



**Resource Management
Agency
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: December 18, 2018 - Revised

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 checked="" type="checkbox"/>	N/A	<input 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: Celeste Perez PHONE: (559) 624-7010				

SUBJECT: Special Use Permit No. PSP 16-006/Final Site Plan No. PSR 15-006 and Tentative Parcel Map No. PPM 15-040/PSR for a 1.3 Acre Parcel, with a 7,500 Square Foot Retail Store, 3 miles South West of Springville (Embree Asset Group)

REQUEST(S):
That the Board of Supervisors:

1. Consider adopting written findings for denial for the Special Use Permit No. PSP 16-006/Final Site Plan No. PSR 15-006 and Tentative Parcel Map No. PPM 15-040/PSR rejecting, the Planning Commission's Resolutions and Staff's Recommendation to provide a Use Permit / Final Site Plan and Parcel Map entitlement for a 7,500 sq. ft. Dollar General retail store on a 1.34-acre portion of a 28.23-acre parcel in the PD-F-M (Planned Development – Foothill Combining – Special Mobilehome) Zone, located on the north side of State Route 190, at the intersection with Montgomery Drive, southwest of the Community of Springville.

SUMMARY:
The Board will consider making written findings in support of its decision to deny applications for a Dollar General Retail Store project, as decided at the Board's meeting on December 11, 2018. On December 11, 2018, the Board considered conditional approval of Special Use Permit No. PSP 16-006/ Final Site Plan No. PSR 15-006 as requested by Embree Asset Group, Attn: John Shields, 2355 E. Camelback Road, Suite 315, Phoenix, AZ 85016 (Owner: Barjona Meek, 18104 Road 230, Springville, CA 93265) to provide entitlement for a 7,500 sq. ft. Dollar General retail store on a 1.34-acre portion of a 28.23-acre parcel in the PD-F-M

SUBJECT: Special Use Permit No. PSP 16-006 / Final Site Plan No. PSR 15-006 and Tentative Parcel Map No. PPM 15-040/PSR for a 1.3 Acre, with a 7,500 Square Foot Retail Store 3 miles South West of Springville (Embree Asset Group)
DATE: December 18, 2018

(Planned Development – Foothill Combining – Special Mobilehome) Zone, located on the north side of State Route 190, at the intersection with Montgomery Drive, southwest of the Community of Springville (APN 284-540-034).

The Board by vote of 3-2 voted to deny the Use Permit (inclusive of the Special Use Permit No. PSP 16-006/ Final Site Plan No. PSR 15-006 and Tentative Parcel Map No. PPM 15-040/PSR) on December 11, 2018. This matter is being brought back to the Board to consider writing findings for denial.

FISCAL IMPACT/FINANCING:

No Net County Cost to the General Fund, since the applicant funds the matter.

LINKAGE TO THE COUNTY OF TULARE STRATEGIC BUSINESS PLAN:

N/A

ADMINISTRATIVE SIGN-OFF:

Aaron R. Bock, MCRP, JD, LEED AP
Interim Assistant Director, Economic Development and Planning Branch

Michael Washam
Associate Director

Reed Schenke P.E.
Director

cc: County Administrative Office

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

IN THE MATTER OF DENYING FINAL)
SITE PLAN NO. PSR 15-006 & SPECIAL) **Resolution No. 2018-xxxx**
USE PERMIT NO. PSP 16-006, AND)
TENTATIVE PARCEL MAP NO. PPM 15-040)
DOLLAR GENERAL STORE, SPRINGVILLE)
(EMBREE ASSET GROUP))

WHEREAS, on November 28, 2018, the Tulare County Planning Commission recommended for approval the Final Environmental Impact Report (“FEIR”), Final Site Plan No. PSR 15-006, and Special Use Permit No. PSP 16-006 & Tentative Parcel Map No. 15-040 relating to a Dollar General Retail Store on a site near Springville in eastern Tulare County (the “Project”); and,

WHEREAS, on December 11, 2018, a public hearing on the Project was duly conducted by the Tulare County Board of Supervisors (“Board”), with oral and documentary evidence submitted by staff, the applicant, the applicant’s representatives, the Springville Citizens for Responsible Growth (“SCRG”) and its legal counsel, and members of the public in support and in opposition to the Project; and,

WHEREAS, after duly considering the evidence submitted at the public hearing, the Board (a) closed the public hearing, (b) voted to deny approval of the Project; and,

NOW, THEREFORE, the Board hereby adopts, finds, determines, declares, and concludes as follows:

- I. In connection with the Special Use Permit for the Project, the Board rejects the Planning Commission’s recommendation and hereby finds and concludes as follows:
 - A. The Board finds and concludes that the establishment, maintenance, and operation of the proposed Dollar General Retail Store at the subject location would be detrimental to the health, safety, peace, morals, comfort, and general welfare of the people residing in the Springville area. The conditions in approval required in the Special Use Permit cannot guarantee that the public health, safety, and welfare are not adversely affected. There are no extensive interdisciplinary conditions of approval imposed by PSP 16-006 / PSR that will ensure that the public health, safety, and welfare are not adversely affected.
 - B. With respect to alternative sites, the proposed location is not appropriate for the particular Project, and cannot be conditioned adequately to ensure that the Project complies with zoning.

- C. The Project is not consistent with certain of the policies of the County's Foothill Growth Management Plan ("FGMP," which is a portion of the County's General Plan) that are applicable to the subject location. As applicable to this Project, the FGMP calls for development within the FGMP area to strengthen the community identity of Springville and directs retail commercial development projects to the existing community rather than areas outside the community. The Project as proposed would lie approximately three (3) miles outside of the Springville community's Urban Development Boundaries ("UDB"). Likewise, the FGMP calls for development such as the Project to occur as logical infilling within said UDB and the Project as proposed is outside of Springville's UDB. Additionally, FGMP policy 1-6, which allows for "Neighborhood Commercial Center" land uses within the Tule River Development Corridor portion of the FGMP area, of which the subject site is a part, provides the following criteria, among others, for such land uses: The major tenant of the complex shall be a grocery store; and the center shall not have direct access from State Highway 190 and 198. The Project as proposed does not meet these criteria and so is not consistent with the FGMP and the thus is not consistent with the Tulare County General Plan.
- II. In connection with the Tentative Parcel Map, the Board rejects the Planning Commission's recommendation and hereby finds and concludes as follows:
- A. The proposed development is not consistent with the Tulare County General Plan.
- i. The Project is not consistent with General Plan Policy AQ-3.6, which states the County shall encourage the clustering of land uses that generate high trip volumes, especially when such uses can be mixed with support services and where they can be served by public transportation. From the evidence in the record, the Board finds that the development would not be supported by public transportation or other support services.
 - ii. The Project is not consistent with General Plan Policy AQ-3.2. Policy AQ-3.2 requires the County to attempt to identify opportunities for infill development projects near employment areas within all unincorporated communities and hamlets to reduce vehicle trips. As designed, the proposed Dollar General Retail Store would be located in undeveloped area and not near other employment areas within the unincorporated area of Springville.
 - iii. The proposed development is not consistent with General Plan Policy ERM-1.2, which states the County shall limit or modify proposed development within areas that contain sensitive habitat for special status species and direct development into less significant habitat areas. Development in natural habitats shall be controlled so as to minimize erosion and maximize beneficial vegetative growth. In light of the entire record, the Board finds that the proposed development would take place on 1.34 acres, of which there could exist federally protected wetlands, as stated in the Final Environmental Impact Report. The Board notes that these wetlands are considered sensitive

habitat and are federally protected under Section 404 of the Clean Water Act.

- B. The Design of the Dollar General is likely to cause substantial environmental damage and substantially injure the Spiny-sepaled button celery, a species of special concern. According to testimony from Ms. Barbara Brydolf from the Public Hearing on December 11, the plant has only 108 known occurrences total. The Board finds that the survey completed by H. T. Harvey and Associates found 301 plants of the species on the site, all of which would be extirpated by the proposed development. The Board notes that there are only 108 known occurrences of this species in total, and finds that the impacts to the 301 plants Spiny-sepaled button celery plants will be substantial.
 - C. The Board finds that the site is not physically suitable for the proposed development. The Board finds that there is no defined quantity of groundwater noted in the EIR. Furthermore, the Board finds that the groundwater supply problem will be exacerbated by the Dollar General Project, especially during the periods where community served by Del Oro Water District does not receive potable water.
- III. In Light of the whole record pertaining to this Project, the Board hereby Denies PSP 16-006 and Tentative Subdivision Map No. PPM 15-040.

THE FOREGOING WAS ADOPTED BY THE BOARD OF SUPERVISORS, AT AN OFFICIAL MEETING HELD DECEMBER 18, 2018, BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSTAIN:

ABSENT:

**ATTEST: JASON T. BRITT
COUNTY ADMINISTRATIVE OFFICER/ CLERK
BOARD OF SUPERVISORS**

**BY: _____
Deputy Clerk**