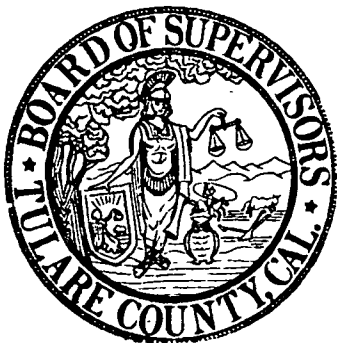


# BEFORE THE BOARD OF SUPERVISORS COUNTY OF TULARE, STATE OF CALIFORNIA

IN THE MATTER OF DOLLAR GENERAL )  
APPEAL ) Resolution No. 2018-0580  
)

UPON MOTION OF SUPERVISOR ENNIS, SECONDED BY SUPERVISOR CROCKER, THE FOLLOWING WAS ADOPTED BY THE BOARD OF SUPERVISORS, AT AN OFFICIAL MEETING HELD JUNE 26, 2018, BY THE FOLLOWING VOTE:

AYES: SUPERVISORS CROCKER, VANDER POEL, SHUKLIAN, WORTHLEY,  
AND ENNIS  
NOES: NONE  
ABSTAIN: NONE  
ABSENT: NONE



ATTEST: MICHAEL C. SPATA  
COUNTY ADMINISTRATIVE OFFICER/  
CLERK, BOARD OF SUPERVISORS

BY: Mary Ravello  
Deputy Clerk

\*\*\*\*\*

1. Set aside Planning Commission Resolution No. 9232 adopting a mitigated negative declaration and mitigated monitoring program for the proposed Dollar General Project on Highway 190, Springville (the "Project").
2. Set aside Planning Commission Resolution No. 9233 conditionally approving Special Use Permit No. PSP 16-006 and Final Site Plan No. PSR 15-006 for the Project
3. Set aside Tulare County Board Resolution No. 2016-0884 tentatively denying Petitioner's appeal and tentatively approving the Project pending the presentation of amended written findings.
4. Set aside Tulare County Board Resolution No. 2016-0973 making findings in connection with its approval of the Project under the California Environmental Quality Act ("CEQA") and approving the land use permits for the Project.
5. Suspended all Project activity that could result in any change or alteration to the physical environment unless and until the County has reconsidered its approval of the Project and complied with the requirements of CEQA, including certifying an environmental impact report.

Co Counsel

HAR  
06/26/2018



**County Counsel  
COUNTY OF TULARE  
AGENDA ITEM**

**BOARD OF SUPERVISORS**

KUYLER CROCKER  
District One  
PETE VANDER POEL  
District Two  
AMY SHUKLIAN  
District Three  
J. STEVEN WORTHLEY  
District Four  
MIKE ENNIS  
District Five

**AGENDA DATE:** June 26, 2018

Public Hearing Required	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Scheduled Public Hearing w/Clerk	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Published Notice Required	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Advertised Published Notice	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
County Counsel Sign-Off	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Meet & Confer Required	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Electronic file(s) has been sent	Yes <input checked="" type="checkbox"/>	N/A <input type="checkbox"/>
Budget Transfer (Aud 308) attached	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Personnel Resolution attached	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Agreements are attached and signature line for Chairman is marked with tab(s)/flag(s)	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>

CONTACT PERSON: Jeff Kuhn    PHONE: 559-636-4950

**SUBJECT:** Dollar General Project Appeal

**REQUEST(S):**

That the Board of Supervisors:

1. Set aside Planning Commission Resolution No. 9232 adopting a mitigated negative declaration and mitigated monitoring program for the proposed Dollar General Project on Highway 190, Springville (the "Project").
2. Set aside Planning Commission Resolution No. 9233 conditionally approving Special Use Permit No. PSP 16-006 and Final Site Plan No. PSR 15-006 for the Project
3. Set aside Tulare County Board Resolution No. 2016-0884 tentatively denying Petitioner's appeal and tentatively approving the Project pending the presentation of amended written findings.
4. Set aside Tulare County Board Resolution No. 2016-0973 making findings in connection with its approval of the Project under the California Environmental Quality Act ("CEQA") and approving the land use permits for the Project.
5. Suspend all Project activity that could result in any change or alteration to the physical environment unless and until the County has reconsidered its approval of the Project and complied with the requirements of CEQA, including certifying an environmental impact report.

**SUMMARY:**

On April 9, 2018, the Tulare County Superior Court granted a Peremptory Writ of Mandate in favor of the Petitioners in the case of *Springville Citizens for Responsible Growth v. County of Tulare and Embree Asset Group*; Tulare County Superior Court Case No. VCU268116. The case involves the proposed Dollar

**SUBJECT:** Dollar General Appeal  
**DATE:** June 26, 2018

General store on State Route 190 in Springville. The Court found that Petitioners had presented sufficient evidence in the planning hearings on the Project to trigger the requirement under CEQA for preparation of an EIR addressing issues of potential urban decay and water shortages that may be caused or exacerbated by the Project.

In keeping with the County's pre-existing agreement with the Project developer Embree Asset Group, Embree's legal counsel defended the case. Embree chose not to appeal the Court's decision and is working with RMA staff on preparation of the required EIR addressing the urban decay and water, among other issues. In the meantime, the Court's decision requires your Board to take formal action to undo the previous Board and Planning Commission actions approving the Project without an EIR. The requested actions will allow Embree's legal counsel to certify to the Court that the County has complied with the currently-applicable portions of the Court's decision and order.

**FISCAL IMPACT/FINANCING:**

There is no financial or fiscal impact on the County associated with the requested actions. All costs of defending the case have been borne by the developer.

**LINKAGE TO THE COUNTY OF TULARE STRATEGIC BUSINESS PLAN:**

The requested actions support Strategic Initiative 2, Economic Well-Being – (“Promote economic development opportunities, effective growth management and a quality standard of living,”) and Strategic Initiative 3, Quality of Life – (“Promote public health and welfare, educational opportunities, natural resource management and continued improvement of environmental quality,”) by ensuring compliance with the Court's decision on CEQA as it applies to the Project.

**ADMINISTRATIVE SIGN-OFF:**



Jeffrey L. Kuhn,  
Chief Deputy County Counsel

cc: County Administrative Office