

DOLLAR GENERAL- APPEALS

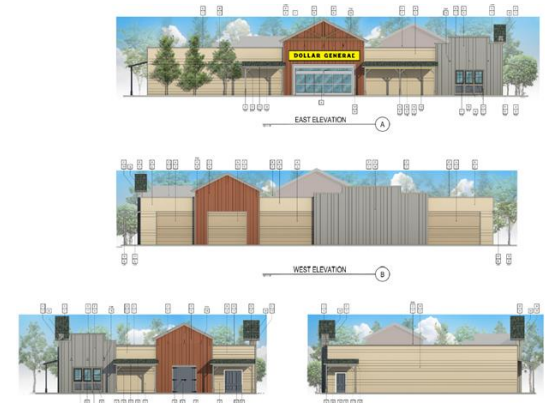
Nevada County Board of Supervisors
February 27, 2018



Penn Valley



Alta Sierra



Rough and Ready Hwy

Background

- SimonCRE on behalf of Dollar General applied for three development permit applications and associated entitlements proposing a 9,100 square foot Dollar General store at three locations in Nevada County
 - Penn Valley, Alta Sierra, and Rough and Ready Highway
- Planning Director in Role as Zoning Administrator (ZA)
 - Land Use and Development Code Sec. L-II 5.5.E.4
- The County and the applicant agreed to prepare an Environmental Impact Report (EIR) for all three projects (July 2015).
- Each project represents a separate project under CEQA.
- A single EIR was prepared to ensure that the cumulative impacts associated with all three stores are adequately considered.

Background- The EIR

- Michael Baker International- EIR Consultant
- Noticed NOP Scoping Meetings: Alta Sierra Country Club, Buttermilk Cottage Western Gateway Park and the Eric Rood Administrative Center
- Draft EIR public comment period: 12/14/2016 to 1/31/2017
- Analyzed projects and 4 Alternatives (for each project)
 - No project/No build; No/Project/Other Commercial Project; Reduced project (7,200 sq. ft. building); Offsite project alternative
- Planning Commission Public Comment Meeting: 1/26/2017
- 294 Comment letters were received for all three projects (3 agency)
- Final EIR, including Response to Comments and Revisions to Draft EIR released for public review: 9/25/17
- Final EIR includes, Draft EIR, Technical Appendices, the Final EIR (Vol. I and II) and a Mitigation Monitoring and Reporting Program (for each project)

Background- EIR Certification

- Three Projects One EIR
 - Planning Commission certified the EIR as adequate (October 26, 2017)
 - EIR was structured to allow for the approval or denial of each individual project
 - Once certified, action on EIR is final- Pending Appeal
 - The Planning Commission considered each project individually before taking action and each project actions were based on the certified EIR
- Each project has its own:
 - Impact and Alternatives analysis, Mitigation Monitoring and Reporting Program, and CEQA Findings of Fact
- EIR Certification
 - PC determined in their independent judgement that EIR is adequate and complete
 - Shows a good faith effort at full disclosure of environmental impacts
 - Provides sufficient analysis to allow decisions to be made regarding the project in contemplation of its environmental consequences
 - Adopted project specific Mitigation Monitoring and Reporting Programs (Public Resources Code Section 21081.6)
 - Made CEQA Findings of Fact (CEQA Guidelines Sec. 15091)
 - Statement of Overriding Considerations (CEQA Guidelines Sec. 15093)

Planning Commission Action

- October 26, 2017 Public Hearing
 - Certified EIR for all three projects 5-0 vote
 - Alta Sierra Project
 - Made CEQA Findings of Fact
 - Denied Project Oak Management Plan and Development Permit
 - Did not make a Statement of Overriding Considerations
 - 5-0 Vote Motion of Intent
 - November 9, 2017 Final Action taken 4-0, 1 absent vote
 - Penn Valley
 - Made CEQA Findings of Fact, Adopted MMRP, and Made Project Findings
 - Approved All Project Entitlements 5-0 vote
 - Rough and Ready Highway
 - Made CEQA Findings of Fact
 - Denied Development Permit 5-0 Vote

Appeals

- LUDC Chapter II, Article 5- Allows for the filing of an appeal with the BOS for any action of the Planning Agency
 - Appeal Form/Filing Fee
 - Within 10-days from date of decision
- Board's Discretion
 - Appeal hearing is a full hearing de novo on the project
 - Overrule or Modify any action of the Planning Agency
 - Change, delete or add conditions of approval
 - 3 affirmative votes
- Staff's Role

Appeals

- Certification of the EIR and Approval of the Penn Valley Project Entitlements
 - Filed November 6, 2017 by Mr. Donald Mooney (Attorney) on behalf of Ms. Charisse Lolli (Appellants)
- Denial of the Alta Sierra Oak Management Plan and Development Permit
 - Filed November 16, 2017 by Mr. Peter Lemmon, Esq. (Attorney) on behalf of SimonCRE, CJS Development II, LLC (Applicant) (Appellants)
- Denial of the Rough and Ready Highway Development Permit
 - Filed November 3, 2017 by Mr. Peter Lemmon, Esq. (Attorney) on behalf of SimonCRE, Harley V, LLC (Applicant) (Appellants)
- December 12, 2017- Board Accepted Appeals and set February 27, 2018 Appeal Hearing

Overview of Presentation

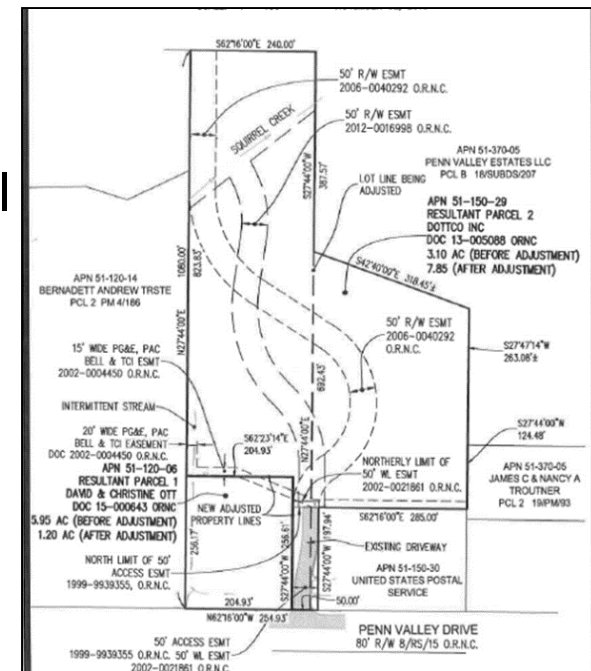
- Appeal #1 Certification of the EIR and Approval of the Penn Valley Project
- Appeal #2 Denial of the Alta Sierra Project
- Appeal #3 Denial of Rough and Ready Highway Project

Appeal #1: EIR and Penn Valley Project

- DP15-004; MGT15-013; COC17-0001; LLA16-006; EIR15-001
- Rayland V, LLC (SimonCRE), Developer
- David and Christine Ott, Property Owner
- 17652 Penn Valley Drive (Store) & 17630 Penn Valley Drive (COC/LLA), Penn Valley. APNs: 51-120-06 (store) & 51-150-29 (COC/LLA)
- Development Permit (DP15-004)
 - Proposed 9,100 sq. foot retail facility
 - 46-improved parking spaces and associated lighting, landscaping, drainage improvements, underground water storage and signage
 - A single shared project encroachment proposed
 - Penn Valley Drive (post office, APN 51-120-06 and APN 51-370-02)
- Management Plan (MGT15-013)
 - Wetland: 0.16-acres fill and encroachment into 100' wetland setback
 - Seasonal Stream: encroachment into 50' setback

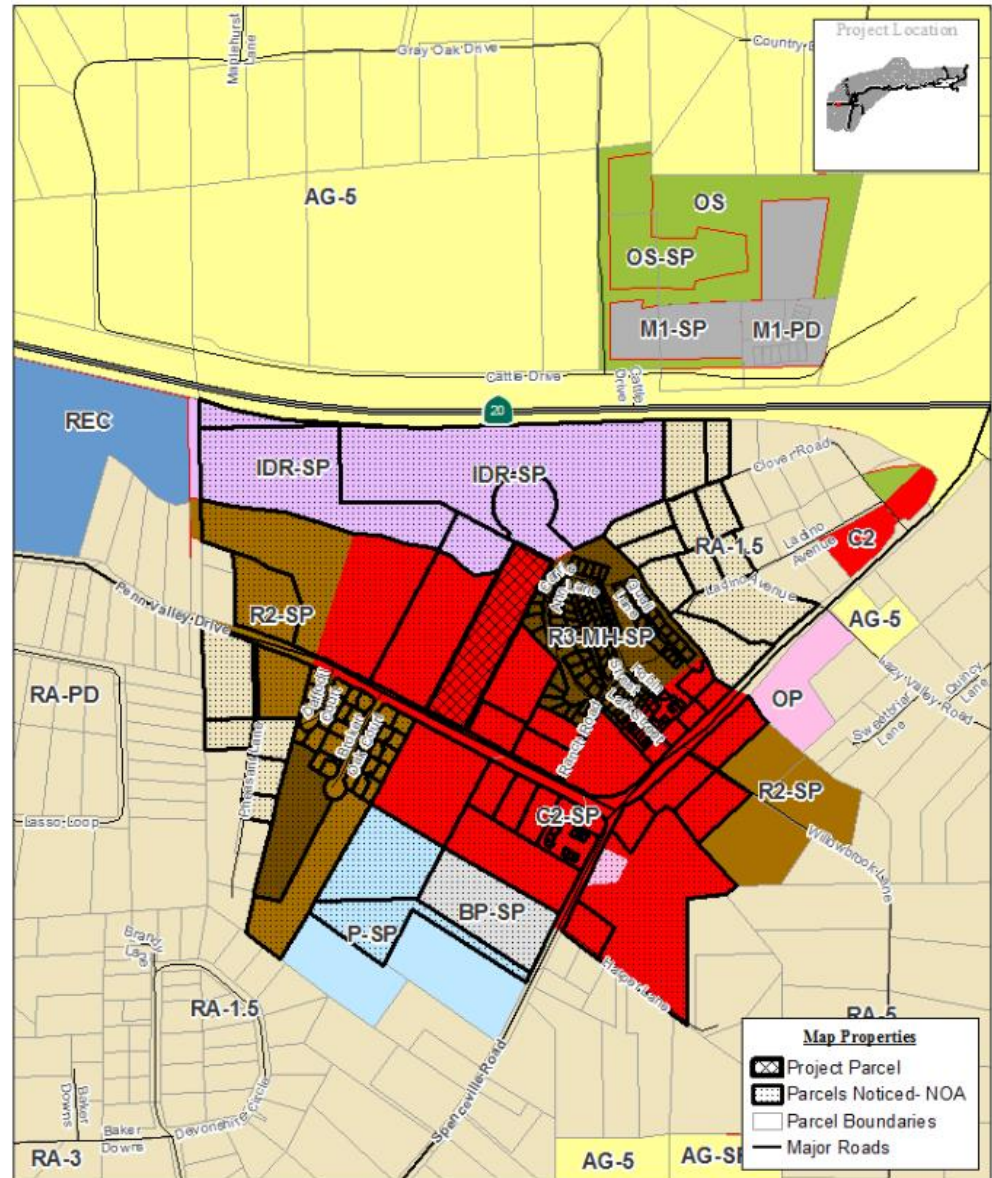
Penn Valley Dollar General

- Conditional Certificate of Compliance
 - 2013 Tax Sale
 - Requires minimum 50-ft road frontage as condition for APN 51-150-29 via a lot line adjustment
- Lot Line Adjustment
 - Creates 1.20-acre store parcel
 - Provides 50-ft road frontage for remainder parcel
 - Requires an access easement for store parcel
 - Existing easements will remain

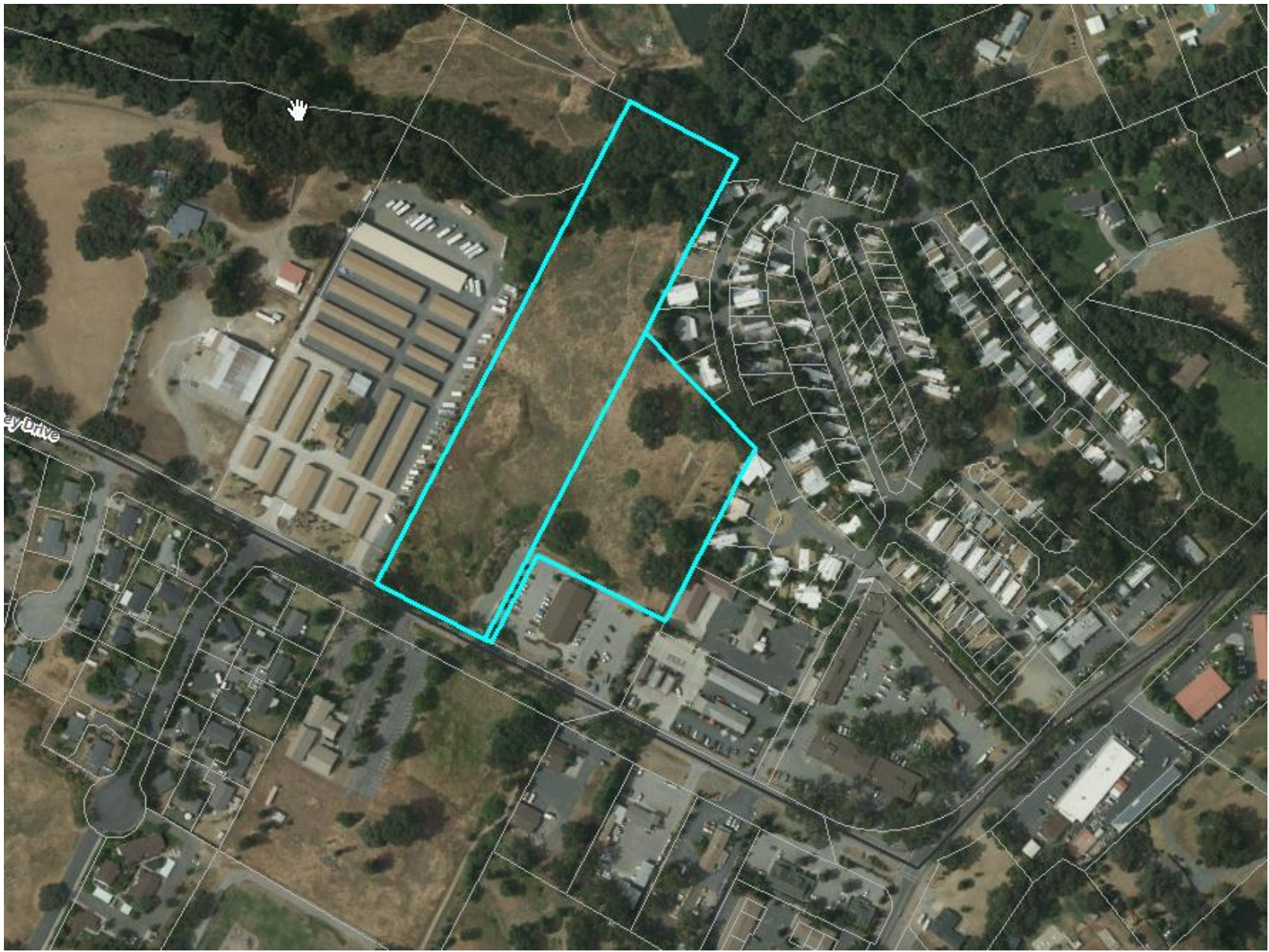


Penn Valley Dollar General

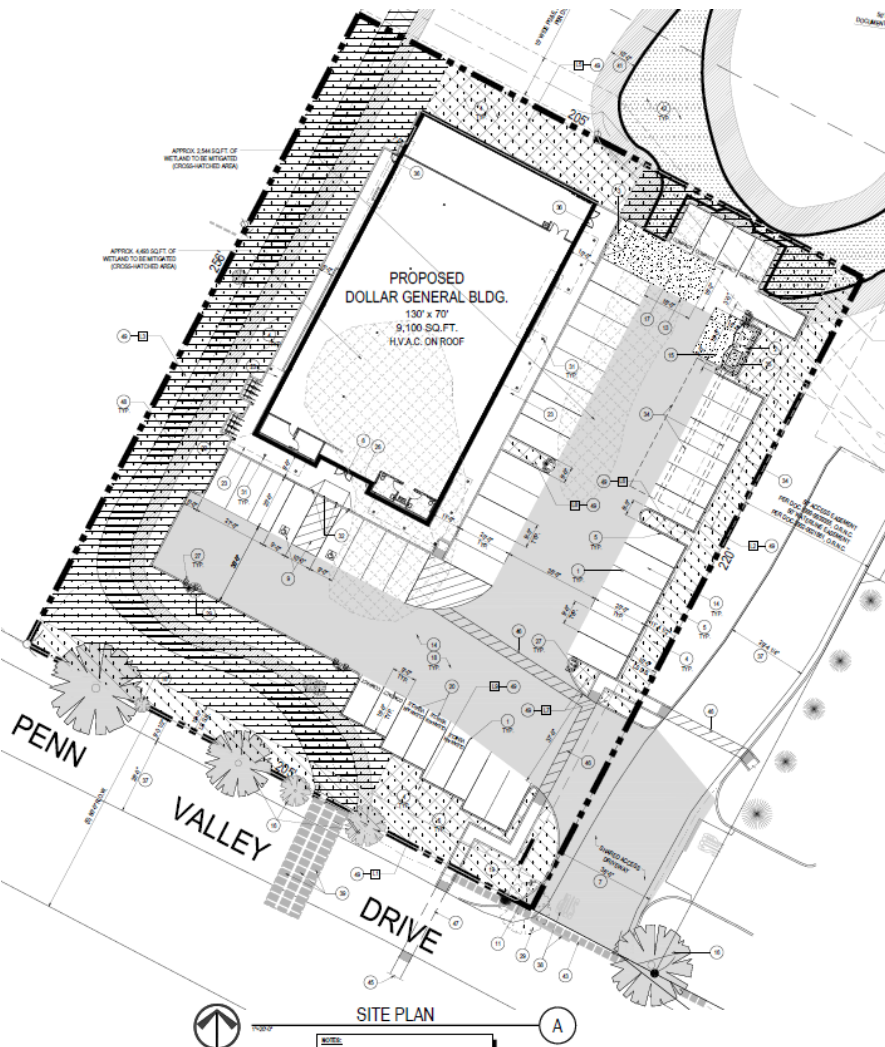
- Zoning: C2-SP
(Community Commercial-Site Performance).
- General Plan: CC
(Community Commercial)
- C2 Purpose:
“to provide a wide range of retail and service uses that serve the varied needs of large geographic areas”
- Use Type: Retail sales conducted indoors (Table L-II 2.4.D)
- Land Use Permit Requirements:
Development Permit, Management Plan
Certificate of Compliance, Lot Line Adjustment



Penn Valley Dollar General

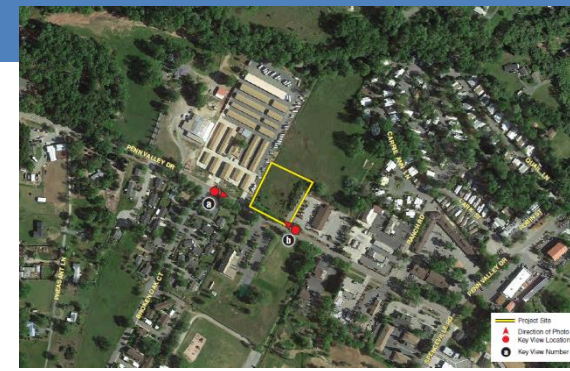


Penn Valley Dollar General

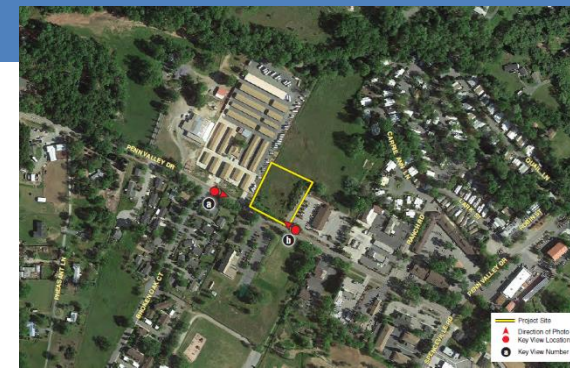
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Penn Valley Dollar General



Penn Valley Dollar General



Environmental Review (EIR15-001) - Penn Valley

- Potential Impacts identified: Aesthetics, Air Quality, Biological, Cultural, Geology and Soils, Hazards and Hazardous Materials, Hydrology and Water Quality, Noise, Public Services and Utilities, Transportation and Traffic
- All impacts have been mitigated to less than significant levels

Appeal # 1- EIR and Penn Valley Project

- ***Final EIR fails to comply with the requirement so of the California Environmental Quality Act, Public Resources Code Section 21000 et. seq. The Final EIR failed to adequately discuss, disclose and mitigate the projects' impacts, including but not limited to traffic, drainage, aesthetics and biological resources. (See Comment letters A, 157, 159, 169 (Final EIR at 3.0-23, 3.0-438, 3.0-447, 3.0-482).***
- ***Supplemental Letter from Ms. Charisse Lolli (similar concerns as raised in letters 157 and 169)***
- ***Requests that Board grant appeal and vacate and rescind Planning Commission's certification of the Final EIR and all Planning Commission Approvals (as they apply to Penn Valley) that relied on the Final EIR***

Appeal # 1- EIR and Penn Valley Project

- Letter A (CalTrans)
- Letters 157/169 and Supplemental Letter (Lolli/Wallace): Traffic; Traffic Safety; Delivery Truck Size; Construction Traffic on Little Valley Road; Economic Impacts/Big Box Store; Parking Reduction; Tree Removal (Mitigation); Offsite Wastewater Disposal; Drainage/Storm Water Run-off; Infill Project (interconnectivity); Building Re-Orientation/Size Reduction; Visual Impacts/Lighting; Significant and Unavoidable Impacts and Project Approval.
 - All issues raised apply to the Alta Sierra Proposal (with occasional reference to the Rough and Ready Highway Project)
- Letter 159 (Mayfield): STAA trucks

Appeal #1 Conclusion

- All issues raised by appeal were thoroughly assessed in the project's EIR and discussed by the Planning Commission
- Mitigation Measures and Conditions of Approval are incorporated into the project that will reduce project impacts to less than significant levels
- The project site is in developed commercial area of the County with appropriate zoning and infrastructure to support the project
- In approving the project, the Planning Commission found that project was consistent with comprehensive site development standards, design guidelines, and zoning regulations, and with several goals and policies County's General Plan as well as with the property's Zoning and General Plan Land Use Designation

Appeal #1- Conclusion

- EIR applies to all three projects
- Planning Commission determined that EIR fully disclosed impacts, provided all feasible mitigation, and was thorough in its analysis of the project(s)
 - Documented in the Final EIR (which includes the Draft EIR, Technical Appendices and the Final EIR Volume I and II), the Administrative Record and in the Appeal Staff Report

Appeal #1- Conclusion

- C2-SP Community Commercial Zoning and CC General Plan Designations:
 - Retail Use with Indoor Sales, infill project
- General Plan Goals and Policies
- Site Development Standards LUDC L-II 2.4.
 - Lighting, Landscaping, Open Space, Setbacks, Signage, Parking
- Resource Protection Standards LUDC L-II 4.3.3.C and 4.3.17:
 - Watercourse and wetlands
- Western Nevada County Design Guidelines/Penn Valley Area Plan:
 - Western theme, earth tones, compatibility with existing commercial development

Appeal #1- Conclusion



- Recommendation

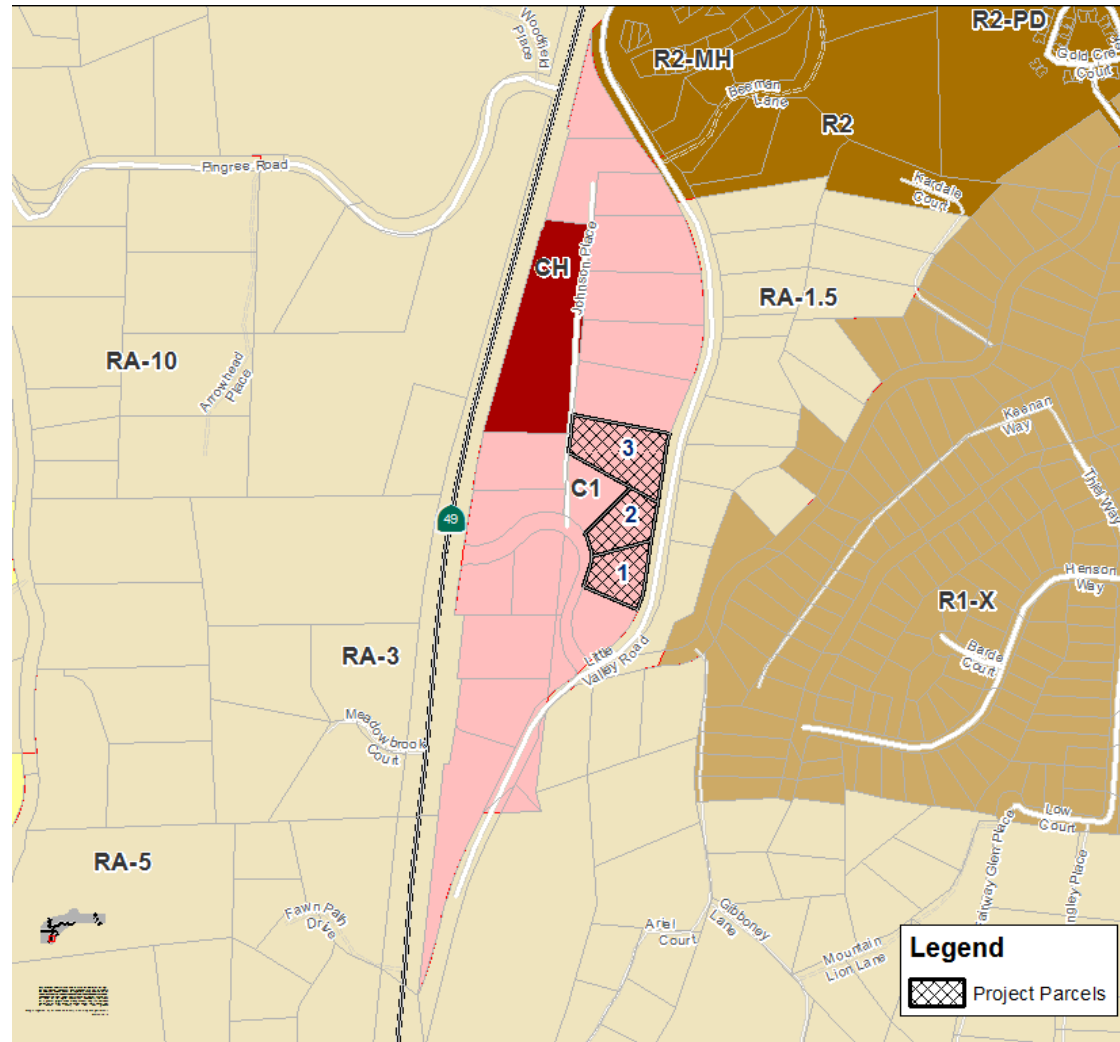
- Adopt the attached Resolution (Attachment A) to deny the appeal, and uphold the decision of the Planning Commission to certify the project Environmental Impact Report (EIR15-001), and approve the Development Permit (DP15-004), Watercourse and Wetlands Management Plan (MGT15-013), Certificate of Compliance (COC17-0001) and Lot Line Adjustment (LLA16-006) for the Penn Valley Dollar General Retail Store project making findings 1-23 provided in the Resolution and the CEQA Findings of Fact provided as Exhibit A to the Resolution

Appeal # 2 Alta Sierra Project

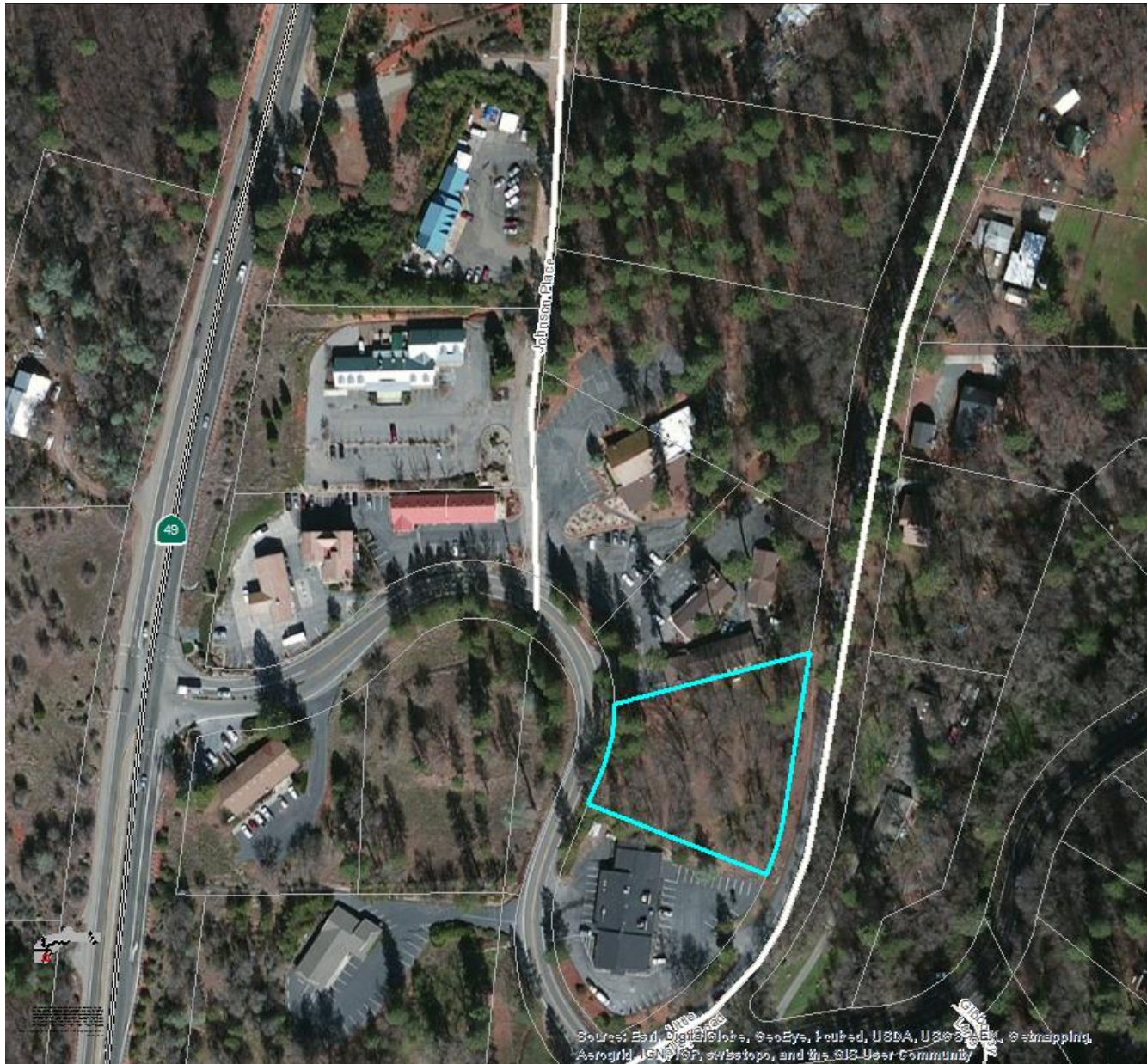
- DP14-001; MGT14-010; EIR15-001
- SimonCRE, CJS Development II, LLC, Developer
- Serge Bartlome, Property Owner
- 10166 Alta Sierra Drive (store), 10120 Alta Sierra Drive (septic line) and 12675 Johnson Place (leach field), Grass Valley. APNs: 25-430-08 (store), 25-430-10 (septic line) & 25-430-12 (leach field)
- Development Permit (DP14-001)
 - Proposed 9,100 sq. foot retail facility
 - 34-improved parking spaces (reduction) and associated lighting, landscaping, drainage improvements, retaining walls and signage
 - A single shared project encroachment proposed*
 - Alta Sierra Drive
 - *Temporary construction access proposed on Little Valley Road
- Management Plan (MGT14-010)
 - 1.40-acres of Landmark Oak Grove, 4 Landmark Oak Trees 4 impacted 3 directly and 1 indirectly
 - 85 trees impacted. 17 trees retained, including 10-oaks.

Alta Sierra Dollar General

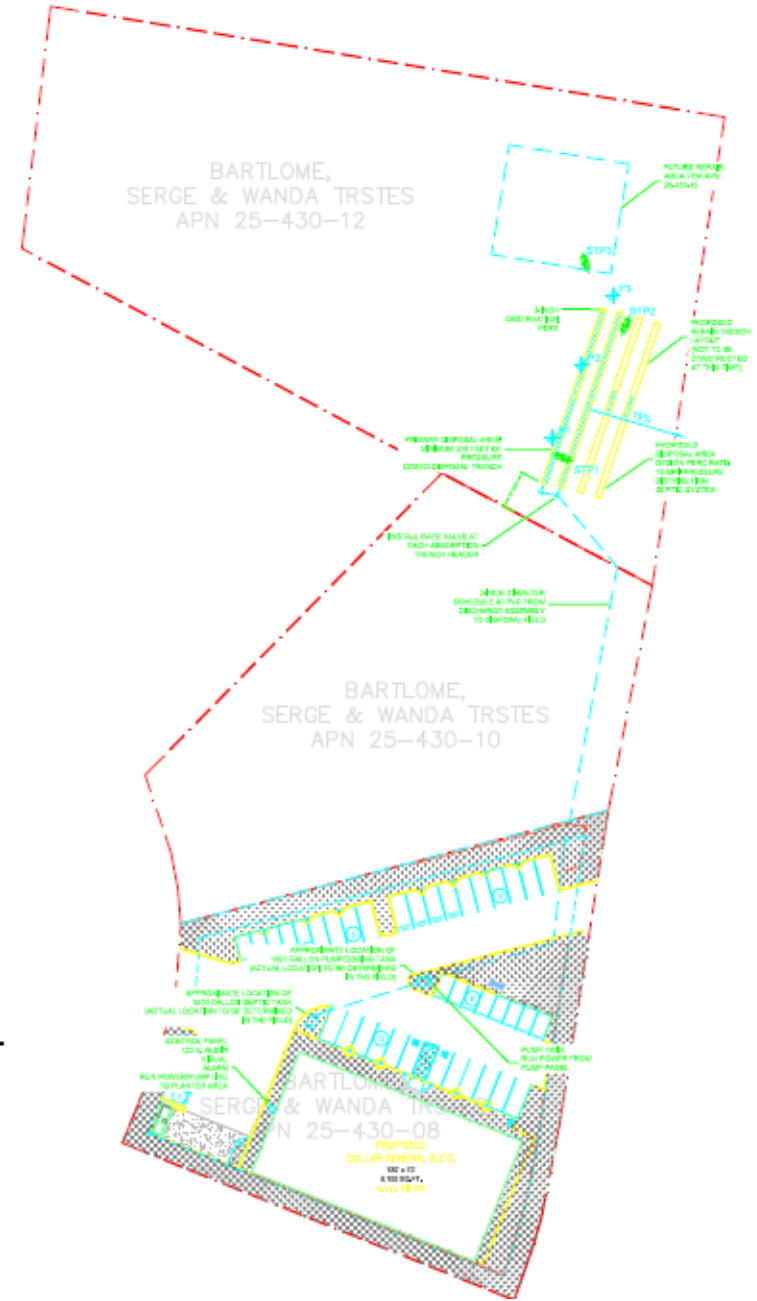
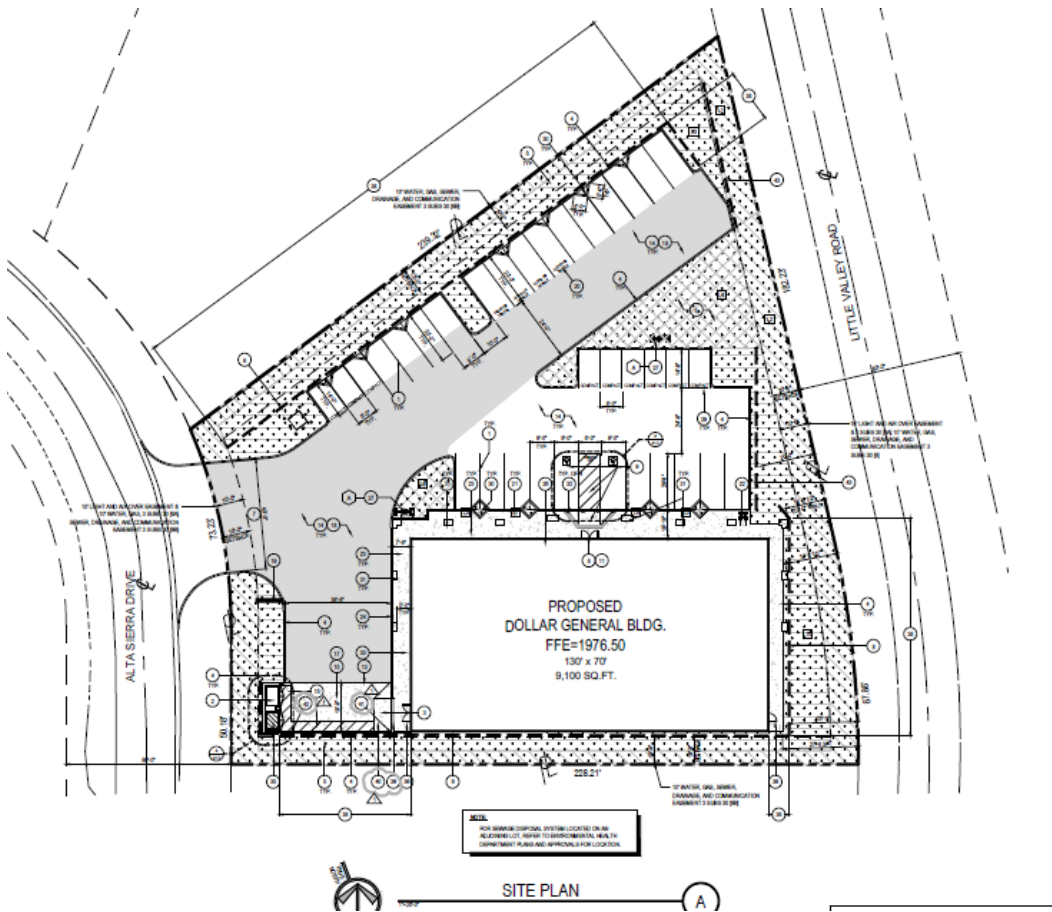
- Site Zoning: C1
- (Neighborhood Commercial).
- C1 Purpose:
- “Provide for retail and service needs of nearby neighborhoods...”
- Site GP Designation: NC
- (Neighborhood Commercial).
- Use Type: Retail sales conducted indoors (Table L-II 2.4.D)
- Land Use Permit Requirements:
- Development Permit and Management Plan



Alta Sierra Dollar General

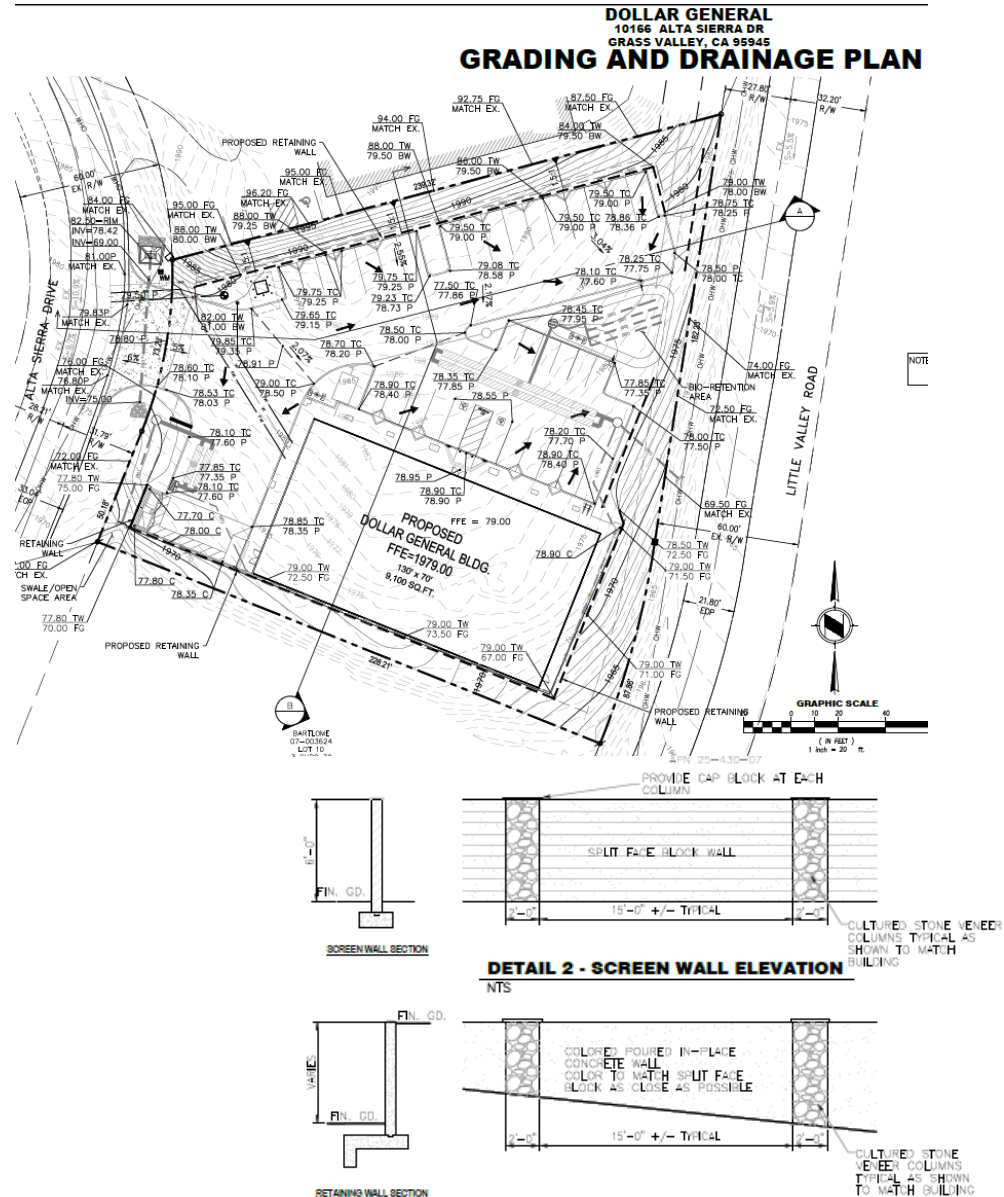


Alta Sierra Dollar General



Alta Sierra Dollar General

- Retaining Walls
 - Northern 8' to 5.5' W to E
 - Southern 5.5' to 12' W to E
 - Eastern 12' to 6' S to N
- Excavation
 - 5,988 c.y. Cut/1,212 c.y. Fill
 - 4,776 Cubic Yards Exported- HBE Enterprises (+/- 450 truck trips)
 - Temporary Access on Little Valley Road-
 - 21-day time period
 - 9am-4pm M-F
 - Close Temp Access



Alta Sierra Dollar General

- Height
 - 26' at max height
 - 18'6" Primary roof line

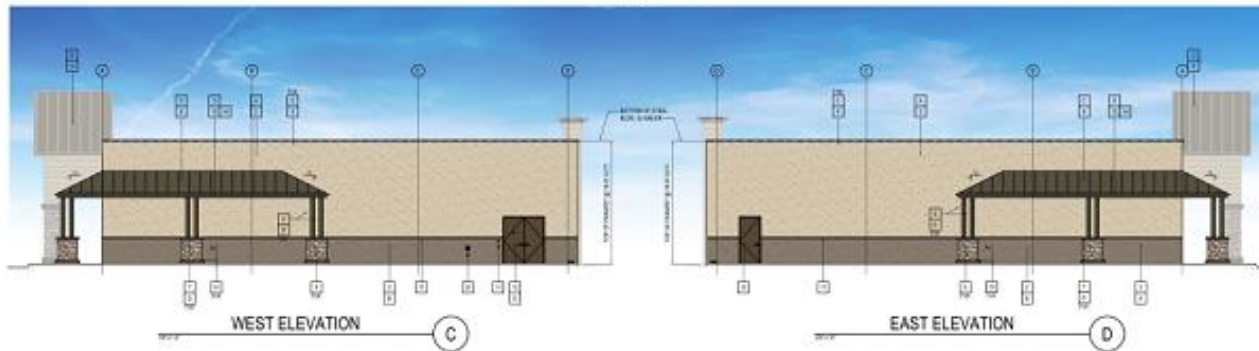
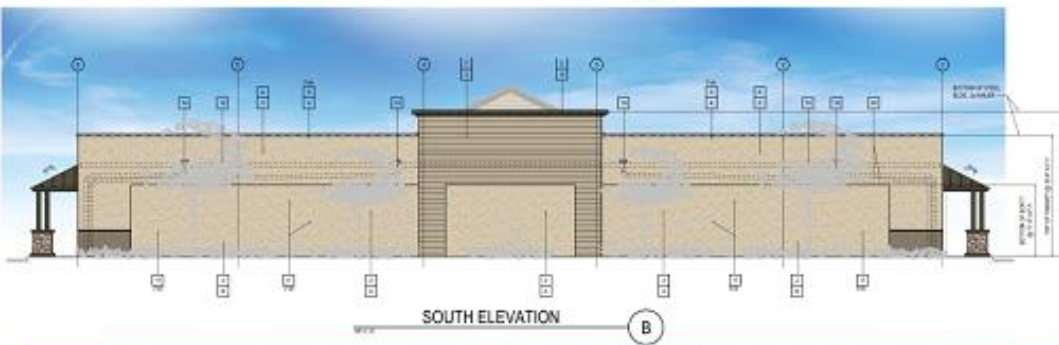
Overall Design

Materials:

Exterior Stucco Finish
Fiber Cement Lap Siding
Exterior Wood Fascia
Exterior Stone Veneer
Metal Doors/Windows

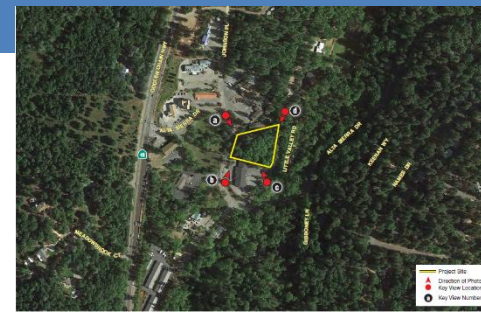
Design Features:

Wainscoting
Standing Metal Seam
Mansard Roof
8x8" Pillars with Rock bases
Tower Ridge



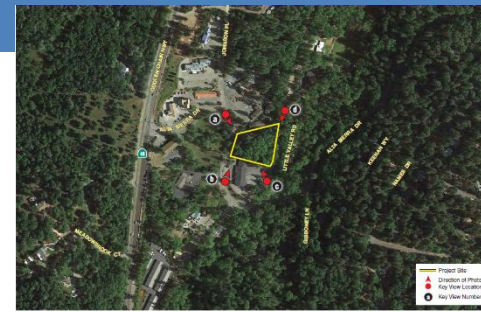


Alta Sierra Dollar General



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Alta Sierra Dollar General



Environmental Review (EIR15-001) - Alta Sierra

- Potential Impacts identified: **Aesthetics**, Air Quality, Biological, Cultural, Geology and Soils, Hazards and Hazardous Materials, Hydrology and Water Quality, Land Use and Planning, Noise, Public Services and Utilities, Transportation and Traffic
- All impacts have been mitigated to less than significant levels except for **Aesthetic (visual)** impacts, which are significant and unavoidable
- In certifying the EIR, the Planning Commission found that the EIR adequately reviewed and disclosed the project impacts and provided feasible mitigation
- In taking action on the project however, the Planning Commission did not make a Statement of Overriding Considerations that the project impacts were acceptable because the project had other economic, social, legal or other benefits that outweighed the unavoidable impacts of the project

Appeal # 2 Alta Sierra Project

- ***Project as applied for, after significant County Staff input and changes, meets all County codes. Proffered rationale for denial, such as that the Project conflicts with General Plan, is entirely subjective, and such a denial is therefore an abuse of discretion.***
- ***Requests that Board grant appeal and Approve Development Permit DP14-001 and Management Plan MGT14-010***

Appeal # 2 Alta Sierra Project

- Nevada County Administrative Code Section A-II 42.5.1
- Nevada County Planning Commission LUDC Sec. L-II 5.5.2.C requires specific findings including:
 - Consistent with General Plan, goals, objectives, policies and land use designation
 - Compatible with existing and surrounding neighborhood and area
 - Will not be detrimental to future use of the site and surrounding area

Appeal #2 Conclusion

- The issue raised in the appeal (ie. finding the project conflicted with the General Plan) is within the Planning Commission's authority and required to approve or deny a discretionary project
- The EIR fully disclosed and mitigated project impacts with the exception of Aesthetic Impacts (Visual)
- The project site is in developed commercial area of the County with appropriate zoning and infrastructure to support the project. Staff considered the project to be an infill project
- In denying the project however, the Planning Commission found that project was overbuilt for the site, due to the reduction of parking, an offsite leach field, impacts to oaks and oak groves and the need several retaining walls to meet grades
- Further, the Planning Commission made a determination that the project was inconsistent with both the central and supportive themes of the General Plan which are intended to protect the rural character of the County and existing neighborhoods

Appeal # 2- Conclusion

- Recommendation

- Adopt the attached Resolution (Attachment F) to deny the appeal, and uphold the decision of the Planning Commission to deny the Development Permit (DP14-001) and Oak Tree Management Plan (MGT14-010) for the Alta Sierra Dollar General Retail Store project, including making findings 1-13 as noted in the Resolution.

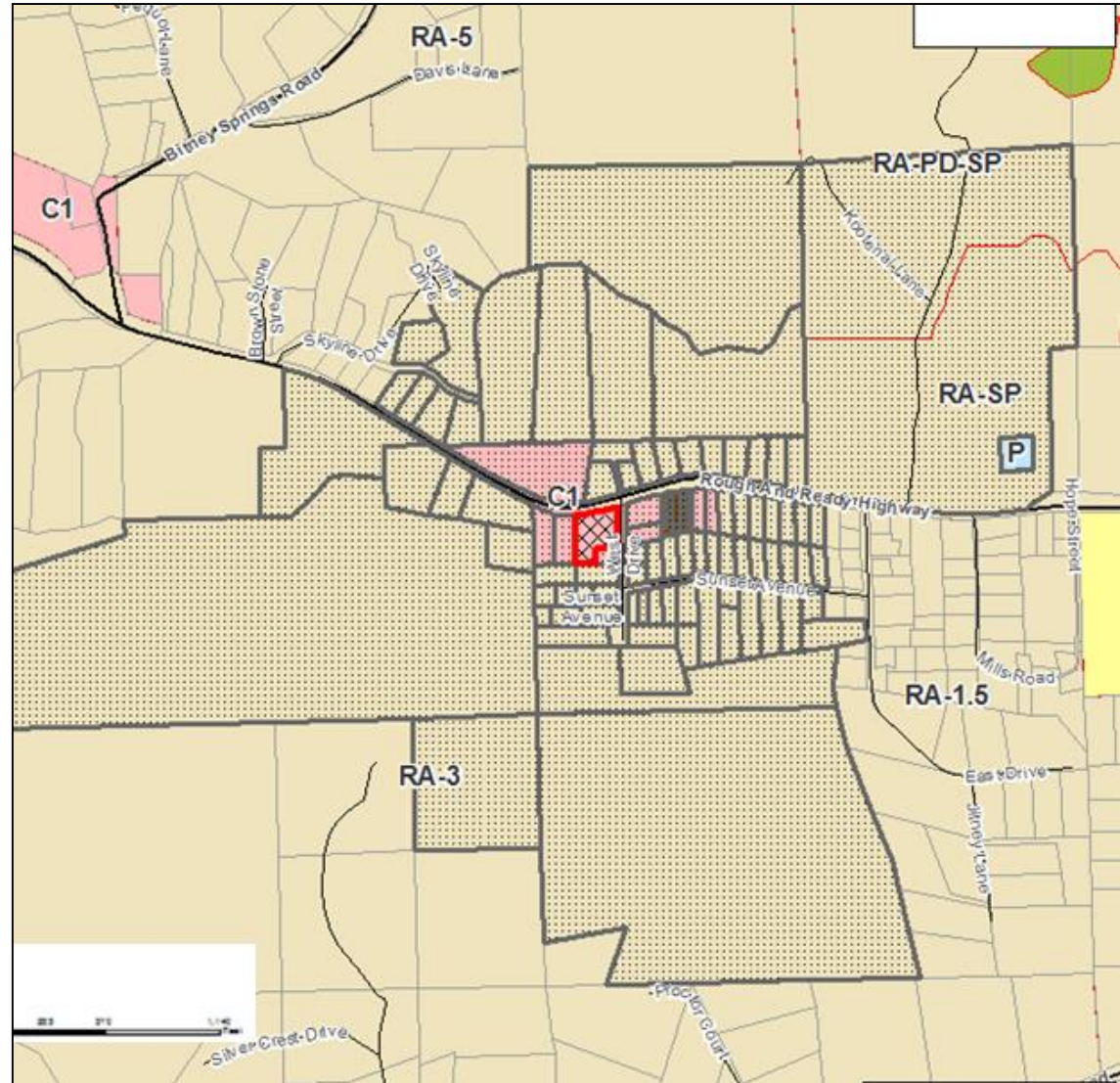


Appeal # 3 Rough and Ready Hwy Project

- DP15-001; EIR15-001
- SimonCRE, Harley V, LLC, Developer
- Peter and Dawn Fisher, Property Owner
- 12345 Rough and Ready Highway, Grass Valley. APN: 52-122-03
- Development Permit (DP14-001)
 - Proposed 9,100 sq. foot retail facility
 - 29-improved parking spaces (reduction) and associated lighting, landscaping, drainage improvements, underground water storage and signage
 - Two project encroachment proposed
 - Rough and Ready Highway and West Drive

Rough and Ready Hwy Dollar General

- Site Zoning: C1
- (Neighborhood Commercial).
- C1 Purpose:
- “Provide for retail and service needs of nearby neighborhoods...”
- Site GP Designation: NC
- (Neighborhood Commercial).
- Use Type: Retail sales conducted indoors (Table L-II 2.4.D)
- Land Use Permit Requirements:
- Development Permit



Rough and Ready Hwy Dollar General

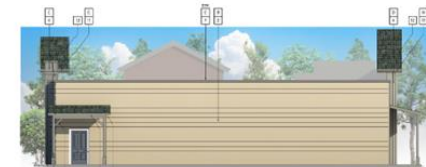
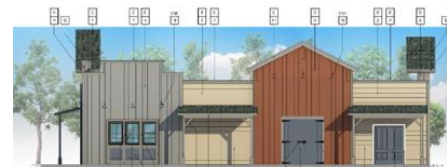
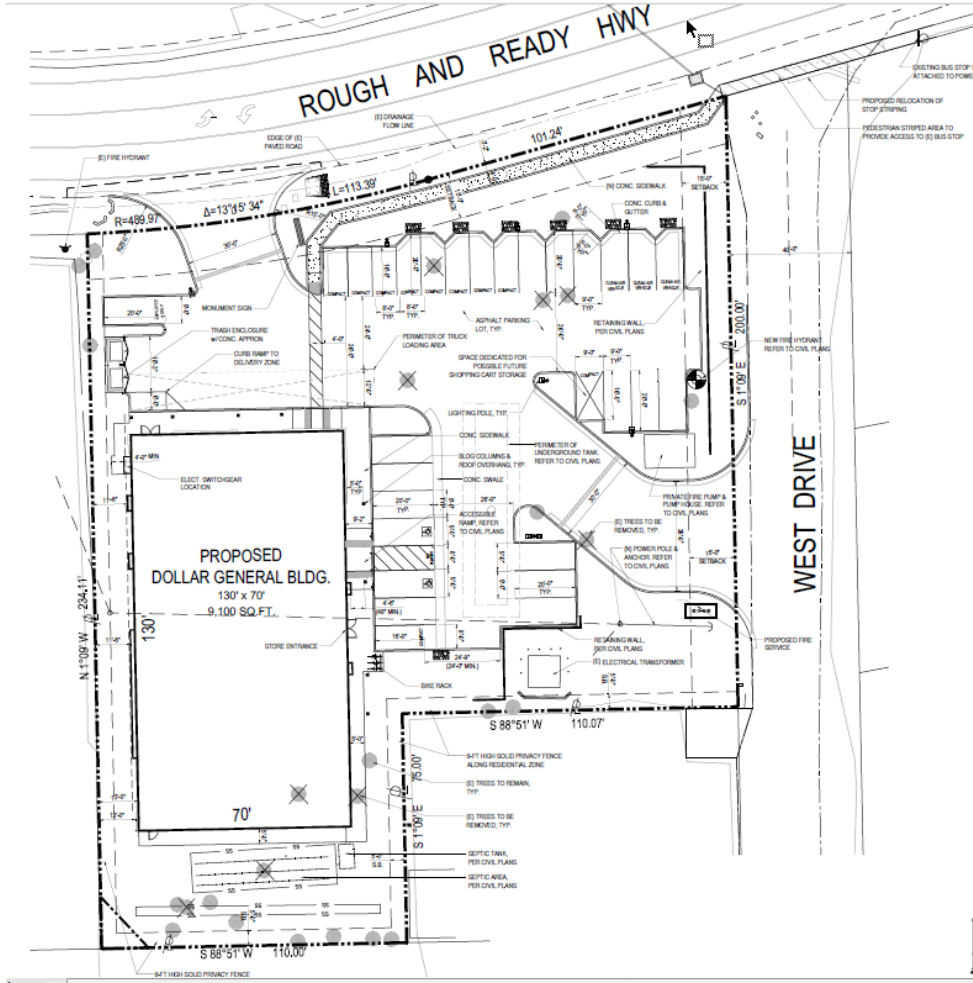
**TABLE A. West Drive/Rough and Ready Highway
C1 Zoning Pod Land Use Comparison**

APN	ZONING	GP	ACRES	CURRENT LAND USE	NOTES
5216007	C1	NC	3.10	Salvation Army Booth Center Transitional Housing	Former Motel- Northwest across Rough and Ready Highway
5212204	C1	NC	0.19	Residential	Project parcel forms an L-Shape around this residence
5212203	C1	NC	1.02	Commercial Jewelry Repair and Sales	Project site. Former 2,864 sq. ft. Midget Kitchen Restaurant.
5212202	C1	NC	0.54	Residential	Immediately west adjacent to project site
5212201	C1	NC	0.59	Residential	One parcel removed west of project site
5212126	C1	NC	0.32	Residential	Immediately east of project site, across West Drive
5212104	C1	NC	0.31	Residential	East of former Sunset Market
5212103	C1	NC	0.30	Residential	Former site of former Sunset Market, east of project site separated from other C1 zoning in the vicinity by a Mobile Home park zoned R3-MH
5212101	C1	NC	0.51	Residential	Immediately east of project site, across West Drive

Rough and Ready Hwy Dollar General



Rough and Ready Hwy Dollar General



Rough and Ready Hwy Dollar General

- Height

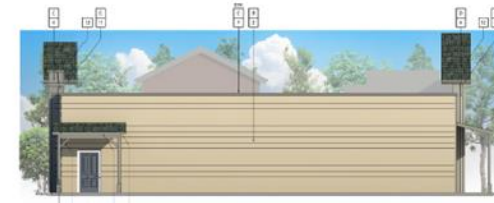
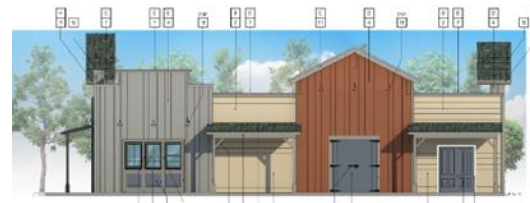
- 26' 8" Maximum height
- 18'6" primary roof line

- Overall Design

- Modernized Western Theme
- Horizontal shiplap wood board siding
- Vertical board and batten wood siding
- Exterior Wood Fascia
- Metal Doors/Windows
- Mix of earth tone colors

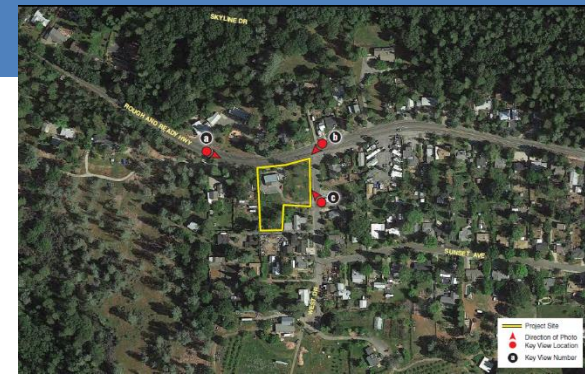
- Design Features:

- Wood plank faux barn door
- Faux windows
- Composite Shingle Mansard Roof/Awning
- Wood posts
- Roof and wall articulation/pop-outs



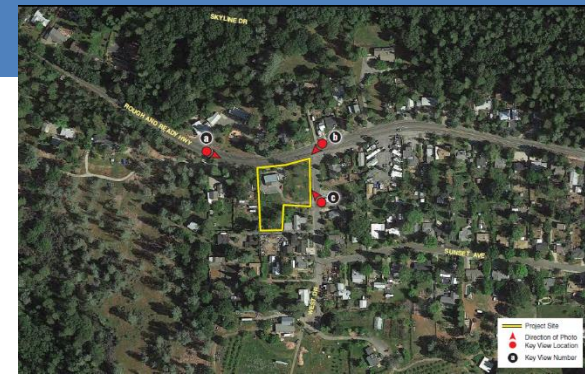
Rough and Ready Hwy

Dollar General



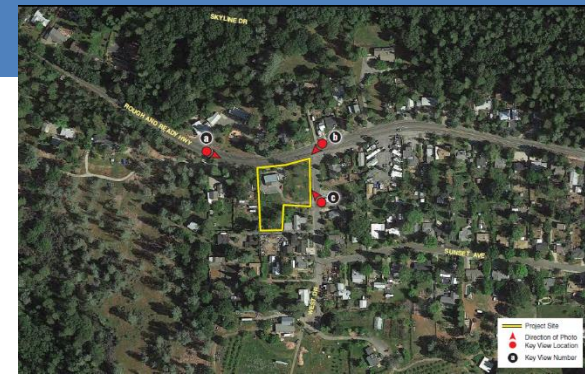
Rough and Ready Hwy

Dollar General



Rough and Ready Hwy

Dollar General



Environmental Review (EIR15-001) - Rough and Ready Hwy

- Potential Impacts identified: **Aesthetics**, Air Quality, Biological, Cultural, Geology and Soils, Hazards and Hazardous Materials, Hydrology and Water Quality, Noise, **Land Use Compatibility**, Public Services and Utilities, Transportation and Traffic
- All impacts have been mitigated to less than significant levels except **Aesthetics and Land Use Compatibility** which are significant and unavoidable impacts
- In certifying the EIR, the Planning Commission found that the EIR adequately reviewed and disclosed the project impacts and provided feasible mitigation

Appeal # 3 Rough and Ready Hwy Project

- ***Project as applied for, after significant County Staff input and changes, meets all County codes. Proffered rationale for denial, such as that the Project conflicts with General Plan, is entirely subjective, and such a denial is therefore an abuse of discretion.***
- ***Requests that Board grant appeal and Approve Development Permit DP15-001***

Appeal # 3 Rough and Ready Hwy Project

- Nevada County Administrative Code Section A-II 42.5.1
- Nevada County Planning Commission LUDC Sec. L-II 5.5.2.C requires specific findings including:
 - Consistent with General Plan, goals, objectives, policies and land use designation
 - Compatible with existing and surrounding neighborhood and area
 - Will not be detrimental to future use of the site and surrounding area

Appeal #3 Conclusion

- The issue raised in the appeal (ie. finding the project conflicted with the General Plan) is within the Planning Commission's authority and required to approve or deny a discretionary project
- The EIR fully disclosed and mitigated project impacts with the exception of Aesthetics and Land Use Compatibility
- The project site zoned for commercial use but the entire area is developed with small lot residential development
- In denying the project, the Planning Commission found that project's size, mass and scale were incompatible for this area of the County and that West Drive was not adequate to support the commercial use proposed; and
- That a smaller commercial development, such as the Chicago Park or Harmony Ridge Markets would be compatible with the area, Zoning and General Plan; and
- That the project was inconsistent with several general plan goals and policies and with the central and supportive themes of the General Plan which are intended to protect the rural character of the County and existing neighborhoods

Appeal # 3- Conclusion

- Recommendation

- Adopt the attached Resolution (Attachment K) to deny the appeal, and uphold the decision of the Planning Commission to deny the Development Permit (DP15-001) including making findings 1-9 as noted in the Resolution.



Extra Slides- Landscape/Lighting/Signs

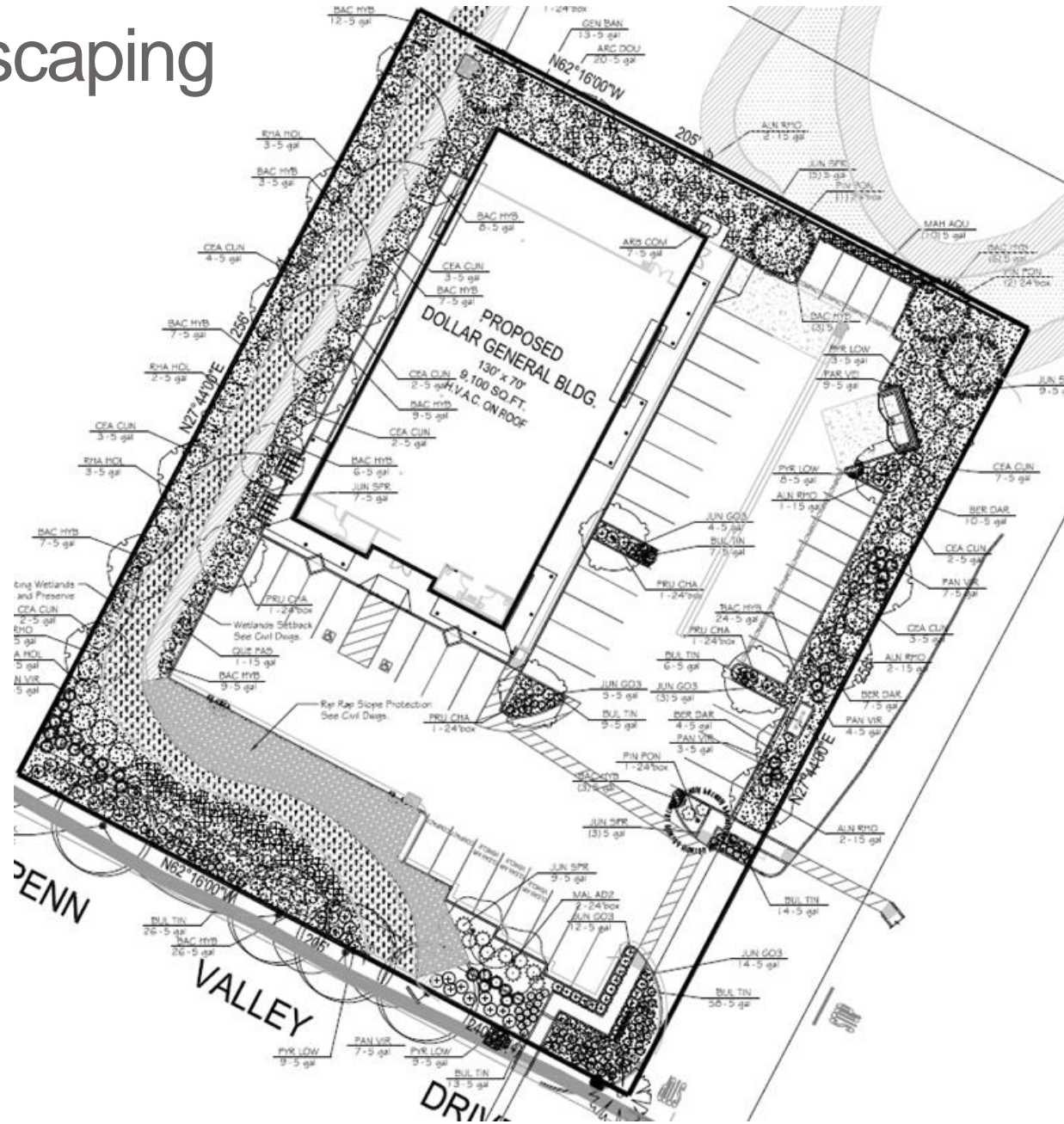
PV Parking/Landscaping

Parking

- 46 required
- 46 provided
- Parking meets County Standards (LUDC 4.2.9)

Landscaping

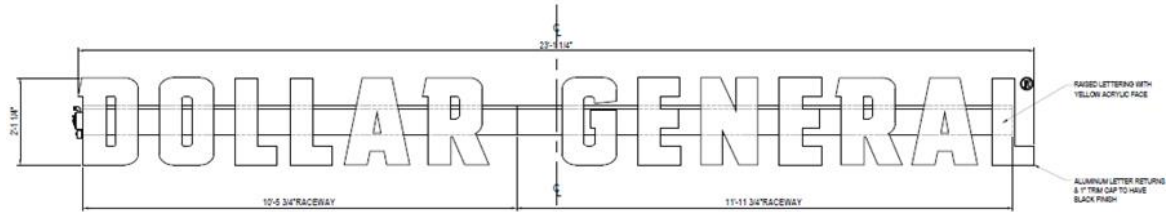
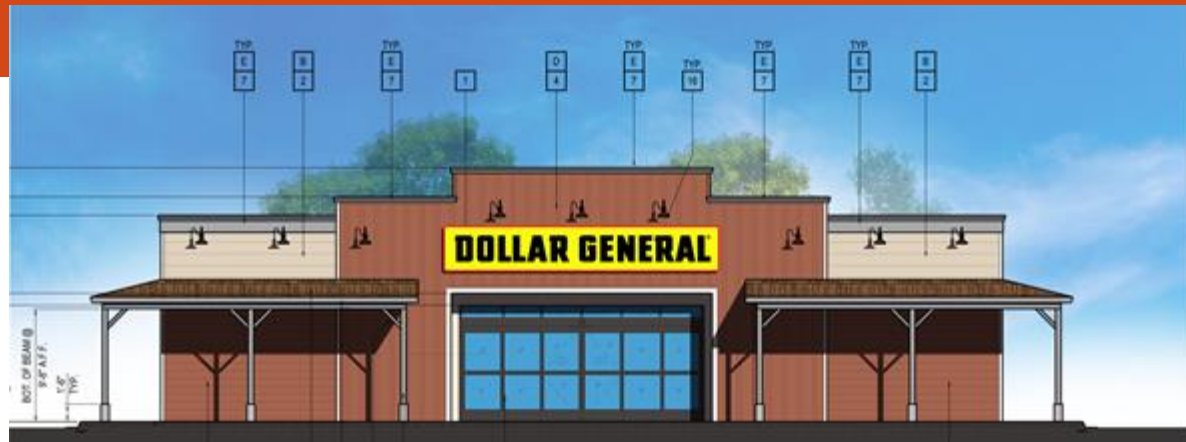
- Extensive planting plan proposed
- Meets street side buffering requirements
- Meets 40% shading requirement
- Interior Parking lot requirements
- 100% Drought tolerant planting
- 22% of site will be retained as open space
- Standard landscape conditions have been applied



Lighting/Signage

Lighting

- 5 parking lot pole lights
- Multiple wall mount lights
- Some light spill shown on preliminary lighting plan
- MM PV-4.2.2a
 - Reduce Wattage, relocate or remove lights

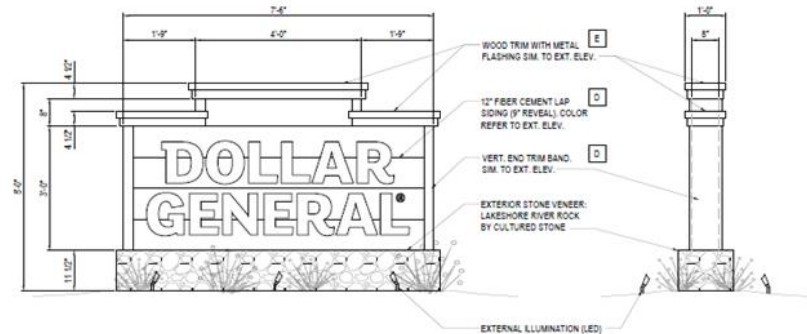


BUILDING EXTERIOR SIGNAGE

B

Signage

- 2 signs
- 1 monument, 1 wall mounted
- 260 sq. ft. allowed.
- Wall mounted: Cabinet vs. Channel Letter (COA A.7).
- Monument: 25 sq. ft.
- Matches building colors
- On a cultured stone base
- Will be externally lit (MM-PV 4.2.2b: Downward Facing Lighting)



MONUMENT SIGN

C

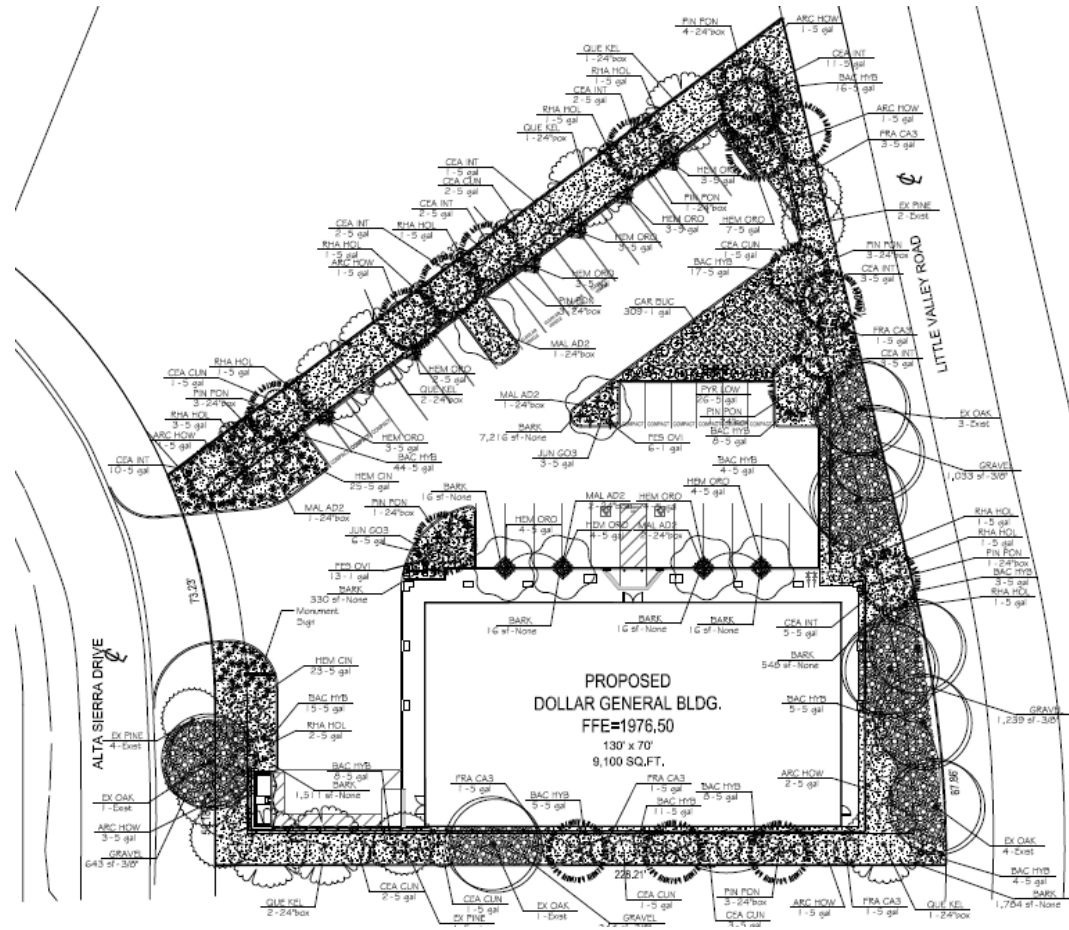
AS Parking/Landscaping

Parking

- 46 required
- 34 provided
- Parking Study (LUDC 4.2.9.F.12)
- Kunzman Engineers

Landscaping

- 17% of site
- Meets 40% shading requirement
- 10-ft landscape buffer
- Interior Parking lot requirements
- 45 sq. ft. per parking space.
- 15% of site will be retained as open space
- Utilizes mostly native plantings- including trees, shrubs and ground cover



Lighting/Signage

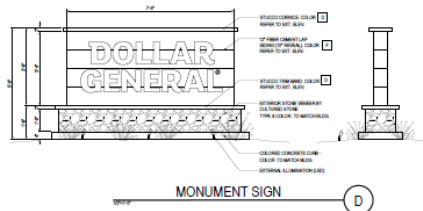
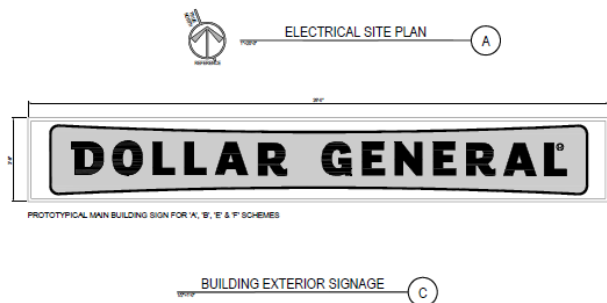
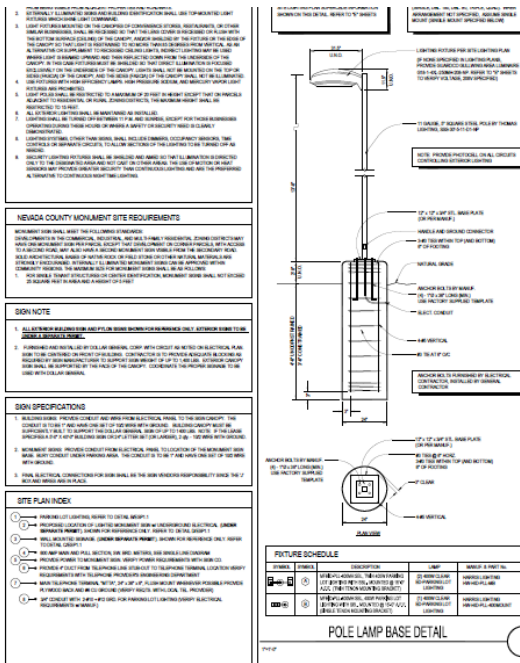
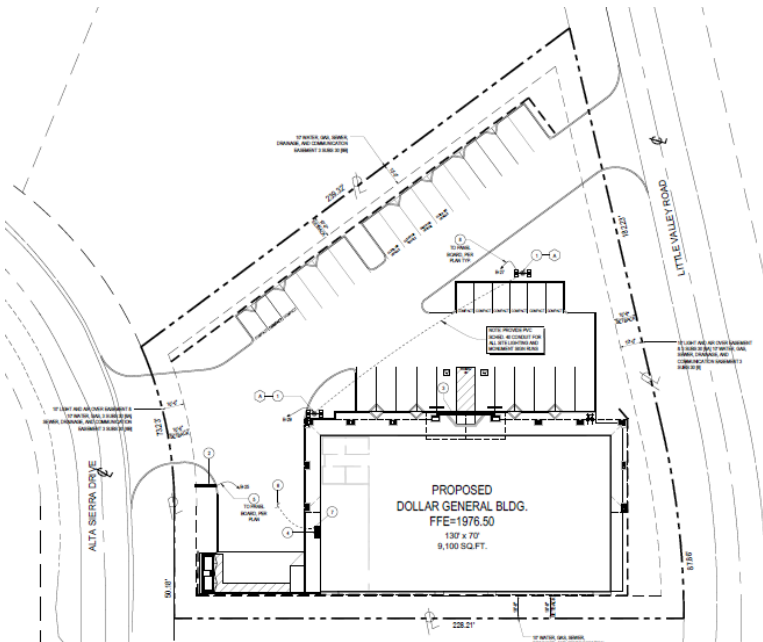


Lighting

- 2 parking lot pole lights
- Multiple wall mount lights
- Conditioned to meet County lighting requirements

Signage

- 2 signs
- 1 monument, 1 wall mounted
- 260 sq. ft. allowed.
- Wall mounted: 97.5 sq. ft.
- MM AS-4.1.1d requires channel letter signage
- Monument: 25 sq. ft.
- Matches building colors
- On a cultured stone base
- Will be externally lit



R+R Hwy Parking/Landscaping

Parking

- 46 required
- 29 provided
- Parking reduction required per LUDC L-II 4.2.9.F.12
- Kunzman Engineers

Landscaping

- Extensive planting plan proposed
- Meets street buffering requirements
- Meets 40% shading requirement
- Does not provide landscape fingers every 10 parking spaces, but provides same square footage of landscaping through landscape triangles- Meets intent of the code
- 19.1% of site will be landscaping
- 16.7% of site will be retained as open space
- Standard landscape conditions would be required



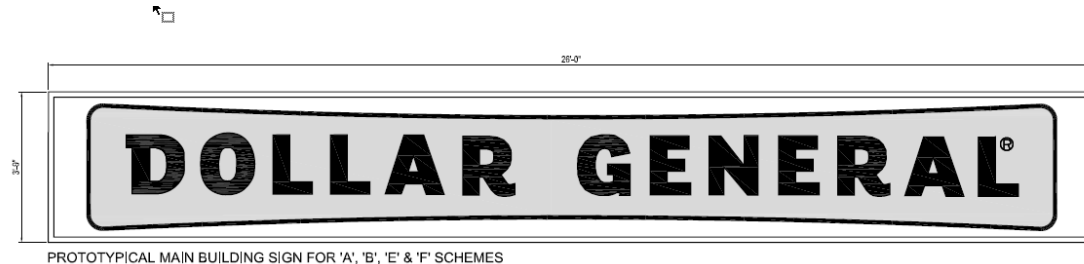
Lighting/Signage

Lighting

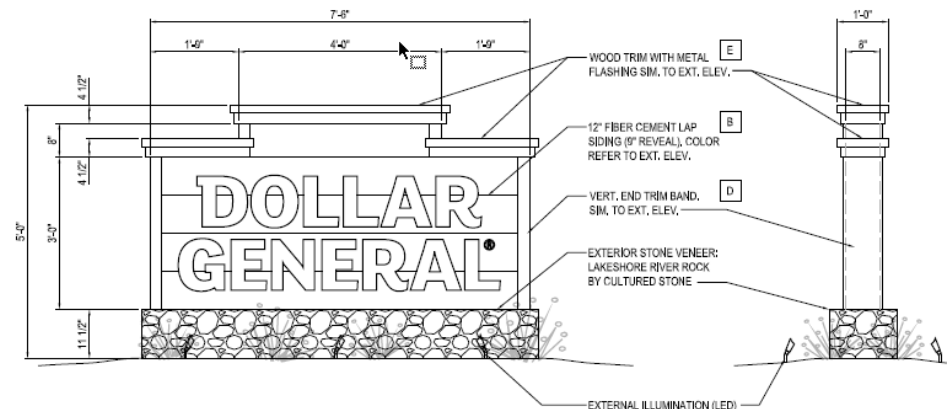
- 6 parking lot pole lights
- 12 wall mount lights
- Some light spill shown on preliminary lighting plan
- MM RR-4.3.2a
 - Reduce Wattage, relocate or remove lights
- Inconsistent with surrounding residential area- No level of screening would make it compatible- Contributes to Significant and unavoidable Aesthetic and Land Use Compatibility Determination in EIR

Signage

- 2 signs
- 1 monument, 1 wall mounted
- 260 sq. ft. allowed.
- Wall mounted: Cabinet vs. Channel Letter.
- Monument: 25 sq. ft.
- Matches building colors
- On a cultured stone base
- Will be externally lit (MM-PV 4.3.2b: downward facing Lighting)



BUILDING EXTERIOR SIGNAGE (B)



MONUMENT SIGN (D)