

1 BOARD OF SUPERVISORS, COUNTY OF LAKE, STATE OF CALIFORNIA

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3 In the Matter of the Appeal  
4 of Cross Development, LLC  
5 (AB 17-02)

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FINDINGS OF FACT AND DECISION

6 This proceeding was commenced by virtue of an appeal by Cross Development,  
7 LLC (the "Appellant") of the Planning Commission's determination on February 23, 2017,  
8 to deny the Appellant's request for a Major Use Permit (UP 16-04) to allow construction of  
9 an approximately 9100 square foot Dollar General retail store at in the Clear Lake Riveria  
10 commercial district in Lake County, California.

11 A duly noticed public hearing was held before this Board of Supervisors on April  
12 25, 2017, at which time evidence, both oral and documentary, was presented. Based  
13 upon the evidence and applicable law, we find the following:

- 14 1. That the Lake County Planning Commission held a public hearing on February 23,  
15 2017. The Planning Commission unanimously denied the Major Use Permit (UP  
16 16-04) of Cross Development, LLC. to allow construction of an approximately 9100  
17 square foot Dollar General retail store near the intersection of State Highway 281  
18 and Point Lakeview Road (the "Project"). The Planning Commission found that the  
19 Project did not meet all of the requirements of Section 51.4 Lake County Zoning  
20 Ordinance which must be met in order to approve a major use permit. The Planning  
21 Commission consequently denied the major use permit for the Project, (UP 16-04),  
22 the mitigated negative declaration for the Project, and the Design Review (DR 17-  
23 02).
- 24 2. That the Appellant is Cross Development, LLC, which has appealed the Planning  
25 Commission's decision of February 23, 2017.
- 26 3. That staff of the Community Development Department presented evidence both  
27 documentary and testimonial. Staff submitted a staff report dated April 10, 2017  
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1 with attachments which included Exhibits A through G thereto. Staff presented that  
2 report and made a power point presentation regarding this Project.

3 4. Appellant presented documentary and testimonial evidence. Appellant, by and  
4 through its representative Joe Dell, testified that they had attempted to incorporate  
5 community ideas into Project changes and had met with the Riveria Architectural  
6 Control and Planning Committee in efforts to make the store structure more  
7 compatible with the area.

8 5. Testimony was received from numerous members of the public, including many of  
9 whom are residents in the Riveria area and/or the areas neighboring the Project  
10 location, who spoke against the Project for a variety of reasons, including but not  
11 limited to: Concerns regarding economic impacts, crime, aesthetic and  
12 architectural design issues, that the Project design and size are not in keeping with  
13 the character and community of the area, and nonconformity with the Riveria Area  
14 Plan.

15 6. That the staff of the Community Development Department recommends this  
16 appeal be granted for those reasons offered in the Staff Report dated April 10,  
17 2017, and as supported in the Initial Study No. 16-07 and other staff reports to the  
18 Planning Commission concerning this Project.

19 7. That this Board, in the exercise of its independent judgment, finds, based on  
20 substantial evidence in the record of these proceedings, that all the findings of  
21 Section 51.4 of the Lake County Zoning Ordinance required for approval by this  
22 Board of a Major Use Permit for this Project cannot be made. This Project does  
23 not meet the spirit and intent of the Riveria Area Plan, particularly with regard to the  
24 promotion of small and local business. Further, neither the size nor the design  
25 features of the Project store structure are consistent with or are complimentary to  
26 the community area. For the foregoing reasons, this Board cannot make the  
27 following findings required by Section 51.4:  
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1 a. That the establishment, maintenance, or operation of the use applied for will  
2 not under the circumstances of the particular case, be detrimental to the  
3 health, safety, morals, comfort, and general welfare of the persons residing  
4 or working in the neighborhood of such proposed use, or be detrimental to  
5 property and improvements in the neighborhood or the general welfare of the  
6 County. (Zoning Ordinance Sec. 51.4(a)(1).)

7 b. That the project is in conformance with the applicable provisions and  
8 policies of the Zoning Code, the General Plan, and the Riveria Area Plan.  
9 (Zoning Ordinance Sec. 51.4(a)(5).

10 8. That, based upon this Board's determination that a major use permit may not be  
11 issued for this Project, the Board hereby denies Major Use Permit 16-04 and the  
12 mitigated negative declaration for the Project. For the aforementioned reasons  
13 which preclude the issuance of a major use permit, this Board further determines  
14 that the Design Review findings required by Zoning Ordinance section 54.5,  
15 subdivision (a) 4, 5, and 6 cannot be made and Design Review is hereby denied.

16 9. That this Board has considered and incorporates by reference the Community  
17 Development staff memorandum and attachments thereto as well as the written  
18 submissions by the Appellant and members of the public for public hearing of this  
19 matter.

20 10. Based upon the foregoing and for the reasons set forth hereinabove, this Board  
21 denies the appeal of Appellant Cross Development, LLC.

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2 **NOTICE TO APPELLANT:** You are hereby given notice that the time within which any  
3 judicial review of the decision herein may be sought is governed by the provisions of the  
4 Code of Civil Procedures Sections 1094.5, et seq.

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7 Dated: \_\_\_\_\_

CHAIR, Board of Supervisors

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11 ATTEST: CAROL J. HUCHINGSON  
12 Clerk to the Board  
of Supervisors

APPROVED AS TO FORM:

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14 By: \_\_\_\_\_  
15 Deputy

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ANITA L. GRANT  
County Counsel