

DESIGN REVIEW BOARD SPECIAL MEETING AGENDA

MEETING DATE: TUESDAY, October 12, 2010, at 7:00 pm

LOCATION: **Moraga Library Meeting Room, 1500 St. Mary's Road, Moraga, CA 94556**

NOTE: Applicants or their representatives are required to attend the meeting. An applicant's presentation should not exceed ten minutes. Agenda items, which the Board has not acted upon prior to 10:00 p.m. may be continued to the next open agenda, unless the Board chooses to discuss the item after 10:00 p.m.

I. CALL TO ORDER AND ROLL CALL

Design Review Board

- A. Glover, Kline, Kuckuk, Sayles, Zhu
- B. Conflict of Interest

II. ADOPTION OF MEETING AGENDA

III. PUBLIC COMMENTS

NOTE: This part of the agenda is limited to comments regarding matters that are not on this agenda. Action cannot be taken on public comments at the meeting but they may be referred to a subcommittee for response.

IV. PLANNING COMMISSION LIAISON REPORT- Commissioner Driver

V. ADOPTION OF THE CONSENT AGENDA

Consent agendas consist of items that are considered to be non-controversial and routine by the Town Planning Department. Anyone attending the meeting that would like to discuss an item listed on the consent agenda should request the Board to move the item from the consent agenda to the regular agenda when the Chair presents that option to the audience. Any member of the Board may also direct that a consent agenda item be placed on the regular agenda for consideration and discussion by the Board. Items that are not removed from the consent agenda are approved under one motion by the Board, and are not subject to individual debate and discussion.

A. APPROVAL OF MINUTES for September 13, 2010

VI. DESIGN REVIEW

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 Design Review Board with information that it cannot otherwise obtain. Please limit testimony and presentation to the supplying of factual information. In fairness to everyone in attendance, please avoid redundant, superfluous or otherwise inappropriate questions or testimony. Thank you. Moraga Design Review Board.

- A. **DRB-10-10 United Sign Systems (Applicant), John Welter, Kimco Realty Corporation (Owner) 542 Center Street.** Application to install new signage at the Dollar Tree store located at 542 Center Street in the Rheem Valley Shopping Center. The following signage is proposed: one internally illuminated building sign, window signage, a non-illuminated canopy sign, and non-illuminated replacement letters on the existing Rheem Valley Shopping Center freestanding sign (near Moraga Road). The application requires Design Review Board approval because the building sign is illuminated and the signs are located in the Moraga Road scenic corridor. The property is zoned Community Commercial (CC). (APN 255-160-012 and 255-160-041).

VII. OTHER MATTERS – None

VIII. STAFF REPORT

IX. BOARD MEMBER REPORTS – Glover, Kline, Kuckuk, Sayles and Zhu.

X. ADJOURNMENT

Next meeting: Monday, October 25, 2010 at 7:00 pm at the Moraga Library Meeting Room located at 1500 Saint Mary's Road, Moraga, CA 94556.

Design Review Board meeting Agendas are posted at 2100 Donald Drive – Hacienda de las Flores, Moraga Commons Park, 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 Design Review Board 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 (925-888-7040). 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 on the Monday before each regularly scheduled meeting located at the Planning Department, 329 Rheem Blvd, Moraga, CA. Any documents subject to disclosure that are provided to all, or a majority of all, of the members of the Board regarding any item on this agenda after the agenda has been distributed will also be made available for inspection at 329 Rheem Blvd, Moraga, CA during regular business hours.

**TOWN OF MORAGA
DESIGN REVIEW BOARD MEETING
MINUTES**

September 13, 2010

I. CALL TO ORDER AND ROLL CALL

A regular meeting of the Design Review Board (DRB) was called to order by Chair Sayles at 7:00 P.M. in the Moraga Library Meeting Room, 1500 Saint Mary's Road, Moraga, California.

Present: Boardmembers Glover, Kline, Kuckuk, Zhu, Chair Sayles
Absent: None
Staff: Senior Planner Richard Chamberlain
Planning Director Lori Salamack

Conflict of Interest

There was no reported conflict of interest.

II. ADOPTION OF MEETING AGENDA

On motion by Boardmember Zhu, seconded by Boardmember Kuckuk and carried unanimously to adopt the meeting agenda, as posted.

III. PUBLIC COMMENTS

There were no comments from the public.

IV. PLANNING COMMISSION LIAISON REPORT – Commissioner Levenfeld

Planning Commissioner Levenfeld reported that the Planning Commission had twice met to consider the application for a Dollar Tree store in the Rheem Shopping Center which had twice been continued to consider clarity around the finding with respect to not causing an excessive economic impact to the Town. With no consensus to approve or deny the application, the Planning Commission had created a subcommittee to consider a Conditional Use Permit. The Commission would next consider the item at its September 20 meeting. She added that the Planning Commission had also twice continued and created a subcommittee to consider a Grading and Hillside Development Permit application for 32 Buckingham Drive, which item would also be considered by the Commission at its September 20 meeting.

V. ADOPTION OF THE CONSENT AGENDA

A. APPROVAL OF MINUTES for July 26, 2010

On motion by Boardmember Kline, seconded by Boardmember Glover to adopt the Consent Agenda, as submitted. The motion carried by the following vote:

Ayes: Boardmembers Glover, Kline, Zhu, Sayles
Noes: None
Abstain: Boardmember Kuckuk
Absent: None

VI. DESIGN REVIEW

A. DRB 08-10 – Dan Wood (Applicant/Owner), 120 Moraga Road: An application for design review approval for a new 3,259 square foot two-story craftsman style residence, with a 771 square foot garage on a 33,715 square foot lot addressed as 120 Moraga Road. This project was reviewed by the DRB at its July 26, 2010 meeting and action was continued to the September 13, 2010 meeting for the applicant to provide improvement plans for the 30-foot wide access easement to the property. The applicant was also asked to study the feasibility of providing a new access road from Corte Santa Clara and submit a site section to show the angle of view from the second floor bedroom windows. The property is zoned 1-DUA (One Dwelling Unit per acre Single-Family Residential). APN 255-511-001.

Senior Planner Richard Chamberlain presented the staff report dated September 13, 2010 for a new 3,259 square foot two-story residence with a 771 square foot garage on a 33,715 square foot lot addressed as 120 Moraga Road. He advised that at the July 26 DRB meeting, action was continued for the applicant to provide improvement plans for the 30-foot wide access easement to the property. The applicant was also asked to study the feasibility of providing a new access road from Corte Santa Clara and submit a site section to show the angle of view from the second floor bedroom windows.

Mr. Chamberlain stated that the applicant, Dan Wood, sent a letter to the neighbors on August 20 with a copy of the proposed landscape plans for the access easement. Staff mailed new notices of the meeting on September 3 to all property owners within 300 feet of the project site even though that was not required because the application was continued to a date certain.

In addition to the previous correspondence from the July 26 meeting, which had been attached to the staff report as Exhibit B, Mr. Chamberlain reported that the

Town had received two more letters from Miller Starr Regalia, attorneys representing Claude and Eleanor Persons at 3763 Via Granada.

A copy of the Miller Starr Regalia letter dated September 10, 2010 was e-mailed to all Boardmembers. The Town also received a letter dated September 10 signed by Claude and Eleanor Persons, Ronald C. Holmes, and Thomas and Selma Mirante, which was also e-mailed to Boardmembers.

Mr. Chamberlain added that staff had placed copies of the two additional letters received this date on the dais. The first was from Tim and Pam Toupin at 3771 Via Granada, and the second letter from Miller Starr and Regalia was received at 4:17 P.M. this date. He noted that the Toupins had been unable to attend the current meeting.

Mr. Chamberlain explained that the existing 12-foot wide paved access road to the site was within a 30-foot wide access easement that crossed three adjacent properties at 3763, 3767 and 3771 Via Granada and was adjacent to the property at 126 Moraga Road. This road easement was recorded in 1954 prior to the subdivision of the surrounding lots in the Campolindo subdivision. The September 10 letter from Miller Starr Regalia disputed the legal access for a residential home on the access road. Paul Marienthal, who wrote the letter on behalf of Miller Starr Regalia, took issue with some of the statements in the staff report. With regard to legal access issues, he stated that Dan Wood's attorney would respond to Mr. Marienthal's assertion that the easement was exclusively for East Bay Municipal Utility District (EBMUD) use. As of this date, staff had seen no language in the easement description that would limit the access exclusively to EBMUD.

At the previous DRB meeting, Mr. Chamberlain stated that Dan Wood indicated that the Moraga-Orinda Fire District (MOFD) wanted the access road widened from 12 feet to 16 feet. The applicant had since learned that the Town of Moraga had discretion as to whether to follow the MOFD road standard. The plan of the existing paved driveway showed that the road alignment was not centered within the 30-foot easement. The driveway was relatively close to the center of the easement at the east end of the driveway at Moraga Road. However, as the driveway turned to the south, it came very close to the south side of the easement. The plan also showed that the property owners at 3763 and 3767 Via Granada had existing fences within the access easement that would have to be moved in order for the driveway to be widened by 4 feet and the property owner at 3771 Via Granada had retaining walls that would have to be relocated to widen the access road.

The proposed landscaping along the access driveway was primarily on the south and east sides of the road where there was space between the paved road and the easement boundary and the topography was flat enough to permit landscaping. There was a drainage channel along the north side of the driveway

and a slope down to the fences. The applicant had offered to install landscaping along the north side of the driveway if the neighbors were willing to move their fences to accommodate the landscaping within the access easement. Although a majority of the neighbors did not find the landscape plan to provide adequate screening, the letter signed by Claude and Eleanor Persons, Ronald Holmes, and Thomas and Selma Mirante, as well as the letter from the Toupins were all opposed to the widening of the access road.

Mr. Chamberlain advised that the DRB may chose to consider an exception to the MOFD standard for a 16-foot wide road. A 12-foot wide access road had been the standard width for a driveway to a single home for many years.

With regard to an alternate access to the project site from Corte Santa Clara, the applicant submitted preliminary access studies prepared by his civil engineers, Schell and Martin. Alignment "A" directly up the hill to the project site would have a slope of 28 percent, which was too steep for access. Alignment "B" took a longer route closer to the home at 132 Moraga Road. Two variations of Alignment "B" had been prepared. The first variation maintained a constant slope of 16.8 percent; however, the retaining wall heights for this road would be excessive, with some as high as 15 feet. The variation of Alignment "B" as shown on Sheet 2 of the plans allowed the slope of the access road to change with a maximum slope of 20 percent. Although the retaining wall heights were a bit lower, they were still excessive. Geotechnical feasibility and slope stability studies had not been done and the slope map below showed that most of the slopes on the hillside below 120 Moraga Road were over 35 percent and some were over 50 percent.

Mr. Chamberlain explained that under the Town's Grading Ordinance, the grading required to install an access road from Corte Santa Clara would require approval by the Town Council with a recommendation from the Planning Commission because the average slope in the area of disturbance would exceed 25 percent. Since the alternate access road could be seen from the Moraga Road scenic corridor, it was very unlikely that the high retaining walls would be approved. While it may be technically feasible to build an alternative driveway, such a driveway would not be aesthetically acceptable under the Town's Design Guidelines.

With regard to the alternative access studies, Mr. Chamberlain stated that Mr. Marienthal stated in his letter that "It is disingenuous for the applicant or the staff to suggest that the alternative discussed in the staff report are the only alternatives available." Mr. Chamberlain took issue with that statement and stated that the 20-foot wide side yard did not leave enough space to install a driveway between Mr. Wood's existing house at 4 Corte Santa Clara and his west property line. Mr. Marienthal's proposed alternative therefore was clearly not possible.

A plan was also requested at the last DRB meeting to show the relationship of the proposed new home to the surrounding homes and a cross section to show the impact of the views from the second story bedroom windows.

The "Context Map" submitted by Schell and Martin showed the distances between the proposed new home and the surrounding adjacent homes and all the pad elevations of the existing homes and proposed home. The site section to show the sight line from the second story windows to the home below at 132 Moraga Road had been presented. Mr. Wood had also provided photographs taken from a high-step ladder to show views from the proposed second floor windows.

Mr. Chamberlain noted that the story poles and the line connecting at the top was the ridge of the roof and the top of the windows of the second story were five feet below the height of the ridge of the roof. While the poles may be seen from some windows, only the roof would be visible in many cases.

The application for design review was submitted on June 29, 2010. The Permit Streamlining Act (PSA) required a decision on the project within 60 calendar days after a project has been found to be exempt from the California Environmental Quality Act (CEQA) or a Negative Declaration was adopted for the project. The project was determined to be exempt from CEQA on July 14, 2010; therefore, the application must either be approved or disapproved by September 12, 2010 unless both the Town and the applicant agreed to a one-time 90-day extension. The applicant agreed to the continuance to the September 13, 2010 meeting date. As such, action would have to be taken at the current meeting.

Mr. Chamberlain recommended approval of the application in accordance with the findings required by Planning Commission Resolution 16-01 and the conditions of approval, which had been listed in the Draft Action Memorandum attached as Exhibit F to the July 26, 2010 staff report. He added that depending on the testimony from neighbors with regard to the widening to the existing access road, relocation of fencing and the proposed landscaping along the access road, the Board may choose to add some conditions to the Draft Action Memorandum. He added that the letter signed by Claude and Eleanor Persons, Ronald Holmes, and Thomas and Selma Mirante listed six conditions that they would like if it was determined by the Board that an alternate access from Corte Santa Clara was not possible.

When asked whether or an exception for a 12-foot driveway could have been granted at the staff level, Mr. Chamberlain explained that he had yet to see a 16-foot driveway to a single lot in the Town. He was unaware when the standard had changed from 12 feet to 16 feet. He noted that because of the scenic corridor, almost anything would require design review.

Chair Sayles referred to the site section from the engineer and the photographs from the applicant and expressed concern with how much of the home would be visible from off site. He expressed concern that there could be some privacy concerns.

In response to Chair Sayles who had indicated a desire to receive a section to show views from Via Granada, Mr. Chamberlain explained that Via Granada was over 300 feet away and there were a number of oak trees and other trees in the vicinity. Given that the home had been set back so far given the turnaround required by the MOFD, the only house in the view angle was the Wood's existing house on Corte Santa Clara. He noted that he had e-mailed all necessary information to the Fire Marshal and had received no response.

David Bowie, an Attorney representing the applicant, Dan Wood, commented that he was present to address the legal issue related to the access. He explained that the applicant favored a 12-foot wide easement only. In his experience, 12-foot wide driveways had been the standard for years and when communities had asked for a 12-foot wide as opposed to a 16-foot wide driveway, the Fire Marshal had not objected to that change. He strongly urged the adoption of a 12-foot wide easement.

With respect to the easement and the access itself, Mr. Bowie stated that there were only two potentially feasible means of gaining access if using the alternative access and he suggested that no other conceivable alternative could be proposed. He characterized it as a theoretical access given that no one had done the geological studies necessary to determine whether or not something could practically be constructed. He added that the retaining walls required were inconsistent with the concept of the scenic corridor.

Mr. Bowie questioned whether or not the Town had the legal right to compel an alternative access which was actually off site. He noted that it just happened that the applicant owned the adjacent property but he reiterated his question of whether or not the Town had the legal right to compel that action. He stated that the existing access was an easement that had been granted in 1954 before any of the surrounding lots had been created. The issue as to whether or not a home as opposed to a water tank would result in an overburdening of the access easement was one that would have to be determined as a matter of fact and did not involve the Town. He described it as a private dispute among private landowners. He stated it was not appropriate for the Town to make that kind of a judgment. He suggested that it was appropriate for the Town to determine if there was access after which the entire application would be reviewed.

Mr. Bowie added that for the Town to deny his client the legal right to use access, which was a deeded right that had existed for over 50 years, would represent a taking of that right which would mean that the Town would have to pay

reasonable compensation for that taking, a replacement cost he estimated at \$200,000. He noted that it was sometimes the case when off-site improvements were required as part of applications although that invariably related to a subdivision application, not an application that involved a development as a matter of right.

Mr. Bowie stated that the property was zoned for single-family residential. It was a permitted use and there was no requirement for permission regarding that use. There was also no nexus to require that an off-site access be achieved in this case. He added that any effort to do so would be a condemnation and a taking.

Stating that the alternative access would be inconsistent with the Town's plans, guidelines and the scenic corridor and since there was no legal right to compel it and requiring it would cause the Town to make legal compensation, Mr. Bowie suggested looking at the real access to determine if anything needed to be addressed.

Mr. Bowie stated that the 12-foot wide access had functioned well for the intervening years, the applicant had put together a landscape plan to screen the access from the neighbors and the neighbors had not responded to that plan. The neighbors had sought a seven and a half foot high fence to screen the access which he suggested would create a tunnel-like view from Moraga Road and which would replace the current appropriate rural view of vegetation and trees.

Mr. Bowie stated that the applicant was prepared to pursue the landscape mitigation that had been proposed. He presented photos of that proposed screening at 30-foot intervals, with some supplemental vegetation. Displaying the plan of the surrounding area and identifying the distances between surrounding properties, he stated that there were significant distances that separated the proposed construction from existing and adjoining properties. Even without trees and landscaping within the site distances, he suggested that an invasion of privacy would be non-existent.

As to the question of two-story homes within the scenic corridor, Mr. Bowie presented photographs of recently approved projects within the Moraga Road scenic corridor, which all happened to be two story, which had been found to be consistent with the Moraga Scenic Corridor Plan. He suggested therefore that a two-story home was not an incompatible solution for the subject property.

Mr. Bowie also emphasized that the home had been pushed back on the lot to accommodate a turnaround radius for fire trucks which was a constraint on the lot. Given that turnaround, he suggested that a one-story home would be too small, would be incompatible with the current projects approved in Moraga, and could conceivably create a negative impact on property values. He added that the proposed new home constructed on the lot consistent with the Town's Design

Guidelines and requiring no exceptions from those guidelines, would add to the neighborhood and the quality of the neighborhood and add to property values across the board. For the record, he presented photographs taken from a stepladder on the subject lot that represented equivalent views from the second story window. He reiterated that there would be no conceivable privacy impact upon adjoining properties.

Peter Gilbert, the Architect, was present to respond to questions from the DRB.

Chair Sayles expressed concern for views from the north window of bedroom number two and impacts to the privacy of the adjacent home.

Mr. Bowie suggested that anything could be screened with vegetation and landscaping.

PUBLIC HEARING OPENED

Ronald Holmes, 3767 Via Granada, Moraga, commented that he had received no notices from the Planning Department related to the application. He expressed his support for a 12-foot driveway.

Bill Hickman, a local Realtor who had been contacted by the Persons related to the effect the easement would have on property values, cited the difficult real estate market and noted that things considered negative to property values were magnified in this market.

Claude Persons, 3763 Via Granada, Moraga, objected to the assertion that there would be no impact to privacy given the number of vehicles that could use the driveway easement during the day that would travel behind his back yard and be visible from his home. He commented that the pine trees in that area would have to be removed and there would be little screening for a number of years to block the visibility of the driveway from his backyard. He added that the story poles were visible from his bedroom. He expressed concern for the invasion to his privacy.

Christina Lawson, Miller Starr Regalia, Walnut Creek, questioned whether or not the four required findings could be made in this case. She identified those findings as: (1) *The proposed improvements conform to good design as set forth in the Town of Moraga Design Guidelines and in general contribute to the character and image of the Town as a place of beauty, spaciousness, balance, taste, fitness, broad vistas and high quality;* (2) *The proposed improvements will not have a substantial adverse affect on neighboring properties or the community due to poor planning; neglect of proper design standards; or the existence of building and structures unsuitable to and incompatible with the character of the neighborhood and the character of the community;* (3) *The proposed improvement will not lower property values; discourage the maintenance and*

improvement of surrounding properties; or preclude the most appropriate development of other properties in the vicinity; and (4) The proposed improvement will not deter the public health, safety and welfare.

As the site of a former water tank that had been removed three years ago, Ms. Lawson stated the lot was now vacant surrounded by existing development. The existing access easement had been put in place some 50 years ago to allow EBMUD to access its water tank. She noted that EBMUD had not accessed that tank on a daily basis. She stated therefore that there was a clear legal dispute related to that access easement.

With respect to the MOFD standards, Ms. Lawson stated that while the neighbors were willing to compromise with a 12-foot easement, it was unlikely the MOFD would allow that to be done for a new residence. She stated that there were numerous General Plan inconsistencies and adverse impacts related to the application.

Meredith Persons, 3763 Via Granada, Moraga, explained that the application had caused stress for her parents because of the invasion of privacy given that their home was very visible from the access easement and the vehicles using that access easement usually drove 40 MPH creating noise and other impacts. She added that visibility of the road extended into the family room, living room, kitchen and bedroom of her home.

Kelly Irving, 75 Corte Yolanda, Moraga, spoke in support of the neighborhood and noted that she had a seven foot fence so it was not an extraordinary height. She objected to the fact that one family could affect a whole neighborhood.

Brad Irving, 75 Corte Yolanda, Moraga, also spoke in support of the neighborhood and noted that the two families had purchased homes without being aware of the EBMUD easement and its implications. He supported the alternative access with appropriate landscape screening to satisfy the neighborhood.

Jerry Long, 1331 Camino Pablo, Moraga, stated that he had planted dense landscaping in his front yard to block headlights from the street. Even with intense landscaping he suggested that the headlights of vehicles using the access easement would impact some homes in the neighborhood.

Kevin Johnson, 132 Moraga Road, Moraga, stated that the story poles were very visible from his home. His concern was for privacy shielding.

Dillma Johnson, 132 Moraga Road, Moraga was present to support her neighbors.

Selma Mirante, 126 Moraga Road, Moraga, stated that her backyard essentially followed the entire easement. She stated that headlights would be visible from her yard with or without vegetation and those headlights would be visible from the rear of her home all evening as they were currently visible.

Ms. Mirante invited members of the Board to stand in her backyard to see the property and the impacts that would be associated with the development of that property on her backyard. She added that the property had been sold by EBMUD with no guarantee of access. She completely opposed the use of the easement and stated that vegetation would not be an adequate screen to mitigate light, sound, or visibility concerns. She urged consideration of other firms to consider other options to avoid impacts to the adjacent properties.

Bill Henningsen, 2180 Sky View Court, Moraga, stated that his home overlooked three homes in a 30 to 40 percent grade less than 300 feet with no vegetation screening his view looking down into three backyards, similar to the subject situation, and he had never had an issue with his neighbors with respect to privacy. He did not see that there would be a privacy concern. He noted that the MOFD would have to rule on the width of the driveway. He supported the application and stated that the applicant would work with the neighbors to install appropriate landscaping to mitigate visibility concerns.

Eleanor Persons, 3763 Via Granada, Moraga, reminded the Board that the road would not go by her property but would go through her property.

Brenda Long, Camino Pablo, Moraga, commented that she had attended both DRB meetings on the issue when the Board had suggested that the applicant meet with the neighbors to address the concerns. She stated that had not occurred.

REBUTTAL:

Mr. Bowie explained that the home would be sprinklered which should hopefully mitigate MOFD requirements and support a 12-foot wide driveway easement instead of a wider access road. He expressed a willingness to plant landscaping to mitigate any impacts. He reiterated that the proposal met all of the Town's Design Guidelines and he had heard no concerns with respect to the design of the home itself. He noted that the issue appeared to be access, how that access could be mitigated, and whether or not there were some unacceptable privacy concerns.

Mr. Bowie also commented with respect to the sale of the property that it had been sold in a public bid process where special notice in a letter dated December

15, 2008 had been sent to all surrounding neighbors and where everyone had the same opportunity to purchase the property. He added that EBMUD had made inquiries to the Town of Moraga prior to the distribution of the letter and the bid process which had discussed the particulars of the property including the zoning, permitted uses, and conditionally permitted uses. He suggested therefore that there was no surprise that there would be a residential use of the property and that the price paid was the fair market price at the time.

Mr. Bowie added that the package that had been purchased was the legal right of access and there was no evidence to indicate that there was limited access. He suggested that issue was between the private and adjoining landowners and there was no basis to assume that the access easement, which had been in place for many years, was for limited purposes. He added that the Town had no right to require in a single-family permitted application the acquisition of off-site rights. He stated therefore that one way or another the current access would be the access to the property. He suggested that a seven foot fence would be contrary to the Town's Design Guidelines and stated that vegetation and landscape planting could mitigate the visibility concerns. He added that adjacent neighbors were capable of planting landscaping on their properties to mitigate perceived impacts from someone off site.

Recognizing that access would change the neighborhood, Mr. Bowie, stated that Moraga was a developed community and there was no way to avoid those types of issues.

Noting the need to balance the respective rights of the parties and reiterating that there was no complaint with the design of the home and that no exceptions to the Town's Design Guidelines were required, Mr. Bowie stated that the only issue was the access which would remain anyway. Even with further access, the existing access would remain and there could still be people driving up and down that access. Therefore there could be two access roads further impacting the neighborhood.

Mr. Bowie suggested that there was more than sufficient evidence to approve the application.

Dan Wood, the applicant, responded to the question of why he had not contacted residents directly. He stated that he had hired a landscape architect to design a landscape plan with evergreen vegetation that would fill in the gaps in the easement. He stated that plan had been submitted to the neighbors and he had received no response to anyone with the exception of Mr. Holmes. He had since received an e-mail rejecting the landscaping plan.

PUBLIC HEARING CLOSED

Boardmember Kuckuk asked when the residual parcel had been rezoned if it had been rezoned, reported by Mr. Chamberlain that the parcel had been zoned in 1980 to Single-Family Residential and the zoning had not been changed since. It had also been a Single-Family Residential zone in the County prior to the Incorporation of the Town. The easement had been in place since 1954 prior to the creation of the adjacent lots.

Boardmember Kuckuk commented that the issue of the easement as to whether or not it was specific to EBMUD with respect to the maintenance of the water tank was outside the scope of the DRB.

Boardmember Glover acknowledged the effort involved in the application and noted that the privacy issues related by the neighbors had not been resolved to the satisfaction of the neighbors. He suggested that an alternative driveway access would not be advantageous to the scenic corridor and would be very expensive. He commented that if changes were to be made to the access the entire design of the house would have to be changed and that design would have to return to the DRB. He could therefore not consider approval of the application at this time given the issues related to access.

Boardmember Kline stated that he had no problem with the location of the house and the sightlines, which could be resolved with landscaping. He noted that no serious proposal for an alternative driveway had been submitted. He suggested that the focus would have to be on the easement. He agreed with the concern to allow the process to move forward without a resolution of the access issue. He also had concern that the landscape plan was incomplete.

Boardmember Kline recommended that either the application be denied outright or there would have to be stringent conditions of approval. He suggested that the applicant provide proof that he had a residential driveway easement which could be done a number of ways through the court, a grant from the neighbors, or through an outright purchase. He also recommended a complete landscape plan for both the driveway and the entire house to show how the adjacent houses would be screened.

With respect to the privacy issue, Boardmember Glover noted that two existing residents currently looked into each other's back yard, and while there needed to be some mitigation he suggested that the privacy issue did not need to be beyond reason from what it existed today.

Boardmember Zhu noted that the legal concern was beyond the purview of the DRB. On another issue, he suggested that a solar panel on the slope in front of the house would create a potential bright spot of reflection in the front of the house creating a public safety issue.

Chair Sayles noted the expectation after the last meeting that the applicant had been encouraged to meet with his neighbors to address the concerns. He was disappointed that had not occurred given that there appeared to be more opposition now than when the application had first been considered.

Referring to the Schell and Martin site plan, Chair Sayles suggested that design had been designed to fail since it started low with a 55-foot elevation change creating a fairly steep driveway.

Chair Sayles suggested that had the driveway been started higher at the top of the cul-de-sac would have eliminated a quarter to a third of the elevation change and the road would have remained somewhat on grade requiring fewer retaining walls. He suggested that a safer ingress/egress could have been created and he noted that was an opportunity not to be missed. He suggested that the driveway, as proposed, could end up becoming an unsightly alleyway. He noted there were inconsistencies involved. He expressed concern for privacy issues and he objected to a two-story home. He supported a one-story home and noted that he had hoped for a different comeback.

Boardmember Glover expressed his disappointment that there had not been a meeting with the neighbors.

Chair Sayles verified that the applicant had not signed an extension and according to the PSA the DRB would have to take action to approve or deny the application at this time. He clarified that the application could be approved as presented, approved with modifications, or the application could be denied, or denied without prejudice.

Planning Director Lori Salamack commented that when making a decision it was important for the DRB to make a decision relative to the factors in the Moraga Municipal Code (MMC) and the resolution. If concerned for the legal issue, she recommended a requirement that the legal issue be satisfied prior to the issuance of a building permit. She urged consideration of the findings and referring the legal issue to the appropriate venue for determination.

Considering the application point by point, the adequacy of the landscape plan was discussed as was the two-story versus one-story home. Four members of the Board had no problem with a two-story home with a finding that a two-story home would not negatively impact the neighbors.

Boardmember Kuckuk noted that if the applicant had the right of access to the property it would still have to be mitigated given that the increased use of the access from the prior use would impact the neighborhood. She acknowledged that the width of the easement was ultimately the decision of the MOFD. She commented that she was having difficulty making the necessary findings to approve the application.

Boardmember Zhu expressed the need that the solar panels be glare free.

When asked, Mr. Wood verified the location of the solar panels and noted that it would be impossible for glare from the panels to impact Moraga Road. He noted that there were existing solar panels 40 feet below the proposed panels at the same orientation that did not impact Moraga Road.

Mr. Chamberlain clarified that under State law, the Town no longer had the authority to review solar panels. The Building Department had the authority to review only the structural nature of solar panels.

Boardmember Kuckuk expressed concern for the access that could impact the neighborhood and potentially impact property values. She noted the discussion at the last meeting, which she had not been able to attend, where the access issue was to have been resolved prior to further consideration of the application.

Chair Sayles noted the consensus that the landscape plan needed to be improved and that the easement issue needed to be resolved,

Boardmember Kline suggested that approving the application would allow property rights to be taken away.

Boardmember Zhu emphasized that the role of the DRB was not to address a legal easement issue.

Ms. Salamack explained that if the DRB was inclined to approve the application and the easement issue was outstanding, the project would not be able to move forward until that issue had been resolved. The condition of approval would stipulate that a building permit would not be issued until the Town was satisfied that the approved plan could be implemented.

Given the open legal issue and impacts to adjacent properties, Boardmember Kuckuk asked whether the design of the actual parcel could be considered separate from the design of the roadway, although Chair Sayles did not believe that flexibility was available for consideration.

Mr. Chamberlain clarified that the Fire Marshal had not yet responded to the issue of the width of the roadway; 12 feet versus 16 feet.

On the discussion, it was clarified that a denial, without prejudice, would allow the applicant to immediately return with another application.

Ms. Salamack clarified that the DRB did not need to make findings for each of the four standards to disapprove the application but could disapprove on the

basis of one or more of the standards. The DRB would need to make all of the findings to approve the application.

On motion by Boardmember Glover, seconded by Boardmember Kuckuk to adopt a Draft Action Memorandum to deny, without prejudice, DRB 08-10 for Wood at 120 Moraga Road, because the findings could not be made to approve:

Finding 2: The proposed improvements will not have a substantial adverse affect on neighboring properties or the community due to poor planning; neglect of proper design standards; or the existence of building and structures unsuitable to and incompatible with the character of the neighborhood and the character of the community, because

- a. The increased use of the access driveway through the rear yards at 3763, 3767 and 3771 Via Granada and adjacent to the property at 126 Moraga Road could have a substantial adverse affect on these properties. In particular, the sweep of headlights from vehicles driving up and down the access easement at night could disturb the peace and enjoyment of the adjacent lots unless adequately mitigated.
- b. The proposed landscaping plan within the 30-foot wide access easement was deemed incomplete to mitigate privacy concerns expressed by the adjacent property owners at 3763 and 3767 Via Granada and 126 Moraga Road.
- c. Concern was expressed for views from the proposed second story windows looking down into the neighbors' windows, which was not adequately mitigated by existing or proposed landscaping around the new home.

Finding 3: The proposed improvement will not lower property values; discourage the maintenance and improvement of surrounding properties; or preclude the most appropriate development of other properties in the vicinity.

- a. The increase in vehicular traffic on the access road for a single-family residence versus the infrequent use by EBMUD could have a negative impact on the property values at 3763, 3767 and 3771 Via Granada and 126 Moraga Road.
- b. The property values of the adjacent properties where the access easement is located could be reduced if the existing driveway is increased in width from 12 feet to 16 feet to comply with the Moraga-Orinda Fire District standards.

The motion carried by the following vote:

Ayes: Boardmembers Glover, Kline, Kuckuk, Zhu, Sayles
Noes: None
Abstain: None
Absent: None

Mr. Chamberlain advised that there was a ten day right of appeal for anyone wishing to appeal the decision of the Design Review Board to the Planning Commission by filing a letter stating the grounds for the appeal and through the payment of the appeal fee, through the Planning Department.

VII. OTHER MATTERS

There were no Other Matters.

VIII. STAFF REPORT

Mr. Chamberlain advised that the Dollar Tree signs had been submitted for approval although the application was being held in abeyance pending the Planning Commission's decision related to the use.

Planning Commissioner Levenfeld explained that a Planning Commission subcommittee had been formed to discuss the issues related to the Dollar Tree application.

IX. BOARDMEMBER REPORTS

Boardmember Kuckuk raised an issue of the Sign Ordinance and how it was applied in the Rheem Shopping Center.

Boardmember Kline advised that he would not be available for the next meeting.

X. ADJOURNMENT

On motion by Boardmember Glover, seconded by Boardmember Kuckuk to adjourn the meeting at 9:30 P.M. to a regular meeting of the DRB on Monday, September 27, 2010 at 7:00 P.M. in the Moraga Library Meeting Room located at 1500 Saint Mary's Road, Moraga, CA 94556.

Town of Moraga Design Review Board
September 13, 2010
Page 17

Secretary of the Planning Commission

DESIGN REVIEW BOARD STAFF REPORT

MEETING DATE: October 12, 2010

REPORT WRITTEN: September 30, 2010

ITEM NUMBER: V. A. – DESIGN REVIEW

FILE NUMBER: **DRB-10-10 United Sign Systems (Applicant), John Welter, Kimco Realty Corporation (Owner) 542 Center Street.** Application to install new signage at the Dollar Tree store located at 542 Center Street in the Rheem Valley Shopping Center. The following signage is proposed: one internally illuminated building sign, window signage, a non-illuminated canopy sign, and non-illuminated replacement letters on the existing Rheem Valley Shopping Center freestanding sign (near Moraga Road). The application requires Design Review Board approval because the building sign is illuminated and the signs are located in the Moraga Road scenic corridor. The property is zoned Community Commercial (CC). (APNs 255-160-012 and 255-160-041).

PUBLIC NOTICE AND MAILING LIST:

A public notice was mailed to all property owners within three hundred (300) feet of the subject property on Friday, October 1, 2010. In addition, public notices were sent to all the shops in the Rheem Valley Shopping Center and those residents who requested to be on the mailing list. The notice area map, mailing list, and public notice are attached as **EXHIBIT A**.

BACKGROUND:

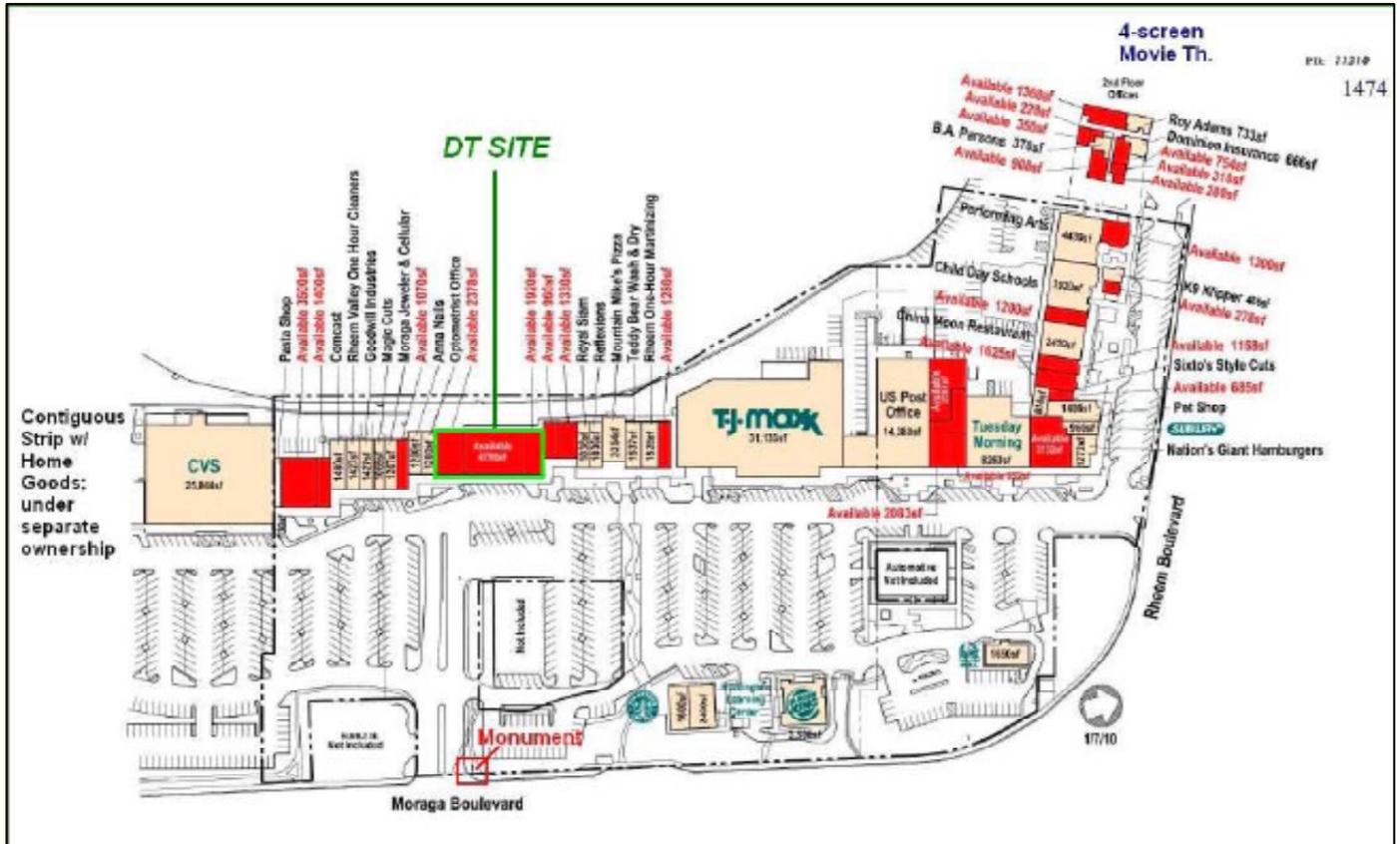
The Dollar Tree recently leased the vacant spaces previously occupied by Blockbuster, Lori's Perfect Tan, and The Beauty Source in the Rheem Valley Shopping Center. On September 20, 2010 the Planning Commission (PC) approved the permitted use application to allow Dollar Tree to operate a retail store at 542 Center Street. The approval, however, was appealed by the applicant to the Town Council due to the adopted conditions. (The Town Council is scheduled to consider this matter on Wednesday, October 13, at 7 p.m. in the Joaquin Moraga Auditorium.) Please note that although the conditions have been appealed by the applicant, it would be prudent to include the adopted PC Resolution and address any conditions pertaining to signage. Conditions 7 and 12 (on pages 5 and 6) in the resolution discuss signage for the new Dollar Tree store. PC Resolution No. 08-2010 is attached as **EXHIBIT B**. The resolution calls for compliance with the sign ordinance which is considered in this staff report.

In the meantime, Dollar Tree is seeking Design Review Board approval to install new signage using its corporate logo and trademark:



DESCRIPTION:

Dollar Tree signage is proposed at the existing commercial building located at 542 Center Street in the Rheem Valley Shopping Center. Copies of the project plans are attached as **EXHIBIT E**. Below is the site plan which shows the location of the Dollar Tree store (outlined in green as 'DT SITE') in relation to the other shops in the center:



The proposed building sign at the front (east elevation) of the store is to be 67 square feet and is to read "DOLLAR TREE" in white capital letters against the structure's existing green trim (see page 2 of the plans). The new building sign is 26-feet 10-inches long and 30-inches wide. The individually mounted letters will be lighted with white light-emitting diode (LED) illumination technology. LED is the preferred type of illumination, since it is more energy efficient than fluorescent tubes and neon and the LEDs require less maintenance. The letters will feature 5-inch deep aluminum bronze returns with a 1-inch bronze trimcap (see color/material board). Typically, minor tenants in the Rheem Shopping Center who have less than 10,000 square feet of floor space are restricted to halo type illuminated signs or gold leafed Century Schoolbook 8-inch high letters on the canopy beam. The graphics program adopted for the Center was developed by the Dohemann Company and has not been formally updated by the Design Review Board since the 1980's. Since that time several tenants, including T.J. Maxx, Home Goods, and CVS/pharmacy (formerly Longs Drugs), have been approved for signage that does not conform to of the current graphics program. Dollar Tree will occupy three vacant spaces (the former Blockbuster, Lori's Perfect Tan, and The Beauty Source stores) totaling 9,088 square feet. The previous tenant, Blockbuster, which occupied a space smaller than Dollar Tree, had a building sign with 30-inch high letters.

Additionally, CVS Pharmacy, who has a storefront similar in size to Dollar Tree, was granted a sign with 48-inch high illuminated letters.

New window signage is proposed along the glass frontage of the store (see page 4 of the plans). 8-inch high window decal is proposed along the top of the glass windows and front doors. The vinyl window decal features a pattern of alternating light and dark green triangular stripes. Eight 28-inch high circular decals reading "Everything's \$1" are to be displayed in the center of every third window. The total area of the window signage will take up about ten percent of the area of the store's window frontage. (Moraga Municipal Code Section 8.88.090 states that window signs can have a total area up to twenty percent of the area of the window on which they are placed).

One non-illuminated wood sign is proposed to hang under the existing canopy near the entrance of the store (see page 3 of the plans). The 2-inch thick sign will be 52-inches long and 12-inches wide and is to read "DOLLAR TREE" in white capital letters on both sides of the display surface. Each display surface will feature a green background with a white border. Like other canopy signs in the Shopping Center (i.e. Moraga Optometry), the sign will hang from a black jack-chain.

The bottom part of the existing Rheem Valley Shopping Center freestanding sign facing traffic on Moraga Road currently displays the following store names: T.J. Maxx, CVS/pharmacy, and Blockbuster. The applicant proposes to replace the Blockbuster store name with the Dollar Tree store name on its back to back display surface (see page 3 of the plans). The new non-illuminated letters will be the same height and color as the other letters allowing the free-standing sign to maintain its unified appearance.

SIGN ORDINANCE COMPLIANCE:

8.88.100 Location.

A sign shall be located only on the frontage of a premise. Signs may not be located on more than two frontages of any one premise.

Comment: *The new Dollar Tree store has about 150-feet of frontage along the Moraga Road scenic corridor. The existing storefront has a wide fascia under the front dormer which previously displayed the Blockbuster sign. The new Dollar Tree building sign is to occupy this same display area. There is an existing free-standing sign at the entrance of the shopping center (off Moraga Road) which lists the names of three stores on its back to back display surface. The existing Blockbuster store name is to be replaced with the Dollar Tree store name. Both signs are located on the frontage of the premise.*

8.88.110 Letters – Lights.

A. No letter or character contained in a sign shall be over four feet high.

Comment: *The new building sign reading "Dollar Tree" will have 30-inch (2-feet 5-inch) high letters. The maximum height of the window decal is 28-inches and the letters in the canopy and freestanding signs are less than 12-inches tall. Thus none of the proposed signage will contain letters or characters over 4-feet in height.*

B. Lighted signs require design review approval and the intensity shall not exceed five foot-candles of illumination measured at ten (10) feet.

Comment: *The proposed lighted building sign will be reviewed by the design review board. The intensity of the illumination is not expected to be any greater than the existing CVS/pharmacy, T.J. Maxx, and HomeGoods store signs. Nevertheless, staff has included a condition that the intensity not exceed five foot-candles measured 10-feet from the sign in accordance with the Sign Ordinance.*

8.88.170 Free-standing signs.

A. Height. No portion of a free-standing sign may be higher than the roof line of the building on the lot or twelve (12) feet, whichever is lower.

Comment: *The height of the existing freestanding sign will not be changed.*

B. Area. The sign area may not exceed one square foot for each one hundred (100) square feet of the area, up to a maximum of thirty-five (35) square feet.

Comment: *The free-standing sign is an existing sign and will not be increased in total area.*

C. Number. There shall not be more than one free-standing sign for each shopping center complex, area, development, or building under single ownership unless approved under Section 8.88.310.

Comment: *The Rheem Valley Shopping Center has two existing free-standing signs. One is located off Moraga Road and the other is located at the intersection of Rheem Boulevard and Center Street.*

D. Design. The design shall be architecturally compatible with the building or complex it is serving.

Comment: *The existing free-standing sign is architecturally compatible with the Rheem Valley Shopping Center and the replacement letters will not change the architectural design of the sign.*

E. Lot size. There shall be no free-standing signs on lots with a frontage of one hundred sixty-five (165) feet or less.

Comment: *The existing free-standing sign serves the entire Rheem Valley Shopping Center which has a total frontage of over 1,500 feet.*

F. Display surface. Display surfaces shall be back to back, and shall not exceed two in number.

Comment: *The existing free-standing sign has back to back display surfaces.*

G. The copy on a free-standing sign shall be limited to: 1.) the address of the premises, 2.) the name of business complex, or 3.) the logo and/or name of a single tenant, except the design review board may permit directory signs when the board determines that the listing of tenants is in the public interest and is necessary for reasonable identification.

Comment: *The display surfaces of the existing free-standing sign feature the name of the shopping complex and list the following three businesses: T.J. Maxx, CVS/pharmacy, and Blockbuster. Each store name has an area of about 2 square feet and is listed one on top of the other in white lettering. The existing Blockbuster store name is to be replaced with the new Dollar Tree store name.*

DESIGN GUIDELINES AND SCENIC CORRIDOR CONSIDERATIONS:

Applicable design guidelines, including the scenic corridor guidelines and the sign guidelines, are discussed in **EXHIBIT C**. In staff's opinion, the proposed signage complies with all applicable design guidelines.

FINDINGS:

MMC Section 8.12.090 requires the Design Review Board to make findings to support any decision approving a project. The Design Review Board should use the standards for review under Section 8.88.280 of the Municipal Code as the basis for findings as follows:

1. Does the proposed sign have the same character and quality of design as the exterior architecture of the property and area where it is located?
2. Does the location of the sign impair the use of the property or conflict with the visibility, location, or arrangement of existing adjacent signs?

RECOMMENDATION:

Staff recommends approval of the proposed signage. If the Board agrees with staff then the Board may consider approval of the new Dollar Tree signs at 542 Center Street in accordance with the Draft Action Memorandum (**EXHIBIT D**), which includes appropriate findings and conditions of approval in accordance with Section 8.88.280 of the Moraga Municipal Code.

PREPARED BY: Kelly Suronen, Assistant Planner

EXHIBITS:

- A** – Notice Area Map, Mailing List and Public Notice
- B** – Planning Commission Resolution No. 08-2010
- C** – Design Guideline and Scenic Corridor Analysis
- D** – Draft Action Memorandum
- E** – Applicant's Plans

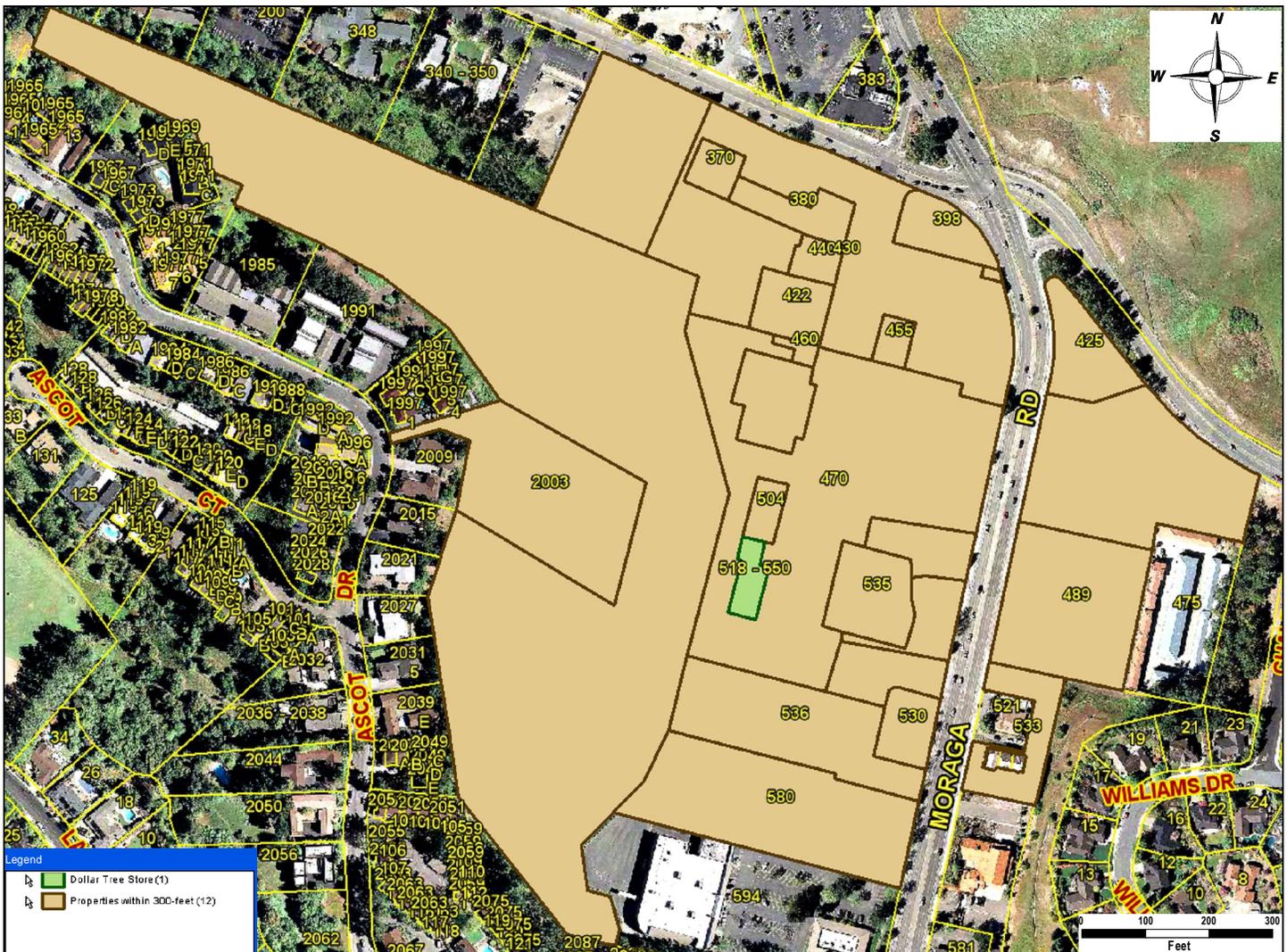
EXHIBIT A

NOTICE AREA MAP, MAILING LIST AND PUBLIC NOTICE

VICINITY MAP AND AREA OF NOTICE*

542 Center Street - Dollar Tree Signage

File Number: DRB-10-2010



*Please note that in addition to noticing property owners within 300-feet of the subject property, the Planning Department has also noticed all the business in the Rheem Shopping Center as well as those residents who asked to be placed on the mailing list.

**DRB 10-10
Mailed Public Notice**

**542 Center Street
Mailing List**

**Design Review
Board Meeting**

NAME	ADDRESS	CITY & ZIP
Kimco Realty Corporation	3333 New Hyde Park Rd, Apt. 100	New Hyde Park, NY 11042
Childrens Trust Hover	101 Church St, Apt.#12	Los Gatos, CA 95030 6927
Allene Mossman	1817 Yale Drive	Alameda, CA 94501 1607
Kimco Realty Corporation	4190 Douglas Blvd. #200	Granite Bay, CA 95746
United Sign Systems	5201 Pentecost Drive	Modesto, CA 95356
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

**DRB 10-10
Mailed Public Notice**

**542 Center Street
Mailing List**

**Design Review
Board Meeting**

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
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
Holly Lucas Alcalay	128 Devin Drive	Moraga, CA 94556
Cavan McCarthy	256 Rheem Blvd	Moraga, CA 94556
Cliff Dochterman	762 Augusta	Moraga, CA 94556
Linda Schulman	3 Harold Drive	Moraga, CA 94556
John Sherbert	268 Rheem Blvd	Moraga, CA 94556
Cecilia Murtaugh	62 Corte del Caballo	Moraga, CA 94556
Betty Schlegel	3995 Pase Grande	Moraga, CA 94556
Lynn Davis	48 Corliss Drive	Moraga, CA 94556
Bill Snider	711 Crossbrook	Moraga, CA 94556
Ellen Beans	20 Carr Drive	Moraga, CA 94556
Caroline Wood	26 Hardie Drive	Moraga, CA 94556
Lynn Gallianos	253 Scofield Drive	Moraga, CA 94556
John Friar	80 Goodfellow Drive	Moraga, CA 94556
Lori Bartis	17 Corte Pinto	Moraga, CA 94556
Virginia Fowler	8 Vianne Court	Orinda CA
Martha & Michael Grausz	11 Williams Drive	Moraga, CA 94556
Mark Neustrom	4 Brandt Drive	Moraga, CA 94556
John Hills	844 Camino Ricardo	Moraga, CA 94556
Lee & Assoc - Len Magnani	5890 Stoneridge Dr #210	Pleasanton CA 94588
Phil and Ann Brooks	887 August Drive	Moraga, CA 94556
Victor Smith	1933 Ascot Drive	Moraga, CA 94556
David & Marcia Farrar	5 Williams Drive	Moraga, CA 94556
Margaret DePriester	142 Selborne Way	Moraga, CA 94556

NOTICE

Town of Moraga

YOU ARE HEREBY NOTIFIED THAT on Tuesday, October 12, 2010, at **7:00 p.m.**, in the **Moraga Public Library Meeting Room at 1500 St. Mary's Road**, Moraga, California, the Design Review Board of the Town of Moraga will conduct a special public meeting to consider the following application:

DRB-10-10 United Sign Systems (Applicant), John Welter, Kimco Realty Corporation (Owner) 542 Center Street. Application to install new signage at the Dollar Tree store located at 542 Center Street in the Rheem Valley Shopping Center. The following signage is proposed: one internally illuminated building sign, window signage, a non-illuminated canopy sign, and non-illuminated replacement letters on the existing Rheem Valley Shopping Center freestanding sign (near Moraga Road). The application requires Design Review Board approval because the building sign is illuminated and the signs are located in the Moraga Road scenic corridor. The property is zoned Community Commercial (CC). (APN 255-160-012 and 255-160-041).

Applicant	Property Owners
April DePew for United Sign Systems 5201 Pentecost Drive Modesto, CA 95356	John Welter for Kimco Realty Corporation 4190 Douglas Blvd. #200 Granite Bay, CA 95746

Plans for the proposed signage are available for public review at the Moraga Planning Department, located upstairs at 329 Rheem Boulevard, during normal business hours (Monday through Friday from 9 am to noon and 1 to 5 pm). Comments regarding the signage can be submitted in writing or orally at the public meeting. Written comments submitted to the Planning Department will be copied and submitted to the Design Review Board at their meeting. For additional information, contact the Planning Department at (925) 888-7040.

Kelly Suronen
Assistant Planner
ksuronen@moraga.ca.us

EXHIBIT B

PC RESOLUTION NO. 08-2010

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 <u>Rheem Valley Shopping Center.</u>))))))	Resolution No. 08-2010 PC File No. UP 10-2010 Planning Commission Adoption Date: September 20, 2010 Appealed to Town Council: September 21, 2010
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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

WHEREAS, on August 23, 2010, the Planning Commission continued consideration of the application to September 7, 2010; and

WHEREAS, on September 7, 2010, the Planning Commission held a public meeting where testimony was received from the applicant and interested parties; and

WHEREAS, on September 7, 2010, the Planning Commission continued consideration of the application to September 20, 2010; and

WHEREAS, on September 7, 2010, the Planning Commission appointed a two-person subcommittee to consider possible mitigating conditions of approval; and

WHEREAS, the subcommittee provided staff with draft conditions of approval that were incorporated by staff into the draft resolution; and

WHEREAS, on September 20, 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 and conditions of approval 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 would be located in 3 existing vacant spaces in the Rheem Center, previously occupied by Blockbuster, The Beauty Source and Lori's Perfect Tan. Primary access to the store will be by pedestrians in the shopping center and motor vehicles in the shopping center parking lot. The shopping center has a total of 1,065 parking spaces. 37 parking spaces would be allocated to the Dollar Tree store on a non-exclusive basis (1 space for each 250 square feet of floor area). There would be no change in the total number of required parking spaces from the previous businesses. 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. Testimony provided by residents of the Town and on-site investigations of Dollar Tree stores by Planning Commission members have made it clear that the standard Dollar Tree store tenant improvements, merchandising and store maintenance focus on economic efficiencies, thereby resulting in stores that appear to be worn, cluttered and poorly maintained. Testimony provided by a representative of Dollar Tree confirmed that it is the standard business practice of Dollar Tree to minimize expenditures on tenant improvements, and that Dollar Tree intends to do so at the store to be operated at the Rheem Center in Moraga. The foregoing style of making tenant improvements, merchandising and maintenance is referred to hereinafter as "Efficient Merchandising."

In connection with the Rheem Center, the Town's General Plan calls for "an attractive and functional environment that reflects Moraga's community character." See Section LU3.2(f). The General Plan also calls for the Town to work "closely with local businesses to ensure a positive business environment in keeping with

local needs and priorities.” See Values and Guiding Principles – Guiding Principle 8.

While certain uses in the Rheem Center, notably Tuesday Morning, display certain aspects of Efficient Merchandising, most of the businesses in the Rheem Center, and most of the businesses in Moraga, do not display such aspects. The Planning Commission finds that Efficient Merchandising by a single business tends to have a minor, but real, negative impact on surrounding businesses. If the large store front intended to be leased by Dollar Tree utilizes Efficient Merchandising techniques without mitigation, then such use will have a significant negative impact on the surrounding businesses, both in the Rheem Center and Moraga at large.

As an additional matter, it has been the testimony of many Town residents, with which the Planning Commission agrees, that Dollar Tree’s Efficient Merchandising is not consistent with Moraga’s community character, nor is it in keeping with local needs and priorities. Accordingly, without mitigation, the Planning Commission finds that Dollar Tree’s Efficient Merchandising will make the Dollar Tree store at the Rheem Center inconsistent with neighboring uses.

In light of the foregoing, if the mitigation measures set forth in the resolutions are implemented to reduce the impact of Dollar Tree’s Efficient Merchandising methods, the potential adverse characteristics of the use will 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 because the displays of merchandise and retail sales for the Dollar Tree store will be entirely within the enclosed building. The application does not request any outdoor display of merchandise.
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 the Dollar Tree store intends to install new HVAC equipment to improve the efficiency and reduce operational costs as stated by the applicant at the August 23rd Planning Commission meeting and the new mechanical equipment will not generate noise in excess of the established standard.
6. The use will not create an excessive public economic problem because the Dollar Tree store use will add to the local sales tax revenue and will help contribute to the economic viability of the Rheem Valley Shopping Center through the rental of three existing vacant spaces. The use will also 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. No empirical evidence has been found that links the establishment of discount or bargain stores with changes in residential home values. However, the lack of tax revenue from vacant stores in a community can adversely impact community services and school funding. Good police services and schools both contribute to higher home values.
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 and would not be detrimental to the neighborhood or town.

CONDITIONS OF APPROVAL:

1. The term of this approval is for a period of one year. Within the year, the applicant must establish the use consistent with the requirements of MMC 8.16.020 in accordance with the approved conditions of approval or reapply to the Town of Moraga for a new approval. Once established, the use must be conducted in accordance with the approved conditions of approval or the approval may be subject to revocation by the Town.
2. In the event that any of the conditions of this approval are not satisfied, the Planning Department shall cause a noticed hearing to be set before the authorized agency to determine whether the Town of Moraga should revoke the approval.
3. Nothing in this approval shall authorize the applicant to intensify the authorized activity beyond that specifically describe in the application or included in this approval.
4. The applicant, as a condition of this approval, hereby agrees to defend, indemnify, and hold harmless (including payment of all reasonable legal and expert fees and expenses of the Town of Moraga) the Town, its agents, officers, and employees, from any claim, action, or proceeding against the Town as a result of the action or inaction of the Town, or from any claim to attack, set aside, void, or annul this approval by the Town of the applicant's project; or applicant's failure to comply with conditions of approval. This condition and agreement shall be binding on all successors and assigns.
5. All tenant improvements shall comply with all relevant code requirements. Prior to the issuance of a permit, the Building Department, Fire Department and any other necessary agency shall review the proposed plans to confirm compliance with all relevant codes including but not limited to the California Building Code, Electrical Code, Mechanical Code, Plumbing Code, Fire Code and regulations regarding handicapped access.
6. Any proposed exterior modification to the building shall require consideration and approval by the Design Review Board prior to the modification except for the following:

- a. the installation of mechanical equipment on the roof that is not visible from the public right-of-way and is less than 55 dba at the nearest point in the shopping center that is potentially occupied by people. Prior to the issuance of a permit for the new equipment, the applicant shall provide the Planning Department with documentation demonstrating compliance with the maximum allowable noise standard (55 dba).
7. Prior to occupancy, the applicant shall submit a plan for a comprehensive sign program for the exterior of the building to the Design Review Board for review and approval. The proposed sign program shall be in compliance with the Town of Moraga Municipal Code regarding signage. The following types of signs are prohibited under MMC Sections 8.88.240-A.8 and 8.88.360:
 - a. Signs consisting of moving or rotating parts, flashing lights such as, but not limited to, search or flood lights;
 - b. Signs which are inflatable;
 - c. A sign which is dilapidated, in disrepair or unsightly;
 - d. A sign which is: (1) portable, such as an "A-frame" sign; (2) attached to a fence; (3) painted on or attached to a vehicle which is parked for the purpose of advertising to the passing public; or (4) supported by exposed wires or cables.
 - e. A sign which, because of brilliant lighting, interferes with the comfortable or peaceful enjoyment of adjoining or surrounding property, or because of shape, design, intensity, color or reflected light, conflicts or interferes with traffic or public safety;
8. The hours of operation shall not exceed 9 am to 9 pm Monday through Saturday and 9 am to 8 pm on Sunday. No deliveries shall be permitted between the hours of 7 pm to 7 am daily. All deliveries of merchandise for the store shall be made at the rear of the building so as to not impede the flow of traffic within the shopping center. If it is impossible to make a delivery at the rear of the building, the Planning Director may approve an alternate location at a time that does not adversely impact circulation within the center.
9. All merchandise fixtures and interior finishes shall be of showroom and display quality similar to other retail businesses in the shopping center and the store shall not present the appearance of a warehouse operation. All shelving and casements shall be new or refurbished to be equivalent to new shelving/casements.
10. Any building material used in connection with tenant improvements on the interior of the building that may be visible from the exterior of the building shall be coordinated with the overall color and architectural style of the building so that they complement one another and provide a coherent visual character.
11. Shelving and movable wall partitions within 6-feet of the front windows shall be limited in height to 3-feet and shall not block a significant portion of the front windows. In addition, merchandise shall not be stacked above an opaque

wainscot along the store front windows. The wainscot height shall not exceed 3 feet. Window treatments (if any) shall be designed so the overall color and architectural style of such treatment is complementary with the building and provides a coherent visual character.

12. Window signs, including temporary promotional signs, shall not exceed 20% of the area of the window on which they are placed in accordance with Moraga Municipal Code (MMC) Section 8.88.090. In accordance with Town of Moraga Design Guideline CC3.5, decorative product type signs, such as neon signs, shall be located no closer to an exterior window or open doorway than 6 feet. Exposed neon tubing, whether for signing or decoration, is not considered in good taste and is discouraged under Design Guideline CC3.7.
13. Shelves and display cases shall be limited in height to 6 feet 1 inches. These height limits shall not apply to displays along store side and back walls.
14. All aisles shall be free and clear of merchandise except during times of shelf restocking. Restocking of shelves shall be made in an expeditious manner which will minimize merchandise stored or stacked within store aisles.
15. The exterior of the building shall be monitored by store personnel during hours of operation to keep it free of litter. All storage of materials and sales displays shall be entirely within the building structure.
16. All trash and recycling shall be accommodated at the rear of the building.

PASSED AND ADOPTED by the Planning Commission of the Town of Moraga on September 20, 2010, by the following vote:

Ayes: Driver, Richards, Whitley, Socolich

Noes: Obsitnik

Absent: Levenfeld

Abstain: Wykle

Jim Obsitnik, Chair

ATTEST:

Lori Salamack, Planning Director

EXHIBIT C

DESIGN GUIDELINE ANALYSIS

EXHIBIT C

DESIGN GUIDELINE ANALYSIS FOR THE NEW DOLLAR TREE SIGNS AT 542 CENTER STREET

6 ENHANCE TOWN'S SCENIC CORRIDORS (SC) APPLICABLE TO ALL SCENIC CORRIDOR DEVELOPMENT

The major scenic corridors designated in the General Plan include: Bollinger Canyon Road, Camino Pablo, Canyon Road, Donald Drive (along the ridgeline of Mulholland Hill), Moraga Road, Moraga Way, Rheem Boulevard, and St. Mary's Road. The purpose of these guidelines is to provide further criteria for development that is visible from a major scenic corridor.

Comment: *The proposed signage is within 500-feet of the Moraga Road scenic corridor therefore it is subject to the Town's scenic corridor guidelines. The scenic corridor guidelines that are applicable to signs are discussed below.*

SC14 Signage, bus shelters, monuments and other site elements should be of semi-rural character and be rustic looking, preferably stone. See Appendix C.

Comment: *The existing freestanding sign in the Rheem Valley Shopping Center near Moraga Road is rustic looking with a semi-rural appeal. Aside from the signage, there are no other site elements proposed in the application.*

SC16 Design shall be consistent with the Moraga Municipal Code Section 8.132.

Comment: *The following development guidelines from MMC Section 8.132.050-B are applicable to signs that can be seen from a scenic corridor roadway.*

4. Each structure or feature reviewable under this chapter shall be limited to scale and siting to reduce visual dominance or obstruction of existing landforms, vegetation, water bodies and adjoining structures.

Comment: *The proposed building sign is to be mounted where the former Blockbuster building sign used to be. It will be the same height as the Blockbuster sign (30-inches high) and will not obstruct any landforms or visually dominate the shopping center.*

5. Each structure shall be constructed, painted and maintained and all planted material shall be planted and maintained to complement and enhance scenic views and the natural landscape.

Comment: *Maintenance of the sign would be expected and could be required by the conditions of approval.*

7. Lighting shall be compatible in type, style and intensity to the surrounding elements and not cause undue or aggravating disruption, glare or brightness.

Comment: *The proposed building sign is illuminated and is compatible with the other building signs in the area (i.e. the TJ Maxx and CVS/pharmacy building signs). The lighted Dollar Tree sign is not expected to cause disruption or glare.*

7 MINIMIZE THE IMPACTS OF DEVELOPMENTS (ID)

To the extent possible, development should be concentrated in areas that are least sensitive in terms of environmental and visual resources, including: a) areas of flat or gently sloping topography outside of flood plain or natural drainage areas; b) the Moraga Center and Rheem park area; c) Infill parcels in areas of existing developments.

ID1-7 APPLICABLE TO ALL DEVELOPMENT

- ID6 The level of lighting should not exceed the needs for security and safety or detract from the aesthetics of the development.
- Outdoor lighting should be related to the design of the structure.
 - Outdoor light fixtures should be designed and mounted so that the source of light has minimal impact off site.
 - Outdoor lighting should be directed inward toward the property and may require additional screening to avoid spillage onto adjacent residential properties.

Comment: *The new building sign is illuminated and will match the other building signs in the shopping center. Staff has included a recommended condition of approval that the intensity not exceed five foot-candles measured 10-feet from the sign in accordance with the Sign Ordinance.*

10 PROMOTE COMMERCIAL CENTERS AS COMMUNITY PLACES (CC)

High quality commercial districts should serve as important community focal points, gathering places, and activity centers.

CC3 SIGNS

- CC3.1 All signs should be related to their surroundings in terms of size, shape, color, texture, and lighting so that they are complimentary to the overall design and not in competition with other signs in the area.

Comment: *The new building sign will have illuminated white letters and is to be the same height as the previous Blockbuster sign. The building sign relates to its surroundings and complements the other tenants in the Rheem Shopping Center.*

- CC3.2 Signs should be subtle and unobtrusive, conveying their message in a clear and legible fashion, and should be vandal- and weather-resistant.

Comment: *The proposed building sign will be made out of durable materials and will convey its message clearly and legibly. The sign is to be mounted high enough above the ground to be vandal resistant. The replacement letters on the existing free-standing sign will convey the retail business' name in a clear and legible fashion.*

- CC3.3 External spot or flood sign lighting shall be arranged so that the light source is screened from view, and so that the light is directed against the sign and does not shine onto adjacent property nor into the eyes of motorists or pedestrians.

Comment: *The proposed signage does not feature any external spot or flood lighting.*

- CC3.4 Lighted signs, whether internally or externally illuminated, should be avoided, except where found to be necessary for location or identification, or as otherwise deemed appropriate by these guidelines.

Comment: *The proposed building sign is to be internally illuminated for the sole*

purpose of business identification and recognition.

- CC3.5 Decorative product type signs, such as beer signs and informative type signs used for purposes of interior design only, are termed non-accessory signs. Such signs shall be erected only within the business establishment and shall be located no closer to an exterior window or open doorway than 6-feet.
Comment: *No decorative product type signs are proposed in this application.*
- CC3.6 All lighted accessory signs (primarily business identification signs) whether or not neon, shall be submitted to the Design Review Board for approval and shall be in conformity with any approved sign and design policy for the center, building complex or area.
Comment: *The proposed lighted building sign will be reviewed by the Board. The sign complements the other tenants in the Rheem Shopping Center. (See guideline CC3.11 for more information about the sign and its conformance with the design policy for the Rheem shopping center.)*
- CC3.7 Exposed neon tubing, whether for signing or decoration, is not normally considered in good taste for exterior display and is discouraged.
Comment: *The proposed signage has no exposed neon tubing.*
- CC3.8 Freestanding signs shall be integrated with the site plan and low level floodlights shall be screened.
Comment: *The existing free-standing sign is integrated with the site and contains existing low level floodlights.*
- CC3.9 Struts, braces, kickbacks or guy wires to support signing should be avoided unless they are a feature of the design.
Comment: *There are no proposed struts, braces or guy wires to support the proposed signage.*
- CC3.10 Whenever site and visibility conditions allow, freestanding signs should be of a low profile.
Comment: *The existing freestanding sign is low profile and blends into the surrounding area.*
- CC3.11 Tenant signs within the Rheem Shopping Center shall follow a uniform signing program, in accordance with these standards:
- a. A “major tenant” is defined as an occupant of 10,000 square feet or more. All “major tenant” signs shall be approved by the Design Review Board and shall have the following characteristics:
 - i. The sign shall be constructed with a redwood frame (trim) and with redwood faces front and back. It may be internally illuminated using the tenant’s standard corporate/company logo. The wood trim and rear face shall be stained to match the standard shopping center stain (Olympic stain no. 913). The redwood face containing the sign copy shall be stained to match the

- Olympic stain no. 707.
- ii. No sign shall exceed two hundred square feet in total area.
 - iii. Signs shall normally be affixed below the roof ridgeline and may be attached to the fascia of the building. Specific details of attachment shall be as approved by the Design Review Board.
 - iv. No sign face shall exceed 4 feet, 6 inches in height.
 - v. Signs shall not be illuminated when the tenants are not open for business.
- b. Signing for other than major tenants:
- i. Basic criteria: The tenant identification on the sign board provided below the leading edge of the canopy and visible to the front of the building will utilize individual, raised, non-illuminated, gold-leafed letters (8", Century Schoolbook, medium type) on the first line of copy and white letters (4" Helvetica type) on the second line of copy, if any.
 - ii. Basic size: Thickness - 4 inches; Height -14 inches; Width - 36 inches. Although other shapes may differ from basic dimensions, total area may not exceed five square feet per side.
 - iii. Construction standards:
 - 1) Constructed of laminated, vertical, 2" x 4", clear, kiln-dried redwood.
 - 2) Reinforced with two 3/8" threaded steel rods.
 - 3) 3" outside borders sandblasted.
 - 4) Copy, border bank, logo art, etc. raised with background hand carved out one full inch.
 - 5) Sandblasted borders sealed with clear sealer.
 - 6) Background area sealed with two coats of semi-gloss Varathane.
 - 7) Border band flat white.
 - iv. "Halo-type" lighted gold-leaf signs may be "back-lighted" in accordance with official exhibit approved by the Planning Commission on 4/19/82 and attached to Resolution 49-81. All halo-type signs shall have a front setback of not less than 50 feet and shall be subject to design review by the Design Review Board to assure design compatibility with the use that the sign is identifying as well as neighboring uses.
- c. Accessory and other miscellaneous signs required shall be approved by the Board, consistent with the overall general sign design theme for the center.
- d. Non-conforming signs shall be changed so as to conform as new leases are negotiated and/or tenants replaced.

Comment: *Dollar Tree does not qualify as a major tenant because it has less than 10,000 square feet of floor area (instead, it has 9,088 square feet of floor area). However, the proposed Dollar Tree building sign is similar to the former Blockbuster building sign which occupied a smaller space of 4,090 square feet. Staff believes that even though Dollar Tree is not considered a major tenant, it should receive approval for its proposed building sign since the area for it already exists and complements the other major tenants in the center. Specifications for the major tenant signs were based upon the original sign approved for*

Longs Drug Store (now CVS/pharmacy) on October 26, 1981. The Planning Commission did not want interior illuminated signs where the entire background was illuminated. On October 24, 2005 a new sign was approved for Longs Drug with individual letters that were internally illuminated with light emitting diodes (LED). Since then other building signs like the Longs Drug sign have been approved including ones for T.J. Maxx, Blockbuster, and HomeGoods. Like all the major tenant signs, the Dollar Tree sign does not conform to design guideline CC3.11 which lists the standards taken from the uniform signing program for the Rheem Shopping Center. These old specifications should be amended to conform to the new "standard" for the major tenant signs using individual letters and LED illumination technology. Since the uniform signing program for the Rheem Shopping Center is part of the Design Guidelines, staff believes that the Board has the authority to grant modifications to the graphics program with findings in the same manner as modifications are approved for other design guidelines. Furthermore, section 8.88.320 of the Sign Ordinance states that the Board may modify the standards for "planned signing programs" after making appropriate findings.

EXHIBIT D

DRAFT ACTION MEMORANDUM

DRAFT

Town of Moraga



PLANNING DEPARTMENT
329 RHEEM BOULEVARD
MORAGA, CA 94556
(925) 888-7040

DESIGN REVIEW BOARD DRAFT ACTION MEMORANDUM

On October 12, 2010 the Town of Moraga Design Review Board considered the application described below:

DRB-10-10 United Sign Systems (Applicant), John Welter, Kimco Realty Corporation (Owner) 542 Center Street. Application to install new signage at the Dollar Tree store located at 542 Center Street in the Rheem Valley Shopping Center. The following signage is proposed: one internally illuminated building sign, window signage, a non-illuminated canopy sign, and non-illuminated replacement letters on the existing Rheem Valley Shopping Center freestanding sign (near Moraga Road). The application requires Design Review Board approval because the building sign is illuminated and the signs are located in the Moraga Road scenic corridor. The property is zoned Community Commercial (CC). (APN 255-160-012 and 255-160-041).

DESIGN REVIEW BOARD ACTION:

DESIGN REVIEW BOARD APPROVAL is hereby granted for the proposed Dollar Tree signage at 542 Center Street in the Rheem Valley Shopping Center subject to the findings and conditions listed below:

FINDINGS IN ACCORDANCE WITH MMC SECTION 8.88.280:

The findings listed below are required by Moraga Municipal Code Section 8.88.280 in order to approve an application for sign review:

- 1. The signage has the same character and quality of design as the exterior architecture of the property and area where it is located** *because the building sign will be well-matched with the building signs of the other tenants in the shopping area (i.e. T.J. Maxx, CVS/pharmacy, and HomeGoods) and is to occupy the sign area that the previous tenant, Blockbuster, once held. The conforming signage is also compatible with the building and blends well with the surrounding environment.*
- 2. The location of the signage will not impair the use of the property or conflict with the visibility, location, or arrangement of existing adjacent signs** *because it is*

advertising the name of the new retail business and will not interfere or conflict with other signs in the area. Like the other existing building signs in the center, the new building sign will be unobstructed and highly visible.

CONDITIONS OF APPROVAL:

1. The intensity of the lighted building sign shall not exceed five foot-candles of illumination measured at 10-feet from the face of the sign as required by Moraga Municipal Code Section 8.88.110-B.
2. Installation of the signage shall conform to the Town's Noise Ordinance with the hours of construction limited from 8:00 a.m. to 5:00 p.m. Monday through Friday
3. A permit for construction of the signage must be obtained within one year of the date of approval or the approval becomes null and void. This discretionary action may be renewed by the Planning Director for a maximum period of one year provided the applicant places such a request in writing to the Planning Director showing good cause prior to the expiration of the discretionary action.

Action of the Design Review Board can be appealed to the Planning Commission within ten (10) calendar days after the date of the decision. Questions regarding the action of the Board can be directed to the Planning Department at (925) 888-7040.

EXHIBIT E

APPLICANT'S PLANS