TOWN OF MORAGA PLANNING COMMISSION
SPECIAL MEETING AGENDA
Monday, August 23, 2010
7:30 p.m.

Joaquin Moraga Intermediate School Auditorium
1010 Camino Pablo, Moraga California 94556

All documents relating to the following agenda items are available for public review in the Planning Department of the Town of Moraga at 329 Rheem Blvd. between the hours of 9 a.m. to noon, Monday, Tuesday and Thursday (other times by appointment). Staff reports will normally be available on the Monday afternoon one week preceding the meeting. It is recommended that you contact the Planning Department at 925-888-7040 for availability.

I. CALL TO ORDER AND ROLL CALL

Planning Commission

A. Driver, Levenfeld, Obsitnik, Richards, Socolich, Whitley, Wykle
B. Conflict of Interest

II. ADOPTION OF MEETING AGENDA

III. ANNOUNCEMENTS

IV. PUBLIC COMMENTS

This part of the agenda is to receive public comments on matters that are not on this agenda. Comments received will not be acted upon at this meeting and may be referred to a subcommittee for response. Comments should not exceed three minutes.

V. ADOPTION OF THE CONSENT CALENDAR

Items on the Consent Calendar are believed by staff to be non-controversial. Staff believes that the proposed action is consistent with the commission's instructions. A single motion may adopt all items on the Consent Calendar. If any commissioner or member of the public questions any item, it should be removed from the Consent Calendar and placed in part IX of the Regular Agenda.

A. August 2, 2010 Minutes

VI. PUBLIC HEARINGS

Opening remarks by an applicant shall not exceed ten minutes. Comments by others shall not exceed three minutes. The purpose of a public hearing is to supply the Planning Commission with information that it cannot otherwise obtain. Because of the length of time that the Planning Commission meetings frequently consume, please limit testimony and presentation to the supplying of factual information. In fairness to the Commission and others in attendance, please avoid redundant, superfluous or otherwise inappropriate questions or testimony. Thank you. Moraga Planning Commission.

VII. PUBLIC MEETING

A. UP 10-10 Dollar Tree (applicant), Kimco (property owner) 542 Center Street, Rheem Valley Shopping Center: Consideration of a permitted use application by Dollar Tree to operate a retail variety store in the Rheem Valley Shopping Center. The new business is proposed to be located in the existing vacant space that was previously occupied by Blockbuster, Lori's Perfect Tan and The Beauty Source. (Zoning: Community Commercial – CEQA status: Categorically Exempt per CEQA Section 15301, Existing Facilities)

VIII. ROUTINE & OTHER MATTERS - none

The following items do not require a public hearing, although the Chair or staff will indicate why each item is on the agenda. Public participation will be limited and the Commission may decide to reschedule the item as a public hearing. Discussion of administrative matters, such as adoption of findings, may be limited to the Planning Commission.

IX. COMMUNICATIONS – None

X. REPORTS

A. Planning Commission

1. Jim Obsitnik, Chair
2. Russell Driver, Vice Chair
3. Stacia Levenfeld
4. Dick Socolich
5. Bruce Whitley
6. Tom Richards
7. Roger Wykle

B. Staff

1. Update on Town Council actions and future agenda items.

XII. ADJOURNMENT

To a regular meeting of the Planning Commission on **Tuesday, September 7, 2010** at 7:30 P.M. at the Moraga Library Meeting Room, 1500 St. Mary's Road, Moraga, California. Notices of Planning Commission meetings are posted at 2100 Donald Drive, the Moraga Commons, and the Moraga Public Library.

NOTICE: If you challenge a town's zoning, planning or other decision in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Planning Commission at or prior, to the public hearing. Judging review of any town administrative decision may be had only if petition is filed with the court not later than the 90th day following the date upon which the decision becomes final. Judicial review of environmental determinations may be subject to a shorter time period for litigation, in certain cases 30 days following the date of final decision.

The Town of Moraga will provide special assistance for disabled citizens upon at least 24 hours advance notice to the Planning Department (888-7040). If you need sign language assistance or written material printed in a larger font or taped, advance notice is necessary. All meeting rooms are accessible to disabled.

Copies of all staff reports and documents subject to disclosure that relate to each item of business referred to on the agenda are available for public inspection the 10th day before each regularly scheduled Planning Commission meeting at the Planning Department**,** located at 329 Rheem Boulevard, Moraga, CA. Any documents subject to disclosure that are provided to all, or a majority of all, of the members of the Town Council regarding any item on this agenda after the agenda has been distributed will also be made available for inspection at 329 Rheem Boulevard, Moraga, CA during regular business hours.

TOWN OF MORAGA
PLANNING COMMISSION MEETING

Moraga Library Meeting Room
1500 Saint Mary's Road
Moraga, CA 94556

August 2, 2010

7:30 P.M.

MINUTES

I. CALL TO ORDER

Commissioner Whitley called the Regular Meeting of the Planning Commission to order at 7:35 P.M.

ROLL CALL

Present: Commissioners Levenfeld, Socolich, Richards, Whitley
Absent: Commissioners Driver, Wykle, Chair Obsitnik
Staff: Lori Salamack, Planning Director
Richard Chamberlain, Senior Planner

B. Conflict of Interest

There was no reported conflict of interest.

II. ADOPTION OF MEETING AGENDA

On motion by Commissioner Socolich, seconded by Commissioner Richards and carried unanimously to adopt the meeting agenda, as shown.

III. PUBLIC COMMENTS

There were no comments from the public.

IV. ADOPTION OF THE CONSENT CALENDAR

A. July 19, 2010 Minutes

The July 19, 2010 minutes were pulled from the Consent Calendar to be considered after Item V. Public Hearings, as Item V., B.

V. PUBLIC HEARINGS

A. GRADING and HDP 01-10 Mr. and Mrs. Robert White (Owner/Applicant), 32 Buckingham Drive: Application for a hillside development permit and grading permit to grade a hillside with a slope greater than 25 percent including an approximately 50 cubic yard excavation for an in-ground storage building and related improvements.

> In accordance with Moraga Municipal Code Section 14.16.020, the Planning Commission shall make a recommendation to the Town Council regarding the proposed application. The work that is the subject of this application including the hillside excavation and partial storage room construction was commenced without benefit of any Town approvals. The Town will evaluate the proposed application as if the work had not been started. This application will receive no special consideration because it was started without permits. The property is zoned 3 dwelling units per acre. APN 256-203-012.

Planning Director Lori Salamack advised that the Planning Commission had been asked to consider the application for a hillside development permit and grading permit and forward a recommendation to the Town Council with respect to the grading permit since it had been proposed on a slope greater than 25 percent. The Moraga General Plan specifically called for grading in those conditions to be decided by the Town Council. The hillside development permit would be considered along with the grading permit in accordance with the Moraga Municipal Code (MMC).

Ms. Salamack reported that construction on the property located at 32 Buckingham Drive had been brought to the Town's attention in May 2009. Since that time the Town had been working with the property owners to submit an application for the hillside development and grading permits. Plans had been submitted and a soils report had been reviewed and submitted to the Town for peer review. The technical issues of the soils report had been resolved between the professionals and the Town's geotechnical consultant who was of the opinion that issues identified in his comment letter, as contained in the August 2 staff report, had been satisfied. However, construction had commenced absent Town approvals and the Town could not consider the fact that work had occurred and give the applicant the benefit of that work.

The Town must evaluate the application as if the excavation and retaining walls for the storage shed had not been constructed and that whatever findings the Planning Commission may have made for the site in a pre-construction condition were what should have been recommended to the Town Council.

Ms. Salamack identified two attachments that had been provided to the Planning Commission and contained in the staff report, including factors to be considered with respect to the approval of the hillside development and grading permits. The factors for the approval of the hillside development permit were general in nature and had considered subject areas that were often considered with respect to the requirements of the California Environmental Quality Act (CEQA).

Ms. Salamack explained that the grading requirements call for the Planning Commission to consider the Town's design guidelines identified as Attachment E to the staff report and the technical issues regarding the grading permit in terms of the rules and regulations in which the manner of the grading should occur. In addition, the General Plan provided guidance for grading on hillsides and had encouraged minimal use of retaining walls and the minimum amount of grading possible on the site with natural contour grading.

Ms. Salamack noted that the plans had shown the construction of a concrete building and a retaining wall on the slope above the building which was important for the Planning Commission to consider as it related to the factors to consider for the grading permit. The proximity of the building to the property line had also been a factor since it would be only 2 feet from the property line where a variance would be required. A survey of the property line had not been obtained and the property owners have represented to staff that the building may actually be 3 feet from the property line.

Ms. Salamack added that Senior Planner Richard Chamberlain and Staff Engineer John Sherbert who both have worked with the property owners were present to address any comments from the Planning Commission. She further clarified that due to travel plans, the property owners were not present. Staff had informed the property owners in the event the Planning Commission was unable to render a decision or recommendation due to the absence of the property owners, any questions would be forwarded to the property owners for a response through e-mail. That information would be provided to the Planning Commission for its next meeting scheduled for August 16. She explained that the property owners had been interested in moving forward as soon as possible, since the Town Council would only meet once in the month of August. The property owners would like the Planning Commission to render a decision or recommendation to the Town Council at this meeting or the meeting of August 16 so that the Town Council may make its decision at the end of this month.

Commissioner Socolich understood through reading the history of the application that this was not the first time the property owner had problems in obtaining appropriate permits and had moved forward with work absent the proper authority.

Ms. Salamack affirmed the history of the property adding that a staff report from 2006 had been included in the August 2, 2010 staff report since it had shown the low retaining walls which was where the current excavation had occurred. The 2006 staff report also illustrated the site conditions prior to 2009.

John Friar, Friar Associates, Incorporated, representing the property owners, Mr. and Mrs. Robert White, stated that based on his discussions with the property owners, the contractor for the project had informed the White's that permits were no big deal. He understood that a portion of the work had been permitted, although the southwest side had not been permitted and the contractor had commenced work in that area.

Commissioner Whitley understood that the retaining walls had gone through design review with the Design Review Board (DRB) in 2006. He inquired of staff whether or not it had also gone through the hillside development and grading permits process with approval by the Town Council.

Ms. Salamack clarified that a hillside development permit had been approved as part of the application in 2006.

Senior Planner Richard Chamberlain explained that the Town's Grading Ordinance required the approval process through the Town Council. In 2006, the Town was still under the County's grading requirements where permits were obtained from the County. The property owners had obtained a grading permit from the County in 2006 and it was possible they were under the impression that same process with the County would apply in this case.

Commissioner Richards understood there were concerns with the foundation which was on bedrock and there was a need for assurance the structure was stable in terms of the integrity of the hillside. He asked staff whether or not there was any doubt the work had been done properly in order to maintain the integrity of the hillside.

Staff Engineer John Sherbert explained that the way the grading had been constructed had been intended to minimize risk from landslides. Both the property owner's consultant and the Town's geotechnical consultant have reviewed the design and resolved any questions about its safety.

PUBLIC HEARING OPENED

There were no comments from the public.

PUBLIC HEARING CLOSED

Commissioner Socolich commented that based on his review of the June 14, 2010 follow-up letter from Cal Engineering & Geology (CE&G) the Town's geotechnical consultants, he understood there remained concerns with the masonry retaining walls and a discrepancy between the retaining wall having been designed for actual site conditions.

Mr. Chamberlain explained that CE&G had indicated in the same letter satisfaction with those issues.

Commissioner Richards recognized that the issues of prior concern had been satisfied per the letters from CE&G. He asked staff if the only remaining issue was the location of the property line.

Commissioner Whitley recognized that the Town and the property owner's consultant's have determined that the structure was safe. Based on Exhibit D, all of the issues had been satisfied with the exception of the location of the building site, the steep slopes and the building being in a deep cut where it could have been sited and placed better. Whether or not that alone was enough to reject the approval of a hillside development permit was a judgment call. He noted that the grading determination findings required for approval of the grading permit as outlined in Exhibit E, in his opinion, had shown that findings B, G, H and I have not been satisfied. The only reason to give the application the benefit of the doubt was that the project had been substantially constructed, however, that was something the Planning Commission was not to do.

Commissioner Whitley suggested had the work not commenced, the application would not have come before the Planning Commission as a new application, since staff would have pointed out the findings that have not been met. The property owners had the burden to bring not only to the DRB and the Planning Commission, but to the Town Council, plans that met all of the requirements.

Commissioner Socolich emphasized the absence of the property owners who may have been able to explain any reasons for the development of the project as constructed and for knowing how close the structure was to the property line. He stated that he could not support a recommendation of approval to the Town Council at this time.

In response to Commissioner Levenfeld, Ms. Salamack commented that had the application come before the Planning Commission with no work having commenced and based on the same plans as submitted, as an example, the Planning Commission may have determined that the Town's General Plan which directs the minimization of soil displacement, retaining walls and grading on the site, the project may not have been approved with those requirements in place. It may have been possible to revise the plans with the structure sited at a minimum distance from the property line, reduced to a smaller dimension and at an elevation further up the slope to minimize the dirt to be removed and still get the volume of space needed. Or as an alternative, consideration of the construction of the structure in the side yard with a different dimension where excavation would not have been required. Those would all be mitigation factors the Commission could have considered.

Commissioner Socolich reiterated that with the property owners not present they could not discuss those issues. Given the work had already commenced the site was not clean and the Planning Commission had no opportunity to consider alternatives. He pointed out that the project would have gone before the DRB who likely would have raised concerns with the retaining walls.

Commissioner Richards inquired whether or not the DRB had approved similar retaining walls and grading.

Mr. Chamberlain explained that the Town's guidelines state if the retaining walls exceed 3 feet in height and if visible off-site design review would be required. If the retaining walls exceed 5 feet in height, whether or not they were visible design review would be required. The prior retaining walls did not exceed 5 feet in height but had required a hillside development permit and had gone before the DRB for that reason under the requirements of the County's grading policy.

Mr. Chamberlain noted that both he and Mr. Sherbert had met with the property owners since the issue had come to staff's attention. He clarified that the property was not a clean site prior to the construction of the subject project since there had been two, 3-foot high wooden retaining walls that needed replacement. Had those structures been replaced with stone walls it was likely they would have been approved administratively without DRB approval since a grading permit would not have been required. However, once they were in excess of the 3-foot high criteria, permits and DRB approval was required. In this case, they were dealing with much higher walls.

Mr. Chamberlain commented that the only time he could recall a similar wall situation had been for a home that had been built into a hillside located at 2226 Rheem Boulevard. In that case, there was an exception in the Grading Ordinance for structural foundations into the hillsides. He was uncertain that exception could be used for the subject building structure and retaining walls given the current design guidelines and variance requirements.

Commissioner Socolich referred to the December 5, 2005 staff report for an application for retaining walls in the rear yard of the subject property as included in the August 2, 2010 staff report, and which had identified a large cut into the hillside. He asked staff of the status of that work.

Mr. Chamberlain advised that that work had been completed. He was uncertain there had been any comments from the surrounding neighbors at that time other than concerns from the Code Enforcement Officer about the volume of dirt being removed from the site. In that case, the work had not been visible from the street and had not come to the Town's attention early in the process.

Commissioner Whitley understood that even if there had been policy exceptions in the past the Planning Commission may exercise its judgment in making a recommendation to the Town Council. As to whether or not there was any mitigation to allow the project to meet all of the findings required for the approval of a grading permit, he was uncertain. He was confident the property owners would argue the project did meet all of the required findings. In his opinion, the property owners had not addressed the concerns raised by staff.

Mr. Friar clarified, when asked, he was an engineering consultant representing the property owners. In response to the concerns being expressed by the Planning Commission, he commented that an argument could be made that the retaining walls which were against the hillside served as a foundation for the storage structure. He noted that the slope at the rear of the home was very steep and in order to make room for the storage building excavation had been required for the retaining walls. As to the staff's assertion that a variance would be required since the structure was close to the property line, he understood that the property line was actually located on the other side of the fence. He was confident a variance would not be required.

Commissioner Socolich would like to hear from the property owners prior to the Planning Commission making a decision. He was uncertain that alternatives, such as building in the side yard rather than in the rear yard and up against the hillside, had been investigated. He was dismayed that the project had not gone through the proper process with the DRB and the Planning Commission. He suggested that much of the discussion on design was under the purview of the DRB.

Mr. Friar suggested that there was not enough room on the west side of the side yard for a structure. The east side of the side yard was exposed where the storage structure would have been an eyesore in the neighborhood.

Commissioner Richards commented that he had driven past the property and agreed if the storage structure had been built on the left side of the home it would have been visible from the street. Presently the structure was not visible to the public.

Commissioner Socolich reiterated his concern that the property owners had not gone through the proper channels and followed the Town's requirements. As it now stands he would have to deny the application. He would like the opportunity for the property owners to address the Planning Commission and explain why the project had been built as it had and whether or not there had been any consideration of viable alternatives.

Commissioner Whitley recognized that justifications and arguments could be made by the property owners to each of the required findings, which could be achieved by the property owners providing staff with additional information. At this time there was not enough information to approve the application.

Commissioner Levenfeld agreed the property owners should provide a rationale for past decisions that had been made for a project that did not follow the process. She agreed that there were areas where the project had not met the standards. The Planning Commission could either adhere to strict application of the design guidelines and findings of fact for the hillside development and grading permits or grant a special privilege which clearly they were not supposed to do.

Commissioner Socolich pointed out had the property owners followed the Town's policies and requirements, many of the concerns and questions raised by staff would have been addressed with the property owners who would have ensured consistency or a rationale for not following those requirements.

The Planning Commission discussed the property owners working with planning staff to address the concerns staff had raised in the materials provided to the Planning Commission with consideration of either changes to the plans or arguing mitigation. The Planning Commission recommended the application be held over with no decision made at this time due to insufficient information.

Ms. Salamack advised that the item could be held over and scheduled for a Planning Commission meeting where the property owners could be present. She emphasized that the August 2 meeting of the Planning Commission had been scheduled at the request of the property owners who were extremely eager for the matter to be brought before the Town Council in order to complete the project in this grading season even with the knowledge they could not be present.

Ms. Salamack affirmed that the Planning Commission may alternately deny the application, subject to the Planning Commission discussion and forward that recommendation to the Town Council.

Commissioner Levenfeld stated that she was inclined to forward a recommendation for denial to the Town Council although she was open to the alternative that had been discussed.

Commissioner Richards, Socolich and Whitley were not opposed to continuing the item to allow the property owner to be present to address the Planning Commission.

On motion by Commissioner Socolich, seconded by Commissioner Richards to continue GRADING and HDP 01-10 Mr. and Mrs. Robert White (Owner/Applicant) 32 Buckingham Drive, to the first Planning Commission meeting scheduled for the month of September 2010. The motion carried by the following vote:

Ayes: Commissioners Levenfeld, Richards, Socolich, Whitley
Noes: None
Abstain: None
Absent: Commissioners Driver, Wykle, Chair Obsitnik

B. July 19, 2010 Minutes

Commissioner Socolich requested an amendment to the first paragraph of page 4, as follows:

> *Commissioner Socolich recommended a condition that the facility would be for the use of Moraga Country Club members and guests of members.*

On motion by Commissioner Levenfeld, seconded by Commissioner Socolich and carried unanimously to approve the July 19, 2010 Planning Commission meeting minutes, as amended.

VI. ROUTINE & OTHER MATTERS

A. None

VII. COMMUNICATIONS

A. None

VIII. REPORTS

A. Planning Commission

Commissioners Richards and Socolich reported that they would not be present for the August 16 Planning Commission meeting.

B. Staff

1. Update on Town Council actions and future agenda items.

Ms. Salamack reported that the next meeting of the Town Council had been scheduled for August 25.

Ms. Salamack advised that the next meeting of the Planning Commission scheduled for August 16 would include a permitted use application for Dollar Tree to be located in the Rheem Shopping Center. In the event of a lack of quorum for the August 16 Planning Commission meeting, the application would be held over to the next meeting of the Planning Commission.

Commissioner Whitley asked that if the August 16 Commission meeting was cancelled that a Special Meeting be considered on an alternate date in the month of August to consider the Dollar Tree application to ensure approval by September 1. He emphasized the desire to be business friendly.

IX. ADJOURNMENT

On motion by Commissioner Socolich, seconded by Commissioner Levenfeld to adjourn the Planning Commission meeting at approximately 8:34 P.M. to a regular meeting of the Planning Commission on Monday, August 16, 2010 at 7:30 P.M. at the Moraga Library Meeting Room, 1500 Saint Mary's Road, Moraga, California.

A Certified Correct Minutes Copy

Secretary of the Planning Commission

Meeting Date: August 23, 2010

TOWN OF MORAGA STAFF REPORT

To: **Planning Commission**

From: **Lori Salamack, Planning Director**

Subject: **UP 10-10 Dollar Tree (applicant), Kimco (property owner)**
542 Center Street, Rheem Valley Shopping Center
Consideration of a permitted use application by Dollar Tree to operate a retail variety store in the Rheem Valley Shopping Center. The new business is proposed to be located in the existing vacant space that was previously occupied by Blockbuster, Lori's Perfect Tan and The Beauty Source. (Zoning: Community Commercial – CEQA status: Categorically Exempt per CEQA Section 15301, Existing Facilities)

Request

Adopt the attached draft resolution approving the Permitted Use Application.

Background

This application involves the operation of a retail variety store in the Rheem Valley Shopping Center. The shopping center is located in the Community Commercial land use district in the Town of Moraga. Accordingly, this application must be evaluated with respect to the criteria established in the Moraga Municipal Code (MMC).

MMC Section 8.36.02.A.1 establishes the operation of a retail business as a permitted use subject to findings in the Community Commercial land use district. To approve the use the Town must find that:

1. The use will not generate significant amounts of pedestrian and vehicular traffic that will foster the flow of traffic between the proposed use and uses across abutting streets;
2. The use is compatible in land use and traffic characteristics and design with other uses directly affected by the proposed use;
3. Any adverse characteristics of the use can be mitigated to the extent necessary to make the use compatible with neighboring uses;

4. The use will be within a building or space enclosed by approved fencing, landscaping or other buildings;
5. The use will not generate noise levels in excess of fifty-five (55) dba during the daytime hours, or fifty (50) dba during the nighttime hours;
6. The use will not create an excessive public economic problem;
7. The use will not generate glare, electrical interference, odor, vibration, brilliant light, dust, smoke, fumes or other characteristics that are otherwise offensive to the senses to the extent that there is interference with the development or enjoyment of other property in the vicinity;
8. The hours of operation will not foster conditions detrimental to the neighborhood or town.

<u>Discussion</u>

1. **The use will not generate significant amounts of pedestrian and vehicular traffic that will foster the flow of traffic between the proposed use and uses across abutting streets;**

   The retail use is proposed to be located in an existing vacant space in the Rheem Valley Shopping Center. Primary access to the store will be by pedestrians in the shopping center and motor vehicles in the shopping center parking lot. There are no uses across abutting streets that would be a significant source of pedestrian or vehicular traffic for the proposed business.

2. **The use is compatible in land use and traffic characteristics and design with other uses directly affected by the proposed use;**

   Existing businesses in the shopping center are potentially affected by the proposed use. These businesses share the same land use category (community commercial) as the proposed use so the proposed use is not incompatible in terms of land use characteristics with other uses directly affected by the proposed use. The proposed hours of operation (Monday through Saturday 9 am to 9 pm and Sunday 9 am to 8 pm) are similar to the hours of operation for other businesses in the shopping center and thus the traffic associated with the proposed use would be coming into and out of the shopping center at times similar to other businesses and would therefore not be incompatible in terms of traffic characteristics with other businesses in the shopping center. The proposed use will occupy three vacant spaces in the shopping center and only require tenant improvements; not the construction of new retail space. In this way, the design of the proposed use is compatible with existing businesses because no new space is required to be constructed.

3. **Any adverse characteristics of the use can be mitigated to the extent necessary to make the use compatible with neighboring uses;**

   While no adverse characteristics with neighboring uses have been identified, approval of the application can be conditioned so that any adverse characteristic is mitigated and the use approved.

4. **The use will be within a building or space enclosed by approved fencing, landscaping or other buildings;**

   The proposed use will occupy three existing vacant spaces in the Rheem Valley Shopping Center. The vacant spaces were previously occupied by Blockbuster (closed), Lori's Perfect Tan (relocated to the Moraga Center) and The Beauty Source (relocated to the Moraga Center).

5. **The use will not generate noise levels in excess of fifty-five (55) dba during the daytime hours, or fifty (50) dba during the nighttime hours;**

   Like other retail businesses in the shopping center, the proposed use will occur in an enclosed building and thus will not generate noise in excess of the established standard.

6. **The use will not create an excessive public economic problem;**

   The use will contribute to the local economy by providing a source of full time employment for 1 store manager and 2 assistant store managers as well as 23 part time employees. The use will contribute to the local tax base through the payment of sales tax. The use will contribute to the economic viability of the shopping center through the rental of three existing vacant spaces.

7. **The use will not generate glare, electrical interference, odor, vibration, brilliant light, dust, smoke, fumes or other characteristics that are otherwise offensive to the senses to the extent that there is interference with the development or enjoyment of other property in the vicinity;**

   This business would not be a source of glare, electrical interference, odor, vibration, brilliant light, dust, smoke, fumes or other characteristics that are otherwise offensive to the senses because it does not involve cooking or construction or the significant operation of mechanical equipment or any other activity that would result in characteristics that are offensive to the senses.

8. **The hours of operation will not foster conditions detrimental to the neighborhood or town.**

   The proposed hours of operation (Monday through Saturday 9 am to 9 pm and Sunday 9 am to 8 pm) are similar to the hours of operation for other businesses in the shopping center and would not be detrimental to the neighborhood or town.

Fiscal Impact

In the State of California, local sales tax is equal to 1% of the taxable sales in a jurisdiction. In the current fiscal year, sales tax is projected to be approximately $600,000 in the Town of Moraga. With the slowdown in the economy and increased retail vacancies, sales tax revenues in the Town of Moraga have been declining in the last few years. According to the Revenue Enhancement Committee final report, sales tax was 18% of the General Fund in 2000 and it is now 10%.

A substantial portion of the merchandise sold at Dollar Tree is taxable. Therefore, the Town would realize an increase in sales tax revenue over what it is currently receiving from the three vacant stores. In order for the Town to receive sales tax revenue from Dollar Tree, however, sales would need to occur. Some claim that the Dollar Tree sells products that they would have no personal interest in purchasing and thus no sales tax revenue would accrue to the Town. A recent shopping trip by the Planning Director, however, determined that the products sold at the Dollar Tree are comparable to products sold at other Moraga retailers and thus could expect to be sold at a Dollar Tree in Moraga.

Examples of such products include:

Home office/school supplies

Craft supplies

Gift bags

Party supplies

Food items

Household items

Health and beauty items

Many of the products in the photographs above are name brands that are sold by other Moraga retailers. Given that many of these products already exist in Town one might wonder why anyone would shop at Dollar Tree. Dollar Tree is a single price point retailer meaning that all products are sold for $1 or in some cases (such as greeting cards) are sold at two for $1. Dollar Tree appeals to consumers who want value but do not need the quantities sold at big box stores. Senior citizens and college students living in a dorm room are two types of Moraga residents who often seek lower cost and smaller quantity packages. Dollar Tree also appeals to families. Items such as gift bags, craft supplies, party supplies, sundries and household items are all used by typical families.

Existing local shoppers seeking value and convenience could reasonably be expected to shop at Dollar Tree. Local support for value oriented retailers has been demonstrated in Moraga through the success of TJ Maxx, Home Goods and Tuesday Morning. While customers who support these stores could also be expected to shop at Dollar Tree, it is unlikely that shoppers would make the trip to Moraga just to shop there because a Dollar Tree probably already exists closer to where they live or work. In fact, there are currently 25 Dollar Tree locations within 25 miles of the Town of Moraga including higher income areas such as Sausalito and Belmont. The attached map of Dollar Tree locations, however, shows a void in the Lamorinda area. This void coincidentially closely matches the primary and secondary catchment area for the Rheem Valley Shopping Center as determined by Economic and Planning Systems in 2006.

The map of Dollar Tree locations illustrates the presence of stores in both higher income and lower income locations. According to store representatives the product mix in each store is reflective of the purchasing preferences of the community and the average sale in a higher income community is typically 5 to 6 times higher than in a lower income community. In lower income communities, consumers are typically purchasing necessities whereas in higher income communities people may be purchasing everyday items as well as inexpensive non-essential merchandise such as gift bags and craft supplies.

Alternatives

Revise the attached draft resolution making revisions as necessary.

Recommendations

Adopt the attached draft resolution with revisions, if necessary.

Attachments:

- **A.** Application
- **B.** Public Notice and mailing list
- **C.** Maps
- **D.** Draft resolution

ATTACHMENT A
Application

Town Of Moraga

PLANNING DEPARTMENT
329 Rheem Boulevard, Suite 2
MORAGA, CA 94556
Phone: (925) 888-7050 Fax: (925) 376-5203
Website: www.moraga.ca.us
Email: planning@moraga.caus

File Number: _____

COMMUNITY COMMERCIAL PERMITTED USE APPLICATION

PROPERTY ADDRESS: 542 Center Street **APN:** 255-160-012-1 and 255-160-041-0

COMMUNITY COMMERCIAL PERMITTED USE APPLICATION OVERVIEW

The purpose of the Community Commercial District is to provide for a commercial environment that is based primarily on the provision of services to the needs and market demands of Moraga and adjacent communities. The Planning Director may approve an application for a permitted use if it is categorically exempt under CEQA, otherwise the Planning Commission must consider the application itself.

Moraga Municipal Code Section 8.36.020 outlines findings necessary for the Planning Commission to approve a permitted use application:

1. The use will not generate significant amounts of pedestrian and vehicular traffic that will foster the flow of traffic between the proposed use and uses across abutting streets;
2. The use is compatible in land use and traffic characteristics and design with other uses directly affected by the proposed use;
3. Any adverse characteristics of the use can be mitigated to the extent necessary to make the use compatible with neighboring uses;
4. The use will be within a building or space enclosed by approved fencing, landscaping or other buildings;
5. The use will not generate noise levels in excess of fifty-five (55) dba during the daytime hours, or fifty (50) dba during the nighttime hours;
6. The use will not create an excessive public economic problem;
7. The use will not generate glare, electrical interference, odor, vibration, brilliant light, dust, smoke, fumes or have other characteristics that are otherwise offensive to the senses to the extent that there is interference with the development or enjoyment of other property in the vicinity;
8. The hours of operation will not foster conditions detrimental to the neighborhood or town.

If these criteria are met, the following uses are permitted:

1. The carrying on of a retail business, except for a restaurant or other business where food or beverages are sold or distributed, in which all the sales, demonstrations, displays, services and other activities of the retail business (except off-street parking) are conducted within an enclosed building;
2. Professional office such as one pertaining, but not limited to, the practice of law, architecture, dentistry, medicine, engineering or accounting;
3. Administrative, executive or editorial offices;
4. Business office for insurance, real estate or investment broker and its representatives;
5. Studio and gallery for arts and crafts, music, dance or photography;
6. Other uses found by the Planning Commission to be consistent with the purpose of the district and compatible with surrounding existing uses.

APPLICATION FILING DEPOSIT REQUIRED:

Applications for permitted uses require a fee of $500. However, an initial deposit of $3,000 is required if Planning Commission approval is required. The staff time required to process the application will be charged against the deposit. Additional deposits may be required. An applicant is responsible for all charges associated with processing the application including but not limited to charges for public notices, meeting minutes and town consultants. Clear, complete and consistent applications require less staff time and thus are less expensive to process.

APPLICANT INFORMATION	OWNER INFORMATION
NAME: Dollar Tree Stores, Inc. Linda Duncan, Real Estate Mgr	NAME: Kimco Realty Corp. John Welter
ADDRESS: 1624 Santa Clara Drive, Ste. 200	ADDRESS: 4190 Douglas Blvd., #200
CITY/STATE/ZIP: Roseville, CA 95661	CITY/STATE/ZIP: Granita Bay, CA 95746
PHONE: (916) 206-6276	PHONE: (916) 580-2526
EMAIL: lduncan@dollartree.com	EMAIL: jwelter@kimcorealty.com

APPLICANT / OWNER AUTHORIZATION

CHOOSE ONE:

☐ I am the property owner and hereby authorize the filing of this application.

☒ I am the applicant and am authorized by the owner to file this application.

By signing below the applicant acknowledges the Town of Moraga deposit account system and agrees to pay any additional charges that may be incurred beyond the initial deposit.

SIGNATURE AND DATE: Linda K. Duncan 7-27-10

OTHER CONTACT INFORMATION AND PROJECT CONSULTANTS:

PROJECT GEOTECHNICAL ENGINEER	PROJECT CIVIL ENGINEER
NAME:	NAME:
ADDRESS:	ADDRESS:
CITY/STATE/ZIP: N/A	CITY/STATE/ZIP: N/A
PHONE:	PHONE:
EMAIL:	EMAIL:

PROJECT ARCHITECT OR DESIGNER	LANDSCAPE ARCHITECT
NAME: MBH Architects	NAME:
ADDRESS: 2470 Mariner Square Loop	ADDRESS:
CITY/STATE/ZIP: Alameda, CA 94501	CITY/STATE/ZIP: N/A
PHONE: (510) 865-8663	PHONE:
EMAIL: Michael@mbharch.com	EMAIL:

PROJECT DESCRIPTION:

Perform interior tenant improvements to spaces highlighted on attached site plan (former Blockbuster and nail salon spaces) which includes the installation of Tenant's fixtures and minor alterations to conform restrooms and egress to local codes.

GENERAL INFORMATION:

Please describe your intended use, and indicate whether or not there will be:

- ☐ a restaurant;
- ☒ retail business where food or beverages are sold or distributed;
- ☐ alcoholic beverages sold on premises;
- ☐ outdoor activities such as display of merchandise, outdoor eating areas, storage of goods or materials, amplified music, etc.;
- ☐ new outdoor lights installed;
- ☐ any odors, smoke or fumes;
- ☐ any vibrations or dust;
- ☐ noise in excess of 55 db during the day or 50 db at night;
- ☐ hazardous chemicals;
- ☐ electrical interference, radio microwave or other electronic transmissions of any kind;
- ☐ classrooms;

How will your business meet the needs and market demands of Moraga and adjacent communities?

Applicant is the largest single price point retail variety store in the nation. At this location, Applicant will sell a variety of merchandise including but not limited to household consumables, housewares, toys, greeting cards, hardware, gifts and party supplies, stationary, arts and crafts, and pre-packaged food products for off premises consumption. No one category of the sale of general merchandise will be a principal product and the sale of pre-packaged food will be incidental to Applicant's business and will be sold in approximately 10% of the sales floor.

What are your intended hours of operation?

☒ (1) Regular business hours: M-Sa 9am-9pm; Su 9am-8pm

☒ (2) Hours open to the public: M-Sa 9am-9pm; Su 9am-8pm

☒ (3) Busiest days and times: Varies

☒ (4) Least busy days and times: Varies

☒ (5) Equipment operating 24 hours a day, or at night (describe):

Dollar Tree, Inc. utilizes an energy management system which continuously monitors and adjust the systems such as lighting and HVAC for conservation.

How many employees do you intend to have?

☒ (1) Total full time employees: 3 total (1 store mgr and 2 assistant store mgrs)

☒ (2) Total part time employees: 23 total (1 store mgr and 19-21 employees)

☒ (3) Maximum number working at any one time: 7-8

☒ (4) Minimum number working at any one time: 4-5

What is the maximum number of customers/clients that you would expect to serve at any one time?
Approximately 600 per day or approximately 50 per hour.

How often will you receive deliveries? When will the deliveries be made?
1-2 times per week at 3am - 6am (+/- 3 hours required per visit).
The delivery truck will be off premises 1/2 hour before store opens to public.

What are your plans for trash disposal and recycling for your business?
Dollar Tree has a baler on site and utilizes a cardboard baling process for this region. Bales are shipped back to a distribution center and recycled under Applicant's regional corporate program.

Off-street parking spaces shall be provided for each land use as outlined by MMC 8.76.090:

A. Hospital: one space for each two beds;
B. Sanitariums, convalescent homes, rest homes, nursing homes: one space for each three beds;
C. Churches: one space for each three seats;
D. Bowling alleys: seven spaces for each alley, plus one space for each two employees;

E. Rooming and lodging houses: one space for each bedroom;
F. Theaters: one space for each four seats;
G. Sports arenas: one space for each four seats;
H. Auditoriums: one space for each four seats;
I. Night clubs, cocktail lounges and restaurants: one space for each three seats;
J. Medical and dental offices: six spaces for each physician or dentist;
K. Banks, business and professional offices, other than medical and dental offices: one space for each two hundred fifty (250) square feet of gross floor area;
L. Retail stores and shops, except as otherwise specified herein: one space for each two hundred fifty(250) square feet of gross floor area;
M. Commercial service, repair shops and wholesale establishments: one space for each five hundred (500) square feet of gross floor area;
N. Retail stores which handle only bulky merchandise, such as furniture, household appliances, and motor vehicles: one space for each five hundred (500) square feet of floor area;
O. Warehouses and other storage buildings, one space for each one thousand (1,000) square feet ofgross floor area;
P. Mortuaries: one space for each fifty (50) square feet of gross floor area in chapel areas;
Q. Assembly halls without fixed seats: one space for each forty (40) square feet of gross floor area;
R. Retail and wholesale establishments conducted primarily outside of buildings: one space for each two employees;
S. Parks, schools and related public or private facilities shall provide parking based upon a study of similar activities or uses;
T. Residential use: see Section 8.76.100;
U. Public facilities: the planning commission shall fix the requirements using comparable private uses as a guide;
V. For a use not specified in this section, the same number of off-street parking spaces shall be provided as are required for the most similar specified use.

Please indicate the calculation used to determine the total number of required parking stalls:
9,088 sq ft at 250 ft per gross floor area (sales floor of approx 6700 sq ft less than gross area)= 36 maximum stalls required or 27 stalls based on sales floor. Parking is same as was previously approved as was used by former Blockbuster and nail salon businesses.

How many parking stalls are required for your business (MMC Section 8.76.050)? _____
Utilize existing parking area for Shopping Center, approximately 25-30 stalls to be used at any one time.

Will a parking modification be required for your business? (~~YES~~ / NO) If yes, please describe the required modification and justification for the modification (Moraga Municipal Code Section 8.76.130)
Applicant will utilize existing parking field for this location previously approved for prior tenants. Plan attached.

**If your proposed business will share parking with other businesses in a shopping center, please provide a copy of the current parking allocation for the center.

COMPLIANCE WITH MMC 8.36.020:

1. How will the use refrain from generating significant amounts of pedestrian and vehicular traffic that will hinder the flow of traffic between the proposed use and uses across abutting streets?

Customers which will shop at Applicant's proposed Dollar Tree Store are expected to live in the Moraga Community and will likely already be shopping at the other established anchor stores in the Shopping Center. Based on Applicant's analysis of its customer base, it does not expect customers to shop at Applicant's proposed store that reside outside of the Moraga community.

2. Please explain how the use is compatible in land use, traffic characteristics and design with other uses directly affected by the proposed use:

The proposed use as a general merchandise variety store is not materially different from the other businesses operating in the Shopping Center or from that of the prior tenants (Blockbuster and a nail salon). Indeed, Applicant's diverse merchandise will benefit the community and is in synergy with the Shopping Center's anchor tenants, T.G. Maxx and Tuesday Morning. Further, Applicant does not use any motorized mechanical equipment in its store to load its merchandise so it will not pose any nuisance or risk to the customers of the Shopping Center.

3. How will adverse characteristics of the use be mitigated to the extent necessary to make the use compatible with neighboring uses?

The proposed use as a general merchandise variety store is not materially different from the other businesses (ie, T.J. Maxx) operating in the Shopping Center or from that of prior tenants (ie, Blockbuster). Indeed, Applicant's diverse merchandise will benefit the community and is in synergy with the existing businesses in the Shopping Center.

4. Please describe how approved fencing, landscaping or other buildings will enclose the area of the proposed use:

Since the proposed use does not deviate from the other current or former mercantile uses in the Shopping Center, there should be no required Town funding applicable to

the Applicant. Applicant will not be expanding the existing footprint of the space and Applicant's proposed use does not require any new construction so the existing approved conditions will not have to be altered.

5. Please explain how the use will limit noise, and not generate noise levels in excess of fifty-five (55) dba during the daytime hours, or fifty (50) dba during the nighttime hours:

The proposed use as a general merchandise variety store is not materially different from the other businesses operating in the Shopping Center or from that of prior tenants (ie, Blockbuster). Indeed, Applicant does not use any motorized mechanical equipment in its stores to load its merchandise. Thus, Applicant does not use any devices or equipment in its operations which would cause noise in excess of 55 DBA during the daytime or 50 DBA at nighttime.

6. How will the use avoid creating an excessive public economic problem?

Since the proposed use does not deviate from the other uses in the Shopping Center, or the prior tenant's use, there should be no required Town funding applicable to the Applicant. Applicant's proposed use should not foster additional traffic and therefore its use is consistent with existing traffic characteristics and design. Also Applicant's use would be in prior approved building and will not require any infrastructure modifications.

7. Please explain how the use will limit glare, electrical interference, odor, vibration, brilliant light, dust, smoke, fumes or have other characteristics that are otherwise offensive to the senses to the extent that there is interference with the development or enjoyment of other property in the vicinity:

Since the proposed use does not deviate from the other prior and current approved uses in the Shopping Center, Applicant's proposed use should not interfere with the development or enjoyment of other property. Applicant does not utilize any mechanical devices in its business operations which would produce and noise, odor, bright lights, etc. Indeed, Applicant's lights and HVAC are electronically controlled from its corporate offices to ensure that they are used conservatively and that the lights are generally turned off after the store closes for business.

8. Please explain how the hours of operation will avoid fostering conditions detrimental to the neighborhood or town:

The proposed use as a general merchandise variety store is not materially different from the other businesses operating in the Shopping Center or from that of prior tenants, Blockbuster and a nail salon. Indeed, Applicant's diverse merchandise will benefit the community. Further, Applicant does not use any motorized mechanical equipment in its store to load its merchandise. Lastly, since the Shopping Center is existing there will be no deviation from the Town's Plans and Applicant will not be expanding the existing footprint of the space and Applicant's proposed use does not require any new construction. The Applicant's proposed use should not foster additional traffic and is consistent with existing traffic characteristics and design, the applicant's use is in prior approved building.

10. Please provide any additional information that you think would be useful in evaluating your application:

Since the proposed use does not deviate from the other past and current approved uses in the Shopping Center, there should be no economic drain on the Town. On the other hand, Applicant will hire local personnel for its operations and is mindful in its business operations of the local community needs. Its diverse general merchandise will offer the community a positive shopping experience. Since no one product category is a primary use, Applicant's use will not present any other future individual use category.

SUBMITTALS REQUIRED:

If no new building or addition is proposed, please submit the existing site plan, floor plans, elevations and drainage plans (if required) for the proposed business location as well as an application for a new sign if a new sign is proposed.

A. Site Plan must show:

- ☐ (1) Name, address, and assessor parcel number of the project
- ☐ (2) The entire lot with property lines fully dimensioned;
- ☐ (3) All existing and proposed buildings and uses;
- ☐ (4) Adjacent streets, walls and fences (location, height and materials);
- ☐ (5) Existing and proposed off-street parking;
- ☐ (6) Method of ingress and egress;
- ☐ (7) Signs (location, material, area and elevation);
- ☐ (8) Existing trees (location, type and approximate size);
- ☐ (9) Landscaped areas;
- ☐ (10) Loading areas;
- ☐ (11) Street dedications, easements and improvements;
- ☐ (12) The total existing and proposed impervious surface area on the project site, including the area of all roofs and paved surfaces. This information is required to determine compliance with the Contra

Costa Clean Water Program Stormwater C.3 Guidebook, as revised, effective February 15, 2005 and the Hydro-modification Management Plan (HMP), effective October 16, 2006 approved by the Regional Water Quality Control Board for Contra Costa County.

- If your impervious surface area exceeds 10,000 sq. ft., then you will be required to submit a **Storm Water Control Plan** and have a minimum area equal to 4% of the impervious surface area dedicated to infiltration. Your project engineer should show a sufficient area of the site reserved to satisfy the infiltration requirements. Refer to the "C.3 Guidebook" for full Plan and report requirements.
- If your total impervious surface area is less than 10,000 sq. ft. but your project will increase the existing impervious surface area, then your drainage plan will need to comply with the Best Management Practices (BMPs) required under the Town's NPEDS Permit. Typically, all roof drains and surface drains for new impervious surfaces must be routed through a biofilter, sand filter, or planted vegetated swale for ten or more feet prior to entering any storm drainage pipe or tight line drainage system.
- For preliminary drainage planning, designing landscaped areas to drain away from paved areas prevents them from contributing to area that must have treated drainage water.

☐ (13) North arrow (with plan oriented so north points to top of sheet) and scale on drawings.

B. Floor Plans: Shall be fully dimensioned and use of rooms identified.

C. Elevations: Shall show overall height, colors, and materials of both existing and proposed buildings (all four building sides - complete architectural rendering).

D. Grading and Drainage Plans if found necessary by the Planning Director:

☐ (1) Show existing topography with 2' contour interval and any vegetation (indicate size and type);
☐ (2) Source of topographic information - must be approved by the Town Engineer;
☐ (3) Show all proposed grading, provide amounts of cut and fill; export shall be addressed in quantity and destination;
☐ (4) Show all proposed drainage basins and calculations;
☐ (5) Outline of all proposed structures, driveways, walkways, fencing, etc.;
☐ (6) Dimensioned property lines;
☐ (7) The *limit of grading line*, which will include the entire area of the site that will be disturbed, including the following areas:

- All cut and fill areas
- Areas to be used for stockpiling of soil
- Areas needed for maneuvering grading equipment
- Estimated limit of landslide remediation work
- Graded debris benches or catch areas recommended in the geotechnical reports

☐ (8) The project engineer must calculate the existing (pre-developed) average slope of the area within the limit of grading line on the property. **NOTE:** If the average slope is over 20% but less than 25%, then the Design review Board will be authorized to approve the grading. If the average slope is 25% or more, then approval by the Planning Commission and Town Council will be required
☐ (9) North arrow (with plan oriented so north points to top of sheet)

SIGN PROPOSALS must include:

a. Elevation drawings(s) of all signs, to scale and fully dimensioned, showing the message that will appear on each sign face;
☐ b. Site plan and/or elevation drawings(s) showing where sign(s) will be located;
☐ c. Height of all signs above ground level;
☐ d. Means of lighting for all signs;
☐ e. Description of colors and materials to be used for all signs.

If a new building or addition to an existing building is proposed, please submit a traffic study for the proposed use, and all other requirements for non-single-family residential design review as follows:

A. Site plan (10 copies) showing:

1. General location of property,
2. Property boundaries,
3. Existing topography and proposed grading (for property of less than ten (10) acres, a contour interval no greater than five feet and a horizontal map scale of one inch equals fifty (50) feet, or larger, shall be used; for property larger than ten (10) acres, a contour interval no greater than ten (10) and a horizontal
   map scale of one inch equals one hundred (100) feet, or larger, shall be used),
4. All existing and proposed structures, the height of each structure and the number of dwelling units in each structure,
5. All existing and proposed signs,
6. Location and approximate height of all adjacent structures on abutting sites,
7. Location, dimensions and quantity of existing and proposed off-street parking, with a statement indicting whether it conforms to applicable regulations,
8. Existing and proposed vehicular and pedestrian ways, and trails, with grades, widths and types of improvements,
9. Proposed vehicular access between site and public street,
10. Locations, names and widths of abutting streets,
11. Existing and proposed utilities,
12. Existing and proposed recreational facilities,
13. Existing and proposed storm drainage facilities,
14. Location of existing trees on the site with circumference greater than ten (10) inches measured two feet above ground,
15. Locations and heights of existing and proposed retaining walls,
16. Locations and dimensions of trash disposal areas,
17. Roof overhangs,
18. Distances between buildings and from building walls to property lines,
19. Proposed street names;

B. Architectural drawings (10 copies) showing:

1. Floor plans at one-eighth inch or one-fourth inch equals one foot zero inches,
2. Four elevations (or more if necessary) to include all sides of development at no less than one-eighth inch equals one foot zero inches,
3. Landscaping plan, including plant names and sizes and an irrigation plan,
4. Recent photograph (or snapshot) of the site itself and of adjacent properties showing the current
5. Color and texture chips of actual samples of materials,
6. Additional information which may be requested by the board or the planning commission including but not limited to the following:
   a. Recent photographs of sight line profiles in sufficiently large scale, taken from commonly used vantage points in the town (shopping centers, road intersections, scenic lookouts, etc.) with the outline of the proposed structure in proper scale and perspective, superimposed on it,
   b. Architectural drawings showing the location, size, color, shape and type of illumination of each proposed sign.

**In addition to the plans required by the Moraga Planning Department, an additional set is required for review by the Moraga-Orinda Fire District.

ATTACHMENT B

Public Notice and Mailing List

PUBLIC MEETING

YOU ARE HEREBY NOTIFIED THAT on Monday**,** August 23, 2010, at 7:30 p.m., in the auditorium at **Joaquin Moraga Intermediate School, 1010 Camino Pablo**, Moraga, California 94556, the Planning Commission of the Town of Moraga will hold a public meeting to consider and take action on the following application:

> **UP 10-10 Dollar Tree (applicant), Kimco (property owner) 542 Center Street, Rheem Valley Shopping Center:** Consideration of a permitted use application by Dollar Tree to operate a retail variety store in the Rheem Valley Shopping Center. The new business is proposed to be located in the existing vacant space that was previously occupied by Blockbuster, Lori's Perfect Tan and The Beauty Source. (Zoning: Community Commercial – CEQA status: Categorically Exempt per CEQA Section 15301, Existing Facilities)

Applicant	**Property Owner**
Dollar Tree Stores, Inc Linda Duncan, Real Estate Manager 1624 Santa Clara Drive, Suite 200 Roseville, CA 95661	Kimco Realty Corp. John Welter 4190 Douglas Blvd, Suite 200 Granite Bay, CA 95746

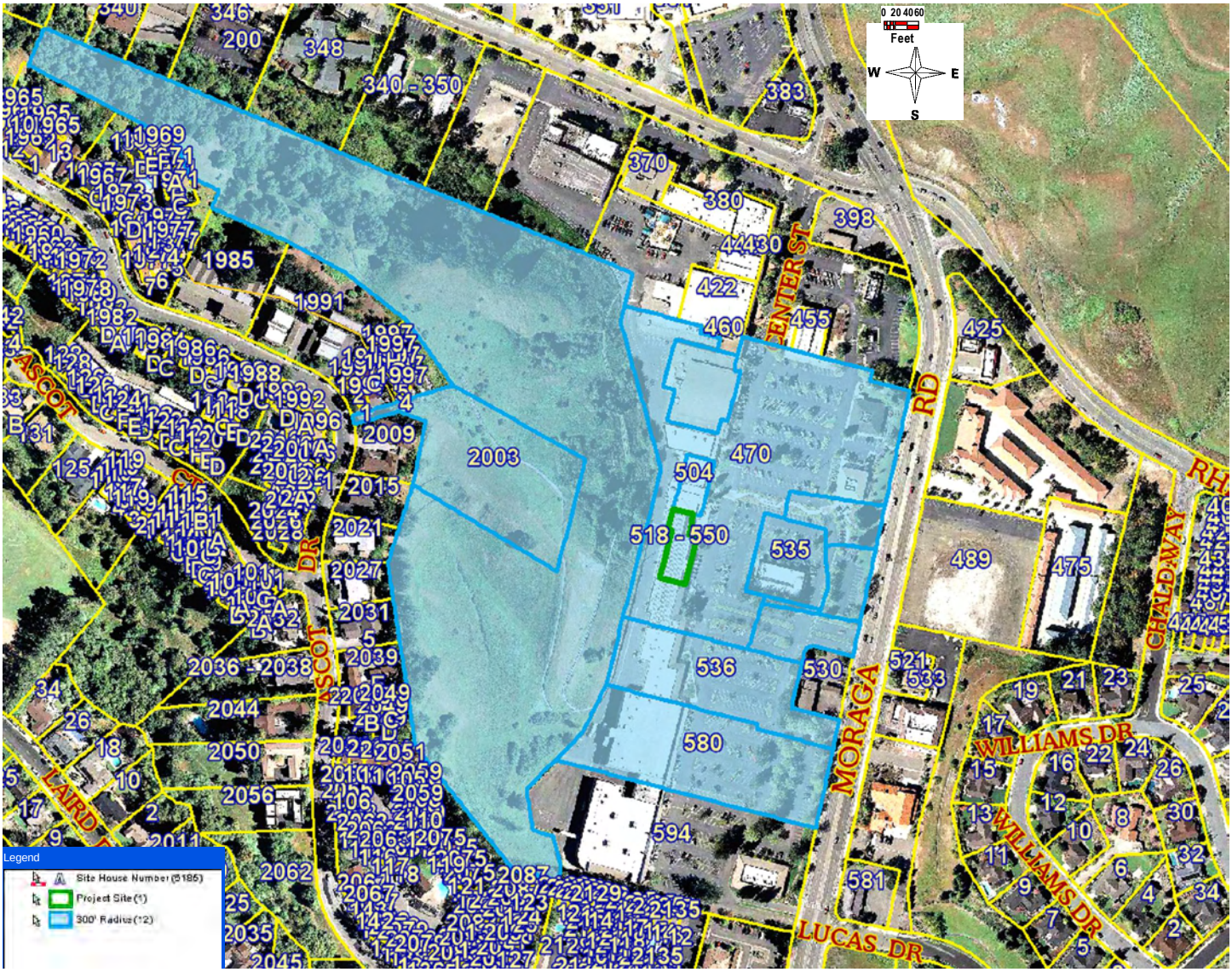
The application for this project is available for public review at the Moraga Planning Department, 329 Rheem Blvd, during normal business hours (Monday through Friday from 9 a.m. to noon and 1 p.m. to 5 p.m.). Comments regarding the proposed project can be submitted in writing or orally at the public meeting. Written comments submitted to the Planning Department will be given to the Planning Commission on the night of the meeting. For additional information, contact the Planning Department at (925) 888-7040.

Lori Salamack, Planning Director

VICINITY MAP AND AREA OF NOTICE

542 Center Street – The Dollar Tree

File Number: UP-10-10



UP 10-10
Mailed Public Notice

542 Center Street
Mailing List

Use Permit
Public Meeting

APN	NAME	ADDRESS	CITY & ZIP
255160018	Kimco Ralty Corporation	3333 New Hyde Park Rd, Apt. 100	New Hyde Park, NY 11042 1210
255160036	Childrens Trust Ii Hover Trust	101 Church St, Apt.#12	Los Gatos, CA 95030 6927
255471004	Allene E Mossman Trust	1817 YALE DR	Alameda, CA 94501 1607
	Taco Bell	420 Moraga Road	Moraga, CA 94556
	Burger King	470 Moraga Road	Moraga, CA 94556
	Huntington Learning	490 Moraga Road	Moraga, CA 94556
	Starbucks	500 Moraga Road	Moraga, CA 94556
	Moraga Motors	530 Moraga Road	Moraga, CA 94556
	CVS	580 Moraga Road	Moraga, CA 94556
	Home Goods	590 Moraga Road	Moraga, CA 94556
	Tuesday Morning	444 Center Street	Moraga, CA 94556
	Dahn Yoga	452 Center Street	Moraga, CA 94556
	Rheem Valley Automotive	455 Center Street	Moraga, CA 94556
	United States Postal Service	454 Center Street	Moraga, CA 94556
	Haleh Amiri	61 Chilpancingo Pkwy #201	Pleasant Hill CA 94523
	Thomas & sally Schubb	PO Box 643	Forest Hill, CA 95631
	Allan & Linda Richardi	530 Moraga Road	Moraga CA 94556
	Cardoza Properties Inc	101 Ellinwood Drive	Pleasant Hill CA 94523
	Mahesh & Minoo Puri	510 South Road	Belmont, CA 94002
	TJMAXX	472 Center Street	Moraga, CA 94556
	Rheem One Hour Martinizing	492 Center Street	Moraga, CA 94556
	Teddy Bear Coin Laundry	496 Center Street	Moraga, CA 94556
	Mountain Mike's Pizza	504 Center Street	Moraga, CA 94556
	Shears Hair and Beauty Care	508 Center Street	Moraga, CA 94556
	Royal Siam Thai Cuisine	512 Center Street	Moraga, CA 94556
	Dollar Tree Stores	1624 Santa Clara Drive Suite 200	Roseville, CA 95661
	Mycra Pac	535 Center Street	Moraga, CA 94556
	Optometrist	556 Center Street	Moraga, CA 94556
	Anna's Nails	558 Center Street	Moraga, CA 94556
	Moraga Jewelers	532 Center Street	Moraga, CA 94556
	Magic Cuts	564 Center Street	Moraga, CA 94556
	Goodwill Industries	566 Center Street	Moraga, CA 94556
	Rheem Valley One Hour Cleaners	568 Center Street	Moraga, CA 94556
	Moraga Art Gallery	570 Center Street	Moraga, CA 94556
	Little Hearty Noodles	578 Center Street	Moraga, CA 94556
	All in the Cut	584 Center Street	Moraga, CA 94556
	King Florist	586 Center Street	Moraga, CA 94556
	Kumon Learning Center	588 Center Street	Moraga, CA 94556
	Lisa Colhoun Hair Designs	348 Park Street	Moraga, CA 94556
	The New Rheem Theater	350 Park Street	Moraga, CA 94556
	The Tick Tock Store	354 Park Street	Moraga, CA 94556
	Kirin Sushi	356 Park Street	Moraga, CA 94556
	Ristorante Amoroma	360 Park Street	Moraga, CA 94556

UP 10-10
Mailed Public Notice

542 Center Street
Mailing List

Use Permit
Public Meeting

K-9 Pet Grooming	370-A Park Street	Moraga, CA 94556
Caldecott Properties	370-B Park Street	Moraga, CA 94556
California Academy of Perf. Arts	370-E Park Street	Moraga, CA 94556
The Child Day School	372 Park Street	Moraga, CA 94556
China Moon Restaurant	380 Park Street	Moraga, CA 94556
Sixto's Hair Design	386 Park Street	Moraga, CA 94556
Rheem Valley Pet Shoppe	388 Park Street	Moraga, CA 94556
Subway Sandwiches	396 Park Street	Moraga, CA 94556
Nation's Hamburgers	400 Park Street	Moraga, CA 94556

ATTACHMENT C
Maps

DOLLAR TREE.

Store Locator

Home Store Locator

We found **25** stores within **25** miles of your search. To select your preferred store, click Save as My Store.

Show stores within:

10 miles 25 miles 50 miles 100 miles

94556 SEARCH

East 14th & 25th Avenue

SHIP TO THIS STORE

East 14th & 25th Avenue - Store #1269 SHOW ME
2445 International Blvd.
Oakland, CA 94601
Hours: Mon – Sat: 9:00am – 9:00pm, Sun: 10:00am – 7:00pm
Store hours may vary.

Contra Costa Shopping Center

SHIP TO THIS STORE

Contra Costa Shopping Center - Store #1226 SHOW ME
2318 Monument Blvd.
Pleasant Hill, CA 94523
Hours: Mon – Sat: 9:00am – 9:00pm, Sun: 10:00am – 7:00pm
Store hours may vary.

Berkeley

SHIP TO THIS STORE

Berkeley - Store #3454 SHOW ME
2440 Shattuck Ave
Berkeley, CA 94704
Hours: Mon – Sat: 9:00am – 9:00pm, Sun: 10:00am – 7:00pm
Store hours may vary.

Floresta Center

SHIP TO THIS STORE

Floresta Center - Store #2515 SHOW ME
14801 Washington Ave
San Leandro, CA 94578
Hours: Mon – Sat: 9:00am – 9:00pm, Sun: 10:00am – 7:00pm
Store hours may vary.

Fashion Faire Place

SHIP TO THIS STORE

Fashion Faire Place - Store #1367 SHOW ME
16100 Hesperian Blvd.
Suite 114
San Leandro, CA 94578
Hours: Mon – Sat: 9:00am – 9:00pm, Sun: 10:00am – 7:00pm
Store hours may vary.

El Monte Shopping Center

SHIP TO THIS STORE

El Monte Shopping Center - Store #2824
3517 Clayton Rd

Concord, CA 94519
Hours: Mon – Sat: 9:00am – 9:00pm, Sun: 10:00am – 7:00pm
Store hours may vary.

SHOW ME

Bedford Plaza

SHIP TO THIS STORE

Bedford Plaza - Store #1264
20800 Hesperian Blvd.
Hayward, CA 94541
Hours: Mon – Sat: 9:00am – 9:00pm, Sun: 10:00am – 7:00pm
Store hours may vary.

SHOW ME

Del Norte Marketplace

SHIP TO THIS STORE

Del Norte Marketplace - Store #3058
11555 San Pablo Ave.
El Cerrito, CA 94530
Hours: Mon – Sat: 9:00am – 9:00pm, Sun: 10:00am – 7:00pm
Store hours may vary.

SHOW ME

Clayton Valley Shopping Center

SHIP TO THIS STORE

Clayton Valley Shopping Center - Store #1596
5424 Ygnacio Valley Road
Suite 200
Concord, CA 94521
Hours: Mon – Sat: 9:00am – 9:00pm, Sun: 10:00am – 7:00pm
Store hours may vary.

SHOW ME

Pinole Vista

SHIP TO THIS STORE

Pinole Vista - Store #3178
1599 Fitzgerald Dr.
Pinole, CA 94564
Hours: Mon – Sat: 9:00am – 9:00pm, Sun: 10:00am – 7:00pm
Store hours may vary.

SHOW ME

Shamrock Village

SHIP TO THIS STORE

Shamrock Village - Store #3014
7775 Amador Valley Blvd.
Dublin, CA 94568
Hours: Mon – Sat: 9:00am – 9:00pm, Sun: 10:00am – 7:00pm
Store hours may vary.

SHOW ME

San Pablo Towne Center

SHIP TO THIS STORE

San Pablo Towne Center - Store #1214
2415 San Pablo Dam Rd
Ste 250
San Pablo, CA 94806
Hours: Mon – Sat: 9:00am – 9:00pm, Sun: 10:00am – 7:00pm
Store hours may vary.

SHOW ME

Fairway Park Shopping Center

SHIP TO THIS STORE

Fairway Park Shopping Center - Store #4118
31047 MISSION BLVD
Hayward, CA 94544
Hours: Mon – Sat: 9:00am – 9:00pm, Sun: 10:00am – 7:00pm
Store hours may vary.

SHOW ME

SHOW ME

Pittsburg Town Center

SHIP TO THIS STORE

SHOW ME

Pittsburg Town Center - Store #1656
2951 Railroad Ave
Pittsburg, CA 94565
Hours: Mon – Sat: 9:00am – 9:00pm, Sun: 10:00am – 7:00pm
Store hours may vary.

Union Square Marketplace

SHIP TO THIS STORE

SHOW ME

Union Square Marketplace - Store #1233
1720 Decoto Rd.
Union City, CA 94587
Hours: Mon – Sat: 9:00am – 9:00pm, Sun: 10:00am – 7:00pm
Store hours may vary.

Delta Fair Shopping Center

SHIP TO THIS STORE

SHOW ME

Delta Fair Shopping Center - Store #1740
2710 Delta Fair Blvd
Antioch, CA 94509
Hours: Mon – Sat: 9:00am – 9:00pm, Sun: 10:00am – 7:00pm
Store hours may vary.

Vallejo Plaza

SHIP TO THIS STORE

SHOW ME

Vallejo Plaza - Store #1210
3475 Sonoma Blvd.
Vallejo, CA 94590
Hours: Mon – Sat: 9:00am – 9:00pm, Sun: 10:00am – 7:00pm
Store hours may vary.

South San Francisco

SHIP TO THIS STORE

SHOW ME

South San Francisco - Store #3275
355 El Camino Real
South San Francisco, CA 94080
Hours: Mon – Sat: 9:00am – 9:00pm, Sun: 10:00am – 7:00pm
Store hours may vary.

Vallejo Corners

SHIP TO THIS STORE

SHOW ME

Vallejo Corners - Store #4131
938 Admiral Callaghan Ln
Vallejo, CA 94591
Hours: Mon – Sat: 9:00am – 9:00pm, Sun: 10:00am – 7:00pm
Store hours may vary.

Gateway Retail Center

SHIP TO THIS STORE

SHOW ME

Gateway Retail Center - Store #4080
120 Donahue St
Sausalito, CA 94965
Hours: Mon – Sat: 9:00am – 9:00pm, Sun: 10:00am – 7:00pm
Store hours may vary.

Millers Outpost Shopping Cente

SHIP TO THIS STORE

Millers Outpost Shopping Cente - Store #1250

1450 Railroad Ave.
Livermore, CA 94550
Hours: Mon – Sat: 9:00am – 9:00pm, Sun: 10:00am – 7:00pm
Store hours may vary.

SHOW ME

Sundale Shopping Center

SHIP TO THIS STORE

Sundale Shopping Center - Store #1848
4949 Stevenson Blvd.
Unit P
Fremont, CA 94538
Hours: Mon – Sat: 9:00am – 9:00pm, Sun: 10:00am – 7:00pm
Store hours may vary.

SHOW ME

Fairmont Center

SHIP TO THIS STORE

Fairmont Center - Store #2847
797 Hickey Blvd
Pacifica, CA 94044
Hours: Mon – Sat: 9:00am – 9:00pm, Sun: 10:00am – 7:00pm
Store hours may vary.

SHOW ME

516 El Camino Real

SHIP TO THIS STORE

516 El Camino Real - Store #2762
516 El Camino Real
Belmont, CA 94002
Hours: Mon – Sat: 9:00am – 9:00pm, Sun: 10:00am – 7:00pm
Store hours may vary.

SHOW ME

Brentwood Center

SHIP TO THIS STORE

Brentwood Center - Store #3494
51 W Sand Creek Rd
Brentwood, CA 94513
Hours: Mon – Sat: 9:00am – 9:00pm, Sun: 10:00am – 7:00pm
Store hours may vary.

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BillMeLater or BillMeLater Business
Subject to credit approval. Details >

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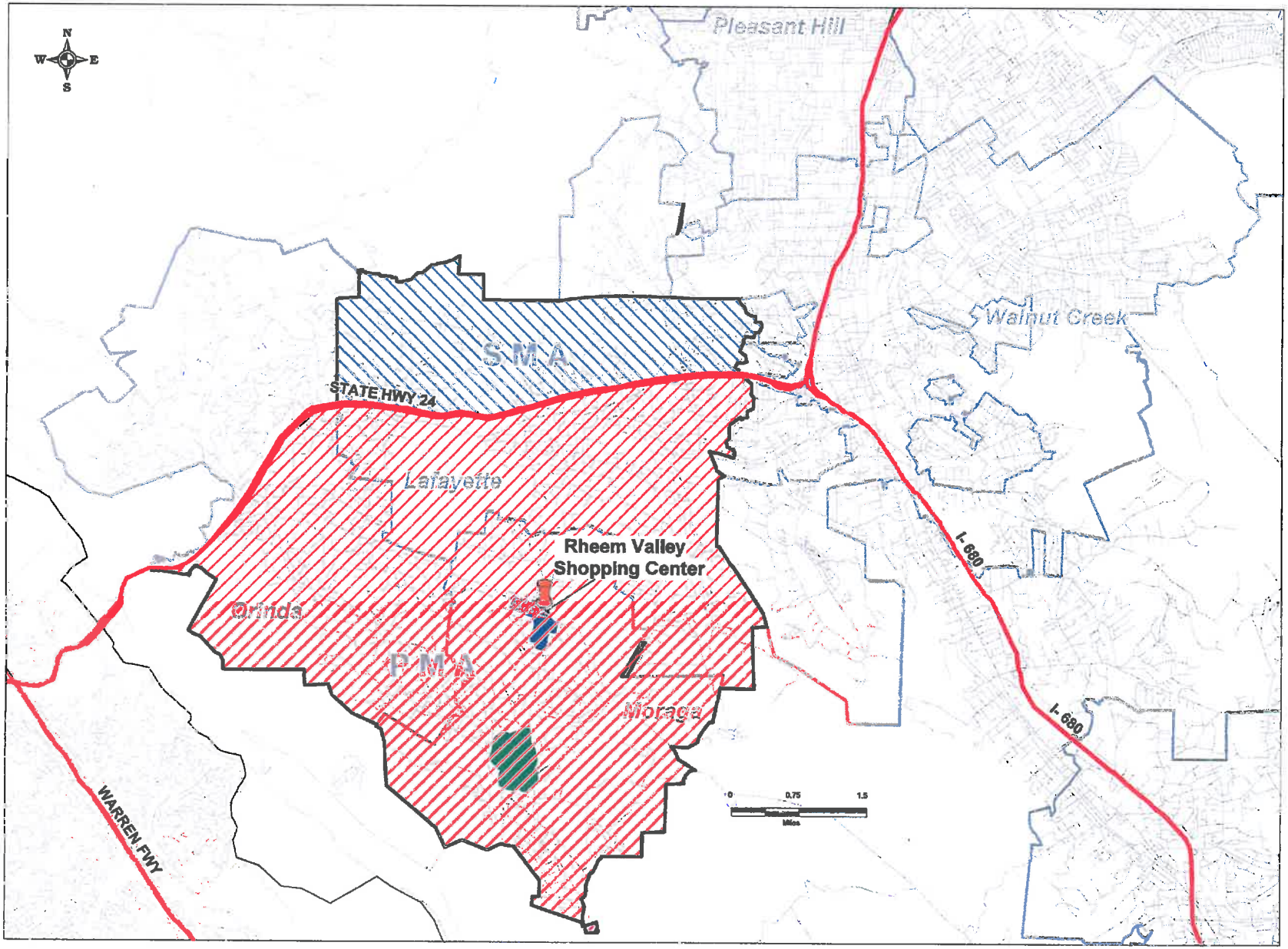
Figure 8:
Rheem Valley Shopping Center's Primary and Secondary Market Areas



Economic & Planning Systems, Inc.

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ATTACHMENT D
Draft Resolution

BEFORE THE TOWN OF MORAGA PLANNING COMMISSION

In the Matter of: Approval of a Permitted Use application from Dollar Tree to allow the operation of a retail variety store at 542 Center Street in the Rheem Valley Shopping Center.	)))))))))	**Resolution No. XX-2010 PC** File No. UP 10-2010 Planning Commission Adoption Date: August 23, 2010

WHEREAS, an application for a Permitted Use was submitted on July 27, 2010 by Dollar Tree (Applicant) and Kimco (Property Owner) for the operation of a retail variety store at 542 Center Street in the Rheem Valley Shopping Center; and

WHEREAS, the project is categorically exempt under CEQA Guidelines Section 15301 existing facilities; and

WHEREAS, a Public Hearing Notice for the project was mailed to property owners and businesses within 300 feet of the property on August 13, 2010; and

WHEREAS, on August 23, 2010, the Planning Commission held a public meeting where testimony was received from the applicant and interested parties; and

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission of the Town of Moraga hereby approves the Permitted Use application from Dollar Tree to allow the operation of a retail variety store at 542 Center Street in the Rheem Valley Shopping Center in accordance with the findings listed below.

FINDINGS FOR APPROVAL OF A PERMITTED USE PERMIT IN ACCORDANCE WITH MMC SECTION 8.36.020B:

1. The use will not generate significant amounts of pedestrian and vehicular traffic that will foster the flow of traffic between the proposed use and uses across abutting streets because the retail use is proposed to be located in an existing vacant space in the Rheem Valley Shopping Center. Primary access to the store will be by pedestrians in the shopping center and motor vehicles in the shopping center parking lot. There are no uses across abutting streets that would be a significant source of pedestrian or vehicular traffic for the proposed business.

2. The use is compatible in land use and traffic characteristics and design with other uses directly affected by the proposed use because it is similar to existing businesses in the shopping center that are potentially affected by the proposed use. These businesses share the same land use category (community commercial) as the proposed use so the proposed use is not incompatible in terms of land use characteristics with other uses directly affected by the proposed use. The proposed hours of operation (Monday through Saturday 9 am to 9 pm and Sunday 9 am to 8 pm) are similar to the hours of operation for other businesses in the shopping center and thus the traffic associated with the proposed use would be coming into and out of the shopping center at times similar to other businesses and would therefore not be incompatible in terms of traffic characteristics with other businesses in the

shopping center. The proposed use will occupy three vacant spaces in the shopping center and only require tenant improvements; not the construction of new retail space. In this way, the design of the proposed use is compatible with existing businesses because no new space is required to be constructed.

3. Any adverse characteristics of the use can be mitigated to the extent necessary to make the use compatible with neighboring uses because no adverse characteristics with neighboring uses have been identified.

4. The use will be within a building or space enclosed by approved fencing, landscaping or other buildings because the proposed use will occupy three existing vacant spaces in the Rheem Valley Shopping Center. The vacant spaces were previously occupied by Blockbuster (closed), Lori's Perfect Tan (relocated to the Moraga Center) and The Beauty Source (relocated to the Moraga Center*).*

5. The use will not generate noise levels in excess of fifty-five (55) dba during the daytime hours, or fifty (50) dba during the nighttime hours because like other retail businesses in the shopping center, the proposed use will occur in an enclosed building and thus will not generate noise in excess of the established standard.

6. The use will not create an excessive public economic problem because the use will contribute to the local economy by providing a source of full time employment for 1 store manager and 2 assistant store managers as well as 23 part time employees. The use will also contribute to the local tax base through the payment of sales tax and the use will contribute to the economic viability of the shopping center through the rental of three existing vacant spaces.

7. The use will not generate glare, electrical interference, odor, vibration, brilliant light, dust, smoke, fumes or other characteristics that are otherwise offensive to the senses to the extent that there is interference with the development or enjoyment of other property in the vicinity because this business does not involve cooking or construction or the significant operation of mechanical equipment or any other activity that would result in characteristics that are offensive to the senses.

8. The hours of operation will not foster conditions detrimental to the neighborhood or town because the proposed hours of operation (Monday through Saturday 9 am to 9 pm and Sunday 9 am to 8 pm) are similar to the hours of operation for other businesses in the shopping center.

PASSED AND ADOPTED by the Planning Commission of the Town of Moraga on August 23, 2010, by the following vote:

Ayes:
Noes:
Absent:
Abstain:

_____
Jim Obsitnik, Chair

ATTEST:

_____
Lori Salamack, Planning Director