.us" <bostwo@edcgov.us>, "bosone@edcgov.us" <bosone@edcgov.us>, "bosthree@edcgov.us" <bosthree@edcgov.us>, "bosfive@edcgov.us" <bosfive@edcgov.us>, Teresa Stovak <teresa@nvlawyers.com>

Dear Mr. Livingston and Clerk of the Board:

Attached please find Mr. Arger's letter of today's date in the above-referenced matter. A copy will also follow via U.S. Mail. Should you have any problems accessing the letter and attachments, please let me know. Thank you.

Sincerely,

Stefanie E. Smith**Paralegal**

Robertson, Johnson, Miller & Williamson

50 West Liberty Street, Suite 600

Reno, Nevada 89501

Telephone: (775) 329-5600

Facsimile: (775) 348-8300

Email: Stefanie@NVlawyers.comPlease visit our Website at: www.nvlawyers.com**IMPORTANT NOTICE:**

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Letter to El Dorado County re Urgency Ordinance 5140 030821 (w Exhibits).pdf
5068K

Robertson, Johnson, Miller & Williamson

ATTORNEYS AND COUNSELORS AT LAW

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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
Email: david.livingston@edcgov.us

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. I, 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 Turnboo, 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 Turnbo 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.”)

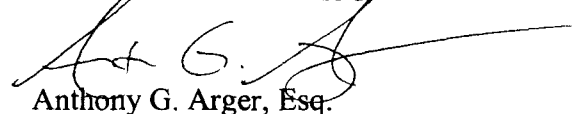
To that end, please be further advised that that this writing constitutes formal notification to the County, including, but not limited to, all members of the Board, and any other County personnel involved with the Illegal Ordinance and Woodcrest’s pending project applications concerning their responsibility 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 bostthree@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: _____

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@edcaov.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”

[Search Permit](#)
[Pay Fees](#)
[Fees Estimator](#)
[View on Map](#)

Permit Search

Search By: PERMIT_NO Begins With 033/520

Review - APPLICATION COMPLETENESS REVIEW

[Search Projects](#)
[Pay Fees](#)
[View on Map](#)

Group: AUTO
Type: APPLICATION COMPLETENESS REVIEW
Status: APPROVED

[Search Contractors](#)
[Pay Fees](#)

MAP

Search Results

Date Submitted: 2/2/2021
Date Due: 2/5/2021

[Search Property](#)
[View on Map](#)

Date Completed: 2/5/2021

[Schedule](#)
[Cancel](#)
[View on Map](#)
[Scheduled](#)

Search Re

Reviewer: JANICE POIRIER

Remarks:

Notes: 2/5/2021 12:03:48 PM
 plans recvd from Kyle z

[Search](#)

[Report Issue](#)
[Search Issues](#)
[View on Map](#)

[View Map](#)
[Locate My Address](#)

[Pay All Fees](#)
[Paid Items](#)

CLOSE

ns (0)	Reviews (
2/5/2021	More Info
3/2/2021	More Info
3/2/2021	More Info
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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

Should you need to contact us, Please send an email to ctrakit@edcogov.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.

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:

) 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

) 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, Lyburz, 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

ecord.

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>

BOS 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>

Wed, Mar 3, 2021 at 8:15 PM

To: edc.cob@edcgov.us

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>

Thu, Mar 4, 2021 at 5:12 AM

To: edc.cob@edcgov.us

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>

Thu, Mar 4, 2021 at 7:24 AM

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

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>

Thu, Mar 4, 2021 at 8:32 AM

To: edc.cob@edcgov.us

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>
To: edc.cob@edcgov.us

Thu, Mar 4, 2021 at 8:37 AM

Dear EDC Supervisors,

I am writing to state my strong support for the Parlin and Turnbo 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.SENTIVOWINE.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.

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.

Sincerely,

Daniela Devitt
President
Fair Play Winery Association

P.O. Box 346
Somerset, CA
www.fairplaywine.com



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

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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.*

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 defragmented 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.



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

Chain Store Ordinance Proposed by Supervisors Parlin & Turnboo

Anthony Arger <anthony@nvlawyers.com>

Tue, Mar 9, 2021 at 11:39 AM

To: "david.livingston@edcgov.us" <david.livingston@edcgov.us>, "edc.cob@edcgov.us" <edc.cob@edcgov.us>

Cc: "bosfour@edcgov.us" <bosfour@edcgov.us>, "bostwo@edcgov.us" <bostwo@edcgov.us>, "bosone@edcgov.us" <bosone@edcgov.us>, "bosthree@edcgov.us" <bosthree@edcgov.us>, "bosfive@edcgov.us" <bosfive@edcgov.us>, Teresa Stovak <teresa@nvlawyers.com>, Stefanie Smith <stefanie@nvlawyers.com>

Dear Mr. Livingston and Clerk of the Board:

In addition to our request that our letter of March 8, 2021 be included with and made part of the record for any hearing and discussion regarding "Urgency Ordinance 5140" (item number 36 on the March 9, 2021 Agenda), we similarly request that this email and the attached economic report created by ALH Urban and Regional Economics ("ALH Report") be included with and made part of the record for any hearing and discussion regarding "Urgency Ordinance 5140."

The ALH Report was previously provided to El Dorado County regarding our client's project in Cool. While the ALH Report is directed at our client's Cool project, it is equally applicable to our client's project in Somerset. Importantly, the ALH Report noted that

*"there is very little existing competition in or just beyond the market area to obtain some basic household necessities other than food and some sundry items. Therefore, in many of the categories listed, Dollar General will bring a mix of retail merchandise to the store's market area that is not already present. **This will enable market area residents to reduce their travel time and the associated transportation costs (both personal and environmental) to obtain basic household necessities.**" (ALH Report at p. 10)*

The ALH Report went on to state that

*"the store will add to the critical mass of retailing opportunities in Cool. Because of the relative lack of shopping opportunities in Cool, market area consumers are leaving the area to make purchases for goods not available in Cool and the general environs. At these times, consumers are also probably taking advantage of more cost effective grocery shopping opportunities available in these more heavily retailed areas. **The presence of Dollar General will therefore help reduce the need for some of these out of community shopping trips, thus retaining more consumer dollars within the market area, which could ultimately increase the sales captured by a range of Cool retailers and restaurants.**" (Id. at p. 11.)*

In short, the ALH Report makes clear that the addition of Dollar General stores in either Cool or Somerset **will substantially benefit the local communities in which they are proposed, whether it be to the benefit of individual residents, to the environment, and/or to existing retailers, including many, if not all, of the very locally owned businesses that the Urgency Ordinance ostensibly seeks to protect.** As you consider the Urgency Ordinance, we respectfully request that you take the time to review all of the important *factual, data-based findings* contained in the ALH Report, and compare said findings with all of the concocted provisions of (and the myriad of unsupported comments stemming from) the Urgency Ordinance. As you will see, the ALH Report and findings contained therein provide yet another reason the Board should swiftly REJECT adoption of the Urgency Ordinance.

As noted in our letter of March 8, 2021, we plan to participate in the hearing on the Urgency Notice later today and would be happy to answer any questions you may have regarding either/both our letter, this email, and the ALH Report attached hereto. Thank you.

Sincere regards,

Anthony

Anthony G. Arger, Esq.

Robertson, Johnson, Miller & Williamson

50 W. Liberty Street

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Reno, NV 89501

(775) 329-5600

(775) 348-8300 (Fax)

Email: anthony@nvlawyers.com

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From: Stefanie Smith <stefanie@nvlawyers.com>

Sent: Monday, March 08, 2021 5:56 PM

To: david.livingston@edcgov.us; edc.cob@edcgov.us

Cc: Anthony Arger <anthony@nvlawyers.com>; bosfour@edcgov.us; bostwo@edcgov.us; bosone@edcgov.us; bosthree@edcgov.us; bosfive@edcgov.us; Teresa Stovak <teresa@nvlawyers.com>

Subject: Chain Store Ordinance Proposed by Supervisors Parlin & Turnboo

Dear Mr. Livingston and Clerk of the Board:

Attached please find Mr. Arger's letter of today's date in the above-referenced matter. A copy will also follow via U.S. Mail. Should you have any problems accessing the letter and attachments, please let me know. Thank you.

Sincerely,

Stefanie E. Smith

Paralegal

Robertson, Johnson, Miller & Williamson

50 West Liberty Street, Suite 600

Reno, Nevada 89501

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ALH Economic Analysis 11.26.2019.pdf

337K

November 26, 2019

Mr. Steve Powell, President
Woodcrest Companies
1410 Main Street, Suite C
Ramona, CA 92065

Re: Dollar General Economic Analysis in Cool, Unincorporated El Dorado County, California

Dear Mr. Powell:

ALH Urban & Regional Economics (ALH Economics) has prepared a brief economic analysis of the proposed Dollar General store in Cool, California, an unincorporated community in El Dorado County. The purpose of the analysis is to demonstrate the degree of potential market support for the store and an assessment of the potential for the store to coexist with existing retailers already nearby. To accomplish this analysis, ALH Economics engaged in the following tasks:

- Obtained information about the planned Dollar General store
- Reviewed Dollar General documents regarding store sales, operations, and typical market draw
- Visited the prospective store site and surrounding retail establishments
- Estimated the likely market area for Dollar General store draw
- Estimated market area retail demand
- Analyzed anticipated Dollar General sales in the context of market area demand
- Assessed the implications of Dollar General's operations at the proposed store site

A summary of the task findings follows. These findings are subject to the assumptions and general limiting conditions included at the end of the report. Select tables are included in the text, with exhibits presented in Appendix A. For general information purposes a description of ALH Economics and resume of the firm Principal, Amy L. Herman, is included in the Appendix B.

PROPOSED DOLLAR GENERAL STORE AND ENVIRONS

Dollar General is seeking to open a Dollar General store on a 1.69-acre site in Unincorporated El Dorado County, in Cool, California. The store is anticipated to total 9,100 square feet, of which approximately 7,259 square feet will comprise sales floor area. The balance of the space will comprise a range of uses, such as office, break room, restrooms, restroom corridor, storage area, etc. Typically, there will be 3 employees during a normal shift, with the expectation of 4-5 customers at a time during peak hours. Store hours are Monday through Sunday, 8 am to 10 pm.

The proposed Dollar General site is located at 1020 Northside Drive. The project site fronts on the east side of CA Highway 49 and the south side of Northside Drive, north of Highway 193. This location is near several clusters of existing commercial uses. One cluster comprises the Northside Center, which is across Northside Drive from the site and includes a small shopping center with a U.S. Post Office, a Chinese restaurant, and personal services, including Cool Nails & Salon, Cool Massage Therapy, and The Healing Shala. Cool Boat RV & Self Storage is further up Northside Drive from this center. The proposed Dollar General site is across CA Highway 49 from another commercial cluster, which includes several smaller strip centers or stand alone buildings with a mix of uses, including American River Pizza & Grill, JB's Outdoor Life (sporting goods), Cool Care Children's Center (childcare/preschool), Cool Animal Hospital, Cool Learning Center with before and after school programs, Cool Consultations (medical cannabis clinic), Timberline Realty, Cool General Store, Milestone Saloon, Los Establos Mexican Restaurant, Cool Florist & Gifts, Cher's Hair, Cool Feed & Ranch Supply, 76 Gas Station and convenience store, Cool Smoke Shop, Cool Bunz N' Beanz (pastries, sandwiches, burritos, coffee), Family Dentistry, JC Fit Personal Training, and The Garage – Automotive Service & Repair. This cluster also includes a couple of small retail vacancies.

Highway 193 intersects CA Highway 49 not far past the proposed Dollar General site. This road leads to Georgetown, about 12 miles to the east. The Cool Village Shopping Center is located at this intersection of CA Highway 49 and Highway 193. This shopping center is anchored by Holiday Market, a regional chain supermarket. Other center tenants include Cool Optometry, Mather Land Surveying, Iron Works Fitness, Cool Village Pharmacy, Subway, and Cool Beerwerks. Cool Physical Therapy and a vacant space comprise a separate building and Wells Fargo Bank also comprises a separate building. Some additional on-site construction is in progress at the center, but the nature of the construction is indeterminate. There is also a church on Highway 153 near the Cool Village Shopping Center.

There are several other commercial structures in the Cool environs, but the above overview generally describes the bulk of the commercial enterprises in the core portion of Cool, clustered at the intersection of CA Highway 49 and Highway 153.

DOLLAR GENERAL STORE OPERATIONS INFORMATION

Dollar General is a discount general merchandise retailer offering a broad selection of merchandise, including consumables, seasonal, home products, and apparel. The store merchandise includes high quality national brands from leading manufacturers as well as comparable quality private brand selections with prices at substantial discounts to national brands, including a Dollar General brand. The store's product offerings include most necessities, such as basic packaged and refrigerated food and dairy products, cleaning supplies, paper products, health and beauty care items, basic apparel, housewares, hardware and automotive supplies, among others. Across all Dollar General stores the average selling space is about 7,400 square feet. Through its broad merchandise offerings, Dollar General seeks to enable customers to fulfill their routine shopping requirements.¹

¹ See Dollar General Corp, Form 10-K, For the fiscal year ended February 1, 2019, pages 5 and 6 for most of the information in this paragraph.

Dollar General differentiates itself from other retailers by offering low prices in a small-store format. Dollar General locates its stores in a variety of rural, suburban, and urban communities, with approximately 75% serving towns of 20,000 or fewer people.²

As of February 2019, average annual net store sales totaled \$231 per square foot throughout the U.S. This figure generally comprised modest increases over prior year figures, which were \$227 in 2018, \$229 in 2017, \$226 in 2016, and \$223 in 2015.³ These net sales figures were calculated by Dollar General based on average selling square footage of Dollar General stores. Assuming a modest increase in sales through 2019 similar to past year increases, this results in a beginning year 2020 store sales estimate of \$233 per square foot. As average figures, these sales estimates most directly pertain to mature stores that have achieved stabilized sales. Typically, stores achieve stabilization over time, such as up to three years.

While the \$233 per square foot figure pertains to mature stores, this analysis conservatively assumes that the Cool Dollar General store will perform consistent with the retailer's national average. This results in a stabilized annual store sales estimate of \$1,691,451 in 2020 dollars (i.e., 7,259 square feet of sales area x \$233 per square foot), which rounds to \$1.7 million. As noted, this is a figure that typically pertains to mature, or stabilized, stores, not new stores during the initial ramp up period. As such, initial year sales at the proposed Cool store are likely to be lower than this \$1.7 million estimate, but the analysis is conservatively benchmarked to a stabilized estimate of sales.

As noted above, Dollar General categorizes store sales into four major merchandising categories – consumables, seasonal, home products, and apparel. The percentage of store sales occurring across these categories, and the type of merchandise represented, is summarized in Table 1.

Table 1. Dollar General Merchandise Categories

Category	Percent of Sales	Type of Merchandise
Consumables	77.5%	Paper and cleaning products, packaged food, perishables, snacks, health and beauty, pet, and tobacco products
Seasonal	11.9%	Decorations, toys, batteries, small electronics, greeting cards, stationery, prepaid phones and accessories, gardening supplies, hardware, automotive, and home office supplies
Home Products	5.9%	Kitchen supplies, cookware, small appliances, light bulbs, storage containers, frames, candles, craft supplies, and kitchen, bed, and bath soft goods
Apparel	4.7%	Casual everyday apparel for infants, toddlers, girls, boys, women and men, including socks, underwear, disposable diapers, shoes, and accessories

Source: Dollar General Corp., Form 10-K, For the fiscal year ended February 1, 2019, p 6.

² Ibid, page 6.

³ Ibid, page 23.

Based upon these store sales categories, and the \$1.7 million Cool store sales estimate, the Cool Dollar General store sales would be distributed by category as presented in Table 2. This information indicates that approximately \$1.3 million in store sales is estimated to comprise consumables, including food as well as non-food items. With respect to food items, based upon field visits to Dollar General stores in several California locations, these consumables do not include fresh produce such as fruits and vegetables. In addition, Dollar General carries a limited array of meats and cheeses, not including typical butcher or seafood counter food items. Further, while Dollar General sells beer and wine, these options are very limited, and the store does not sell other types of alcohol products such as hard liquor. Dollar General also does not sell the type of prepared food items typically found in a deli or hot food counter in a grocery store or some convenience markets.

Table 2. Estimated Distribution of Cool Dollar General Sales

Category	Percent of Sales	Sales
Consumables	77.5%	\$1,310,875
Seasonal	11.9%	\$201,283
Home Products	5.9%	\$99,796
Apparel	4.7%	\$79,498
	100.0%	\$1,691,451

Sources: Table 1; and ALH Urban & Regional Economics.

Thus, while Dollar General sells many food items, the options are limited, requiring consumers seeking a wider range of products to shop elsewhere.

MARKET AREA DEFINITION AND DEMOGRAPHIC CHARACTERISTICS

As noted earlier, Dollar General tends to locate stores in a variety of rural, suburban, and urban communities, with approximately 75% serving communities with populations of 20,000 or fewer. The Cool site area meets the definition of this type of community, as demonstrated below.

The proposed Cool Dollar General site is located 6.5 miles from the nearest shopping node in Auburn and 19 miles from the next nearest competitive node in Placerville. These are the nearest cities with substantial retail bases. The drive time from the site to the nearest shopping nodes in Auburn and Placerville are 16 and 29 minutes, respectively. In 2017, taxable retail sales in Auburn totaled \$601 million. This compared to \$387 million in Placerville. Since Cool is an unincorporated area, the State of California does not routinely report taxable retail sales for the community, but taxable retail sales in all of El Dorado County's unincorporated areas in 2017 totaled \$1.1 billion. Taxable retail sales in the County's unincorporated areas comprised 46% of all taxable retail sales. Cool is just one of many unincorporated communities in El Dorado County with an existing retail sales base, with other communities including Georgetown, El Dorado Hills, Cameron Park, and Shingle Springs. Thus, many communities contribute to the taxable retail sales reported for the entirety of the County's unincorporated areas.

There are many ways a market area can be defined. This can include by city/cities, Zip Code, census block group or other census geographic designation, radius from a geographic site, or drive-time from a geographic site. For the purpose of this study, ALH Economics defined a market area for the proposed Dollar General store based on a geography served by four zip codes. This includes the zip code that encompasses Cool (95664) as well as the adjoining zip codes for the communities of Pilot Hill (95664), Lotus (95651) and Greenwood (95635). These El Dorado County communities are all comparatively closer to Cool versus Georgetown or Placerville, and thus their residents are deemed more likely to make convenience purchases in Cool than elsewhere. Alternative market area definition methods were examined, including drive-time, distance radius, and census tract aggregation. However, some methods captured too large an area (distance radius and census tract aggregation) or too small an area (drive-time radius). Hence the zip code method of market area definition seemed most apt for the purpose of this analysis.

ALH Economics obtained demographic estimates for the population base within the aggregated zip code area from Environics Analytics, which is a leader in the United States in providing demographic and economic data, including modeled data. Per Environics Analytics, in 2020 there will be an estimated 7,432 people and 3,054 households within the 4-Zip Code market area. The median household income for these households is about \$97,200, with an average of about \$115,600. Environics Analytics further projects that El Dorado County's 2020 population will total 191,790. Thus, the Dollar General store's 4-Zip Code market area population comprises a very small portion of the County's population base.

MARKET AREA RETAIL DEMAND

ALH Economics maintains a retail demand model that estimates household spending on retail. The model is based upon analysis of taxable statewide retail sales combined with an estimate of household spending on retail by income. The model assumes that households in a market area will make retail expenditures comparable to the pattern of retail sales in the State of California. Exhibit 1 in Appendix A presents the results of this analysis. This exhibit indicates that among the nine major retail categories tracked by the State of California Board of Equalization, household spending in 2018 was anticipated to be greatest for Food & Beverage sales at 17.2% of all retail spending and lowest for Home Furnishings & Appliances at 5.4% of all retail spending.

Pursuant to data published by the U.S. Bureau of Labor Statistics, 2017 Consumer Expenditure Survey, households in the income group with annual household incomes between \$15,000 to \$29,999 and \$200,000 and more throughout the United States spent an average of 60% to 17% of household income, respectively, on the type of retail goods tracked by the State of California Department of Tax and Fee Administration (formerly the Board of Equalization). The income bracket that best matches the proposed Cool Dollar General store market area demographics is the \$100,000 to \$149,999 bracket, where the average household income is \$120,288 and the percent of income spent on retail is 27%. Because the average market area household income is lower than the average within the bracket, and the percent of income spent on retail increases as income declines as shown in Exhibit 2, ALH Economics estimates that the market area households will spend on average 28% of income on retail goods pursuant to interpolation of the data findings.

Market area household retail and restaurant demand was estimated based upon this 28% share of income spent on retail and the estimated distribution of retail spending pursuant to Exhibit 1. The

results are presented in Table 3, which indicates total market area retail demand potential of \$98.9 million for the 4-Zip code market area. Not all this demand is in categories representative of Dollar General sales. The categories not reflected by Dollar General sales most notably include Motor Vehicles & Parts Dealers, Gasoline Stations, and Food Services & Drinking Places (e.g., restaurants and bars). While there is some overlap with Motor Vehicle Parts, the majority of this category is most likely measuring demand for automobile sales.

Table 3. Estimated Cool Proposed Dollar General
Market Area Demand for Retail Goods and Restaurants (1)

Retail Category	Distribution of Demand	Market Area Demand	
		Per HH	Total
Food & Beverage Stores	17.2%	\$5,579	\$17,038,216
General Merchandise Stores	11.8%	\$3,824	\$11,679,245
Motor Vehicle & Parts Dealers	15.6%	\$5,055	\$15,438,343
Food Services & Drinking Places	14.8%	\$4,786	\$14,616,789
Gasoline Stations	8.5%	\$2,757	\$8,419,073
Other Retail Group	12.7%	\$4,108	\$12,545,728
Clothing & Clothing Accessories	7.2%	\$2,337	\$7,136,078
Building Materials & Garden Equipment	6.7%	\$2,180	\$6,656,507
Home Furnishings & Appliances	5.4%	\$1,755	\$5,361,195
Retail Spending	100.0%	\$32,381	\$98,891,173

Source: ALH Urban & Regional Economics.

(1) The market area comprises a four zip code area encompassing Cool and nearby El Dorado County communities, including Pilot Hill, Lotus, and Greenwood.

Excluding the three categories of Motor Vehicles & Parts dealers, Gasoline Stations, and Food Services & Drinking Places results in a 4-Zip Code market area retail demand estimate of \$60.4 million for goods inclusive of the type of merchandise sold by Dollar General. Of note, the Other Retail Group category presented in Table 3 includes drug stores, health and personal care, gifts, art goods and novelties, sporting goods, florists, photographic equipment and supplies, musical instruments, stationery and books, office and school supplies, second-hand merchandise, and miscellaneous other retail stores. Many of these types of goods are sold at Dollar General, although not all of them.

Notably, the 4-Zip code market area comprises a primary market area for retailers and restaurants in Cool. However, additional demand is likely to be generated from beyond this area as well, as other area households traverse through the area on their way to or from their home or work locations. In addition, Cool is in an area of the state that attracts tourists and people vacationing nearby. All of these non-market area residents provide additional sources of actual or potential demand for Cool's retail offerings.

EXISTING COMPETITIVE STORES AND RETAIL SALES

Because it is in a small unincorporated area, reliable estimates of the retail sales achieved by retail outlets in the Cool market area are not available. The only available government-generated store-related data are from the U.S. Census Bureau, Zip Code Business Patterns for the Cool zip code of 95614, which includes information on retail outlets by type and size that include paid employees,

excluding government. Thus, owner-operated businesses with no employees are not included. The most recent data available are from 2016. This information includes only 7 retail outlet listings, with the largest comprising a "Supermarket" with 20-49 employees. This most certainly is the Holiday Market, located at the Cool Village Shopping Center. Three other retail outlets were noted as having 5-9 employees. These include outlets classified as "Nursery, Garden Center, and Farm Supply Stores," "Convenience Stores," and "Gasoline Stations with Convenience Stores." In all likelihood, these are the Cool Feed & Ranch Supply, Cool General Store, and 76 Gas Station, respectively. Finally, three outlets are noted as having 1-4 employees. These are classified as "Floor Covering Stores," "Cosmetics, Beauty Supplies, and Perfume," and "Tobacco Stores." ALH Economics is unsure what store might be classified as Floor Covering Store, unless it could be a store no longer present in the market since the Zip Code Business Patterns data are dated, from 2016, or it could be a business located outside the core area in Cool, but the other two stores likely refer to the Cool Village Pharmacy and the Cool Smoke Shop. While these data are of limited use, and do not shed any light on store sales, their levels of employment provide insight into the relative sizes of their enterprises, which indicate that the Holiday Market is the largest retail business in Cool and that the overall retail sector has relatively small employment base.

ALH Economics believes there are several stores in Cool that are likely to be somewhat competitive with Dollar General because of their sale of overlapping sales merchandise. These stores and some of the representative products they sell that overlap with Dollar General are presented in Table 4, below.

Table 4. Cool Stores With Merchandise Overlapping with Dollar General

Retail Store	Representative Overlapping Merchandise	Representative Unique Merchandise
Cool Smoke Shop	Bottled drinks, snacks (candy, chips, nuts), batteries, t-shirts, socks, cigarettes	Smoking, tobacco, and vaping supplies
76 Gas Station Convenience Store	Bottled drinks, beer, snacks, candy, motor oil, t-shirts	Ancillary to gas purchases; prepared hot food and sandwiches
Cool Feed & Ranch Supply	Pet food and treats, cat litter, other pet supplies	Specialty pet items, no overlapping brands
Cool Village Pharmacy	Vitamins, first aid supplies, candles, gift cards	Pharmaceuticals (prescription and over the counter), more specialized vitamins, gifts
Cool General Store	Bottled drinks, dairy products, canned goods, cleaning supplies, paper products, BBQ supplies, cereal, snacks, storage bags, first aid supplies	Liquor, more varied beer and wine options
Holiday Market	Frozen foods, dairy products, cereal, canned goods, laundry detergent, snacks, cookies, paper products, storage bags	Full-service grocery store items, including fresh produce and vegetables, deli items, meat, seafood

Source: ALH Urban & Regional Economics.

While they sell some overlapping merchandise with Dollar General, all of the stores listed in Table 4 have a primary merchandise focus that is unique from Dollar General. As a result, this will serve to minimize their potential competitiveness with Dollar General, despite the partial overlap in

merchandising. For some stores the merchandise overlap is minimal, while for other stores the overlap is greater. For example, Dollar General sells cat and dog food, treats, toys, supplies, and cat litter. Cool Feed & Ranch Supply also sells these products. However, Cool Feed & Ranch Supply sells premium brand food and treat products compared to the brands sold by Dollar General, such that there is no overlap in specific consumable product availability. Therefore, it is very unlikely that a Cool Feed & Ranch Supply customer would shop at Dollar General for these consumable products unless by necessity, given the former store's more limited hours of operation (close 6 pm M-F, 5 pm Sat., closed on Sun.). In similar fashion, a store like the Cool Smoke Shop would be unlikely to be highly competitive with Dollar General because its primary focus is to sell smoking supplies, including tobacco and vaping supplies, none of which are available at Dollar General, thus a customer at Cool Smoke Shop would be most likely to purchase the overlapping products as a matter of convenience when at Cool Smoke Shop, ancillary to the primary purpose of their shopping trip. ALH Economics believes the same is the case with purchases at the 76 Gas Station Convenience Store, as the primary reason shoppers are at this store is to purchase gasoline, so purchases at the Convenience store would in almost all likelihood occur at the same time as their gasoline purchase. As with the preceding stores, Cool Village Pharmacy also has a core focus unique from Dollar General, which is pharmaceuticals, especially prescription pharmaceuticals. In conclusion, while these four stores sell some goods common to Dollar General, their relatively low level of competitiveness with Dollar General is unlikely to result in a sales impact that would significantly impair store performance or profitability.

The two other stores included in Table 4 have a greater number of products for sale that overlap with Dollar General. These stores are the Cool General Store and Holiday Market. Yet, while these stores have a considerable amount of overlapping merchandise with Dollar General, like the preceding four stores they also have unique merchandising orientations relative to Dollar General. These include the Cool General Store, being one of only two purveyors of bottled hard liquor in Cool, with the area's widest variety of hard liquor as well as varied wine and beer options, and the Holiday Market, being a full-service grocery store comprising the only source of fresh fruits, vegetables, meat, seafood, and bakery products in the immediate area of Cool, plus many specialized food products, including gluten free. Nonetheless, these two stores are likely to be most competitive with Dollar General because a high percentage of the products sold at Dollar General (but most certainly not all) can also be found at these stores.

ALH Economics estimates the size of the Cool General Store, based on Google mapping software, to be 1,800 to 2,100 square feet. Valid sales performance figures for this store are not publicly available, so for the sake of analysis ALH Economics assumes a generic sales performance estimate of \$400 per square foot.⁴ This is a generalized figure based on sales per square foot performance for regional, small town/low density grocery store chains reported by Retail Maxim, an industry resource on retail store productivity. This is a proxy selected, in some part, because of its relevancy also to the other competitive store, the Holiday Market, although this store functions much like a liquor store given its unique product mix emphasizing hard liquor, wine, and beer. Pursuant to this sales estimate, and a size in the middle of the range of 1,950 square feet, ALH Economics estimates that Cool General Store annual sales total \$780,000. Based upon the preceding retail demand categories in

⁴ Figures reported by Hoovers.com and Buzzfile.com for this store include annual revenues of \$90,000 and \$93,200 (rounded), which ALH Economics believes are quite low, and thus are rejected as most likely invalid.

Table 3, the Cool General Store sales would reflect Food & Beverage store sales, although the store sells other merchandise that crosses into other retail categories, such as auto supplies (Motor Vehicle Parts), first aid (Other Retail), and work gloves (Clothing). Even comparing all of this \$780,000 sales estimate to the market area \$17.0 million demand in the Food & Beverage stores category indicates that significant additional market area demand remains for other Food & Beverage store sales, especially when one considers that the market area demand in Table 3 comprises only Cool's primary market area demand, and that additional demand originates seasonally from persons living outside the market area as well as tourism and people vacationing in the area.

ALH Economics estimates the size of the Holiday Market based on mapping software and other visual techniques, to be 25,000 square feet. As with the Cool General Store, sales performance for this store is not publicly available, so the same \$400 per square foot generic sales performance rate is assumed, resulting in a \$10.0 million annual store sales estimate. This figure comprises a large portion of the \$17.1 million of Food & Beverage demand estimated in Table 3. Yet, even with the addition of the Cool General Store sales, yet additional demand remains, indicating that Food & Beverage sales are leaking out of the Cool market area. These sales are likely leaking to the nearby communities of Auburn and Placerville, that have much more ample retail sectors.

In addition to the Cool market area's Food & Beverage demand that is not being adequately served by the Cool General Store and Holiday Market, it is highly likely that most of the market area's retail demand for other goods comprises leakage to other communities, since there are few shopping opportunities available in the Cool market area. This includes none to very little shopping opportunities available to meet market area shopping needs in other key retail categories such as general merchandise, clothing, home furnishings and appliances, and a range of other retail goods, such as sporting goods, and office supplies.

DOLLAR GENERAL RETAIL DEMAND CAPTURE RATE

Based upon its \$1.7 million store sales estimate, the proposed Cool Dollar General store will need to capture only a small portion of market area demand to achieve stabilized sales consistent with national Dollar General store performance standards. Across all categories of market area demand, this would be 1.7% of the \$98.9 million in the 4-Zip Code market area demand. However, demand for Dollar General merchandise will not originate from all categories of market area demand. Therefore, this capture rate increases to an overall 2.8% of the \$60.4 million 4-Zip Code market area demand for all retail excluding demand for Motor Vehicles, Gasoline, and Food Services & Drinking Places (e.g., restaurants). These figures are presented in Table 5, which also estimates potential market area capture rates in the specific demand categories most likely to correspond with Dollar General's store sales.

Table 5. Dollar General Cool Market Area Demand Capture Rate Analysis

Retail Category	Dollar General Sales (1)	Market Area Demand	Dollar General Capture Rate
Food & Beverage Stores	\$393,262 (2)	\$17,038,216	2.3%
General Merchandise Stores	\$917,612 (2)	\$11,679,245	7.9%
Motor Vehicle & Parts Dealers	\$0 (3)	\$15,438,343	0.0%
Food Services & Drinking Places	\$0	\$14,616,789	0.0%
Gasoline Stations	\$0	\$8,419,073	0.0%
Other Retail Group	\$201,283 (4)	\$12,545,728	1.6%
Clothing & Clothing Accessories	\$79,498	\$7,136,078	1.1%
Building Materials & Garden Equipment	\$0 (3)	\$6,656,507	0.0%
Home Furnishings & Appliances	\$99,796	\$5,361,195	1.9%
Total All Retail	\$1,691,451	\$98,891,173	1.7%
Total Less Motor Vehicles, Gas, and Rests.	\$1,691,451	\$60,416,969	2.8%

Source: ALH Urban & Regional Economics.

(1) See Table 2.

(2) For the sake of analysis, and based upon visual observation, the store's "Consumables" sales are anticipated to be divided between these two categories 30% food/70% general merchandise, as not all consumables are food or beverage-based products.

(3) Some sales anticipated in these categories, but they are anticipated to be nominal compared to the other retail categories.

(4) Corresponds with the "Seasonal" sales estimate.

The market area demand capture rates by retail category for the Dollar General 4-Zip Code market area range from 1.1% in Clothing & Accessories to 7.9% in General Merchandise. These percentage capture rates would drop when taking other factors into account, such as additional resident demand from beyond the 4-Zip Code market area and drive by traffic associated with tourism and vacationing. Notably, there is very little existing competition in or just beyond the market area to obtain some basic household necessities other than food and some sundry items. Therefore, in many of the categories listed, Dollar General will bring a mix of retail merchandise to the store's market area that is not already present. This will enable market area residents to reduce their travel time and the associated transportation costs (both personal and environmental) to obtain basic household necessities. This includes home furnishings and supplies such as towels, shower curtains, area rugs, vases, ironing boards, laundry baskets, and picture frames; electronics such as wall clocks, alarm clocks, and cell phones; and apparel such as baby and toddler clothes, women and men's underwear, and t-shirts.

There will, however, be potential sales merchandise overlap with the market area's two existing stores selling food items – Holiday Market and Cool General Store. The portion of Dollar General sales anticipated to be most competitive with these stores includes \$393,262 in Food & Beverage sales. Some of the Dollar General merchandise similar to these existing market area stores includes canned foods, baking goods, soda, first aid supplies, personal care products, cleaning supplies, pet supplies, and cooler items such as milk, cheese, butter, and sandwich meats. The Holiday Market, however, sells many products not represented at Dollar General, such as fresh and frozen meat, fresh and frozen seafood, an ample array of fresh produce, organic produce, gluten free foods, a broader range of items such as pasta and soups, freshly prepared hot foods, an expansive wine selection as well as hard liquor, and a broader range of beer than typically sold at Dollar General. The provision

of these more full-service grocery items indicates that market area shoppers will still need to frequent Holiday Market to purchase important weekly food items necessary to prepare healthy meals. This, combined with Holiday Market's seasonal appeal to tourist demand, will help insulate the store from the modest amount of competitive food item sales anticipated at Dollar General. Moreover, as a larger store with an established customer base, Holiday Market will have the ability to modify its product mix to maximize sales in products not available at Dollar General yet targeted to meet the needs of its loyal customers.

Similar to Holiday Market, Cool General Store sells some mix of products comparable to Dollar General but also products not available at Dollar General, or even Holiday Market, hence Cool General Store's market distinction as more of a liquor store with a convenience orientation. This is reinforced by the prominent placement of the word "Liquor" on the "Cool General Store" sign above the store's doorway. Already, Cool General Store and Holiday Market coexist in the same market, with the Holiday Market having more product overlap with Cool General Store than Dollar General will, since the Holiday Market sells some hard liquor and expanded wine and beer products not available at Dollar General. While Dollar General will duplicate some of the product offerings at both of these stores, it will also expand the offerings available substantially with its general merchandise products and seasonal items.

The retail demand estimates presented in Table 3 indicate many categories of retail spending in which there are scant retailers present in the Cool market area. Thus, products representative of some of these other categories can be added to existing inventories to insulate stores against potential sales losses resulting from Dollar General's Food & Beverage sales and maintain their broad market appeal, to both market area residents, residents in other communities beyond market area, and tourists and other persons vacationing in the area.

Lastly, at the same time Dollar General may exert competitive pressures on existing retailers, the store will add to the critical mass of retailing opportunities in Cool. Because of the relative lack of shopping opportunities in Cool, market area consumers are leaving the area to make purchases for goods not available in Cool and the general environs. At these times, consumers are also probably taking advantage of more cost effective grocery shopping opportunities available in these more heavily retailed areas. The presence of Dollar General will therefore help reduce the need for some of these out of community shopping trips, thus retaining more consumer dollars within the market area, which could ultimately increase the sales captured by a range of Cool retailers and restaurants.

CONCLUSION

In conclusion, this analysis demonstrates that Cool's market area is underserved by retail goods, including food sales. This indicates that the area is a sales leakage community. The Dollar General store can therefore help strengthen the retail base, enabling market area consumers to meet more of their retail shopping needs close to home. Even with absorption of Dollar General sales market area residents will still need to shop for many retail goods in locations with more ample shopping opportunities, especially in Auburn and Placerville, both of which have retailers offering a wide range of retail goods required by market area households, including food shopping, general merchandise shopping, home improvement stores, clothing stores, and others. However, because the Dollar General store will enhance the critical mass of commercial outlets in Cool, existing retailers and restaurants are anticipated to achieve greater visibility, which will result in enhanced market demand.

Because of Dollar General's relatively low sales volume, which will be divided among many retail categories, compounded by the market area's limited supply of existing retailers, it seems likely that Dollar General's capture of market area retail demand would not result in existing area stores losing a significant volume of existing sales through sales diversion. Thus, existing stores are anticipated to be able to coexist with the Dollar General store and thus not incur a risk of significant sales decline or closure.

CLOSING

ALH Urban & Regional Economics was pleased to prepare these findings pertinent to the proposed Dollar General store in Cool, California. Please let us know if you have any comments or questions on the analysis.

Sincerely,

ALH Urban & Regional Economics



Amy L. Herman
Principal

ASSUMPTIONS AND GENERAL LIMITING CONDITIONS

ALH Urban & Regional Economics has made extensive efforts to confirm the accuracy and timeliness of the information contained in this study. Such information was compiled from a variety of sources, including interviews with government officials, review of City and County documents, and other third parties deemed to be reliable. Although ALH Urban & Regional Economics believes all information in this study is correct, it does not warrant the accuracy of such information and assumes no responsibility for inaccuracies in the information by third parties. We have no responsibility to update this report for events and circumstances occurring after the date of this report. Further, no guarantee is made as to the possible effect on development of present or future federal, state or local legislation, including any regarding environmental or ecological matters.

The accompanying projections and analyses are based on estimates and assumptions developed in connection with the study. In turn, these assumptions, and their relation to the projections, were developed using currently available economic data and other relevant information. It is the nature of forecasting, however, that some assumptions may not materialize, and unanticipated events and circumstances may occur. Therefore, actual results achieved during the projection period will likely vary from the projections, and some of the variations may be material to the conclusions of the analysis.

Contractual obligations do not include access to or ownership transfer of any electronic data processing files, programs or models completed directly for or as by-products of this research effort, unless explicitly so agreed as part of the contract.

APPENDIX A
REPORT EXHIBITS

Exhibit 1**State of California Board of Equalization Taxable Retail Sales Estimate by Retail Category
2018**

Type of Retailer	Total Taxable Sales (1)	State of California Taxable Sales Adjusted to Total Retail	Percent of Total
Motor Vehicle & Parts Dealers	\$89,696,668,865	\$86,983,283,145	15.6%
Home Furnishings & Appliances	\$31,099,159,205	\$30,206,241,172	5.4%
Building Materials & Garden Equipment	\$39,469,798,311	\$37,504,338,446	6.7%
Food & Beverage Stores	\$29,697,424,447	\$95,997,345,380 (2)	17.2%
Gasoline Stations	\$54,302,231,927	\$47,435,051,665	8.5%
Clothing & Clothing Accessories	\$42,233,560,412	\$40,206,357,448	7.2%
General Merchandise Stores	\$56,416,292,603	\$65,803,636,835 (3)	11.8%
Food Services & Drinking Places	\$85,226,196,681	\$82,354,452,662	14.8%
Other Retail Group	\$61,018,669,056	\$70,685,604,584 (4)	12.7%
Total (5)	\$489,160,001,507	\$557,176,311,337	100%

Sources: California Department of Tax and Fee Administration (CDTFA), "Statewide Taxable Sales by Type of Business, 2018"; U.S. Economic Census, "Retail Trade: Subject Series - Product Lines: Product Lines Statistics by Kind of Business for the United States and States: 2007"; and ALH Urban & Regional Economics.

(1) Taxable sales are pursuant to reporting by the California Department of Tax and Fee

(2) Sales for Food and Beverage Stores have been adjusted to account for non-taxable sales; only 30.0% of all food store sales are estimated to be taxable.

(3) Sales for General Merchandise Stores have been adjusted to account for non-taxable food sales, since some General Merchandise Store sales include non-taxable food items. ALH Urban & Regional Economics estimates that at least 25% of General Merchandise sales are for grocery items that are also non-taxable. This estimate is based on analysis of the 2007 U.S. Economic Census, which attributes approximately 26% of General

(4) Sales for Other Retail Group have been adjusted to account for non-taxable drug store sales, since drug store sales are included in the Other Retail Group category. Sedway Consulting estimates that 33.0% of drug store sales are taxable, based on discussions with the (former) California BOE and examination of U.S. Census data. In California, drug store sales in 2018 represented approximately 11.87% of all Other Retail Group sales. ALH Urban & Regional Economics applied that percentage and then adjusted upward for non-taxable sales.

(5) Totals may not add up due to rounding.

Exhibit 2
Household Income Spent on Retail (1)
United States
2017

Characteristic	All Consumer Units	Household Income Range							
		\$15,000 to \$29,999	\$30,000 to \$39,999	\$40,000 to \$49,999	\$50,000 to \$69,999	\$70,000 to \$99,999	\$100,000 to \$149,999	\$150,000 to \$199,999	\$200,000 and more
Average HH Income	\$73,573	\$22,315	\$34,685	\$44,771	\$59,382	\$83,829	\$120,288	\$170,234	\$306,051
Amount Spent on Retail (2)	\$22,911	\$13,370	\$17,130	\$18,277	\$22,028	\$25,418	\$33,044	\$40,565	\$52,002
Percent Spent on Retail (3)	31%	60%	49%	41%	37%	30%	27%	24%	17%

Sources: Table 1203. Income before taxes: Annual expenditure means, shares, standard errors, and coefficient of variation, Consumer Expenditure Survey, 2017, U.S. Bureau of Labor Statistics; and ALH Urban & Regional Economics.

(1) Includes retail categories estimated to be equivalent to the retail sales categories compiled by the State of California, Board of Equalization (now Department of Tax and Fee Administration).

(2) Includes the Consumer Expenditures categories of: food; alcoholic beverages; laundry and cleaning supplies; other household products; household furnishings and equipment; apparel and services; vehicle purchases, gasoline and motor oil; 1/2 of maintenance and repairs (as a proxy for taxable parts); drugs; medical supplies; audio and visual equipment and services; pets, toys, hobbies, and playground equipment; personal care products and services; reading; and tobacco products and smoking supplies.

(3) Percentages may be low as some expenditure categories may be conservatively undercounted by ALH Urban & Regional Economics.

APPENDIX B

FIRM QUALIFICATIONS AND PRINCIPAL RESUME

FIRM INTRODUCTION

ALH Urban & Regional Economics (ALH Economics) is a sole proprietorship devoted to providing urban and regional economic consulting services to clients throughout California. The company was formed in June 2011. Until that time, Amy L. Herman, Principal and Owner (100%) of ALH Economics, was a Senior Managing Director with CBRE Consulting in San Francisco, a division of the real estate services firm CB Richard Ellis. CBRE Consulting was the successor firm to Sedway Group, in which Ms. Herman was a part owner, which was a well-established urban economic and real estate consulting firm acquired by CB Richard Ellis in late 1999.

ALH Economics provides a range of economic consulting services, including:

- fiscal and economic impact analysis
- CEQA-prescribed urban decay analysis
- economic studies in support of general plans, specific plans, and other long-range planning efforts
- market feasibility analysis for commercial, housing, and industrial land uses
- economic development and policy analysis
- other specialized economic analyses tailored to client needs

Since forming ALH Economics, Ms. Herman's client roster includes California cities, counties, and other public agencies; educational institutions; architectural, environmental, and other real estate-related consulting firms; commercial and residential developers; non-profits; and law firms. A select list of ALH Economics clients includes the following:

- the cities of Concord, Pleasanton, Tracy, Dublin, Inglewood, and Los Banos, the Office of Community Investment and Infrastructure as Successor Agency to the Redevelopment Agency of the City and County of San Francisco, Alameda County Community Development Agency, the Alameda County Fair, Bay Area Rapid Transit District, and East Bay Community Energy;
- the University of California at Berkeley, The Primary School, The Claremont Colleges Services, Stanford Real Estate, and the University of California at Riverside;
- Group 4 Architecture, Research + Planning, Inc., Paul Halajian Architects; LSA Associates, Raney Planning and Management, Inc., Environmental Science Associates (ESA), First Carbon Solutions - Michael Brandman Associates, and Infrastructure Management Group, Inc.;
- Maximus Real Estate Partners, New West Communities, Build, Inc., Arcadia Development Co., Howard Hughes Corporation dba Victoria Ward LLC, Blu Homes, Inc., China Harbour Engineering Company, Kimco Realty, and Align Real Estate LLC;
- Ronald McDonald House and Hospital Council of Northern and Central California; and
- Gresham Savage Nolan & Tilden, PC, Remy Moose Manley, Pelosi Law Group, and Sedgwick LLP.

Throughout her more than 30-year career, Ms. Herman has managed real estate consulting assignments for hundreds of additional clients, including many California cities, corporations, residential, commercial, and industrial real estate developers, and Fortune 100 firms.

PRINCIPAL INTRODUCTION

Ms. Amy Herman, Principal of ALH Economics, has directed assignments for corporate, institutional, non-profit, and governmental clients in key service areas, including commercial market analysis, fiscal and economic impact analysis, economic development and redevelopment, location analysis, strategic planning, and policy analysis. During her career spanning over 30 years, Ms. Herman has supported client goals in many ways, such as to assess supportable real estate development, demonstrate public and other project benefits, to assess public policy implications, and to evaluate and maximize the value of real estate assets. In addition, her award-winning economic development work has been recognized by the American Planning Association, the California Redevelopment Association, and the League of California Cities.

Prior to forming ALH Economics, Ms. Herman worked for 20 years as an urban economist with Sedway Group and then CBRE Consulting's Land Use and Economics practice. Her prior professional work experience included 5 years in the Real Estate Consulting Group of the now defunct accounting firm Laventhol & Horwath (L&H), preceded by several years with the real estate consulting firm Land Economics Group, which was acquired by L&H. During the course of her career, Ms. Herman has established a strong professional network and client base providing access to contacts and experts across a wide spectrum of real estate and urban development resources.

Ms. Herman holds a Master of Community Planning degree from the University of Cincinnati and a Bachelor of Arts degree in urban policy studies from Syracuse University. She pursued additional post-graduate studies in the Department of City and Regional Planning at the University of California at Berkeley. A professional resume for Ms. Herman follows.



AMY L. HERMAN
PRINCIPAL

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SELECT OTHER CLIENTS

- Alameda County Fair
- Arcadia Development Company
- Catellus Development Corporation
- CenterCal Properties
- Claremont University Consortium
- City of Dublin
- Dudek
- Environmental Science Associates
- Equity One
- First Carbon Solutions (formerly Michael Brandman Associates)
- Gresham Savage Nolan & Tilden
- Howard Hughes Corporation
- City of Inglewood
- LSA Associates
- Maximus Real Estate Partners
- The Primary School
- Remy Moose Manley
- Ronald McDonald House
- Signature Flight Support
- Syufy Enterprises
- City of Tracy

Amy L. Herman, Principal of ALH Urban & Regional Economics, has provided urban and regional consulting services for approximately 35 years. During this time, she has been responsible for directing assignments for corporate, institutional, non-profit, and governmental clients in key service areas, including fiscal and economic impact analysis, economic development and redevelopment, feasibility analysis, location analysis, strategic planning, policy analysis, and transit-oriented development. Her award-winning economic development work has been recognized by the American Planning Association, the California Redevelopment Association, and the League of California Cities.

Prior to forming ALH Urban & Regional Economics in 2011, Ms. Herman's professional tenure included 20 years with Sedway Group, inclusive of its acquisition by CB Richard Ellis and subsequent name change to CBRE Consulting. Her prior professional work experience includes five years in the Real Estate Consulting Group of the now defunct accounting firm Laventhol & Horwath (L&H), preceded by several years with the land use consulting firm Land Economics Group, which was acquired by L&H.

Following are descriptions of select consulting assignments managed by Ms. Herman.

ECONOMIC IMPACT ANALYSIS

Alameda County. Prime consultant for a complex team that prepared a Local Development Business Plan for the newly launched East Bay Community Energy Community Choice Aggregation program for Alameda County. ALH Economics components included economic impact and financial analysis of the local development program components.

University of California. Conducted economic impact studies and frequent updates for five University of California campuses: Berkeley, Davis, Riverside, San Francisco, and San Diego. Prepared models suitable for annual updates by campus personnel.

Hospital Council of Northern and Central California. Prepared an analysis highlighting the economic impacts of hospitals and long-term care facilities in Santa Clara County. The analysis included multiplier impacts for hospital spending, county employment, and wages. Completed a similar study for the Monterey Bay Area Region.

Bay Area Rapid Transit District. Completed economic impact analysis of BART's operations in the San Francisco Bay Area region.

Various EIR Firms. Managed numerous assignments analyzing the potential for urban decay to result from development of major big box stores, shopping centers, and sports venues. The analysis comprises a required Environmental Impact Report component pursuant to CEQA.

FISCAL IMPACT ANALYSIS

Stanford Research Park. Analyzed historic and current fiscal contributions generated by the Stanford Research Park real estate base and businesses to the City of Palo Alto, Santa Clara County, and the Palo Alto Unified School District.

City of Concord. Structured and managed fiscal impact analysis designed to test the net fiscal impact of multiple land use alternatives pertaining to the reuse of the 5,170-acre former Concord Naval Weapons Station, leading to possible annexation into the City of Concord, California.

Kimco Realty. Prepared fiscal impact analysis of plans to renovate and redevelop part of Westlake Shopping Center and infill development of a 179-unit apartment project adjoining the shopping center.

Sycamore Real Estate Investments, LLC. Prepared a fiscal impact model for client implementation, to test the General Fund net fiscal impacts of alternative land use mixes.

Residential and Commercial Developers. Prepared fiscal impact studies for new development projects, including residential, office, and mixed-use projects, demonstrating the net fiscal impact on the respective city's General Fund and local school districts.

AMY L. HERMAN
Principal

ECONOMIC DEVELOPMENT AND PUBLIC FINANCE

Infrastructure Management Group. Contributed to due diligence analysis of the proposed Transbay Transit Center to support evaluation of requested bond loan adjustment requests to support project construction.

Alameda County. Managed numerous assignments helping Alameda County achieve its economic development goals for the County's unincorporated areas through surplus site disposition assistance, including market analysis and financial due diligence for residential and commercial mixed-use developments.

Office of Community Investment and Infrastructure as Successor Agency to the Redevelopment Agency of the City and County of San Francisco. Managed financial analysis estimating the tax payments in lieu of property taxes associated with UCSF development of medical office space in the former Mission Bay Redevelopment Project area.

LAND USE POLICY

Union City Property Owner. Provided an independent analysis regarding the reasonableness of the City of Union City continuing to reserve a key development area for office and/or R&D development in the context of the General Plan Update.

Alameda County Community Development Agency. Provided analysis and input regarding the Ashland and Cherryland Business District Specific Plan requirements for non-residential floor space in mixed-use development sites over 10,000 square feet

DCT Industrial Trust (Subsequently acquired by ProLogis, Inc.). Performed economic analysis on a proposed change to the Newark Zoning Ordinance regarding permitted industrial uses. The analysis demonstrated the market, fiscal, and economic impacts that could result from the proposed zoning ordinance change.

City and County of San Francisco. Under direction of the San Francisco Planning Department, conducted analysis and literature review regarding residential and commercial displacement, especially they pertained to two planned Mission District mixed-income apartment projects.

DEVELOPMENT FEASIBILITY

China Harbour Engineering Company Ltd. (CHEC). Prepared a market assessment and development feasibility analysis for the potential development of a 5.54-acre parking lot at the West Oakland BART Station in Oakland, CA for CHEC, the development entity selected by BART to pursue joint development of the site pursuant to an Exclusive Right to Negotiate Agreement.

Align Real Estate, LLC. Prepared independent economic analysis of a proposed residential development in San Francisco on the site of several buildings, including one considered an historic resource pursuant to CEQA. The analysis tested several project alternatives, focusing on net developer margin as an indicator of financial feasibility.

Build, Inc. Conducted financial analysis comparing the development of a prospective San Francisco residential site as a "stand-alone" project compared to a larger "combined lot" project that would incorporate unused floor-area-ratio from an adjacent property.

Various Residential Developers. In support of fiscal impact studies, prepared residential market analysis examining historical development and pricing trends, absorption, and forecasting demand by product type. Prepared achievable pricing estimates by residential unit type and size.

EDUCATION

- Bachelor of Arts degree in urban studies, magna cum laude, Syracuse University.
- Master of Community Planning degree from the University of Cincinnati.
- Advanced graduate studies in City and Regional Planning at the University of California at Berkeley.