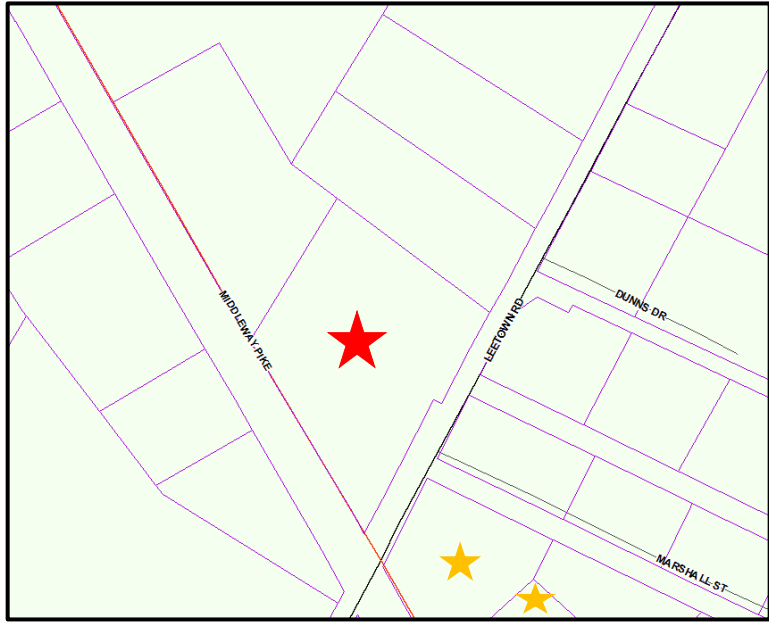


Staff Report
Jefferson County Board of Zoning Appeals Meeting
September 28, 2017

**Dolgencorp, LLC (Dollar General - Middleway)
Conditional Use Permit Request (#CUP17-04)**

Item #5 Request for a Conditional Use Permit to add tobacco, beer, and wine sales to the existing Dollar General Store #16066. The proposed land use is Retail Sales, Limited.

Applicant:	Dolgencorp, LLC
Owner:	SAGA Holdings, LLC
Developer:	N/A
Consultant:	N/A
Property Location:	4735 Middleway Pike, Kearneysville, WV
Legal Description & Zoning District:	<p style="text-align: center;">District: Middleway (07); Map: 19; Parcel: 16.6 Size: 1.59 acres; Zone: Rural</p>  <p>★ These parcels were rezoned to General Commercial in 2017.</p>
Surrounding Properties:	<p style="text-align: center;">Zoning Map Designation:</p> <p style="text-align: center;"><i>North:</i> Rural <i>South:</i> Rural/General Commercial <i>East:</i> Rural <i>West:</i> Rural</p>
Approved Use:	Condition Use Permit #CP14-02 was issued on March 25, 2015 to operate a 9,100 square foot retail store, to include public restrooms, merchandise storage, storefront and pole signage, and an asphalt parking lot that will accommodate the required 40 parking spaces, plus drive aisles.
Waivers/Variances:	On March 26, 2015 the BZA approved a reduction in parking spaces from 40 to 30 spaces (#ZV15-06); and, to allow freestanding sign, to be located less than the required 1000' from the existing signs along Middleway Pk (#ZV15-07).

Staff Report
Jefferson County Board of Zoning Appeals Meeting
September 28, 2017

**Dolgencorp, LLC (Dollar General - Middleway)
Conditional Use Permit Request (#CUP17-04)**

Summary of Request and Purpose of Ordinance Requirements

The applicant is requesting a Conditional Use Permit for the land use “Retail Sales, Limited” for the purpose of adding tobacco, beer, and wine sales to the existing Dollar General store.

The existing Dollar General store (#16066) was approved as a Conditional Use on March 25, 2015. The initial request did not include the sale of alcohol in their proposal and now the applicant is requesting to add the sale of tobacco, beer, and wine to their approval.

Property Description

The subject parcel is located at the intersection of Middleway Pike and Leetown Road in a location supporting a combination of commercial and residential uses.

Impact on adjacent properties

A Dollar General store already exists on site; therefore, the addition of the sale of tobacco, beer, and wine would likely have minimal impact on adjacent properties.

Conditional Use Permit Process

On March 16, 2017 the County Commission adopted a text amendment which eliminated the LESA/ CUP process and replaced with a new CUP Process which requires a public hearing before the Board of Zoning Appeals. Below are the general standards from Section 6.3 of the Zoning Ordinance which the BZA shall consider when reviewing a CUP Application.

“The Board of Zoning Appeals shall have the authority over the issuance or denial of a conditional use permit for uses listed as “Conditional Uses (CU)” in each zoning district. The Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed conditional use permit:”

The following General Standards shall be considered in approving or denying the CUP:

1. The proposed use is compatible with the goals of the adopted Comprehensive Plan.

The applicant has addressed this criteria in their application.

The referenced parcel is shown as future mixed use residential/commercial on the Envision Jefferson 2035 Comprehensive Plan’s Future Land Use Guide and is located within the County’s Preferred Growth Area. Staff concurs that the proposed use is compatible with the goals of the adopted Comprehensive Plan.

2. The proposed use is compatible in intensity and scale with the existing and potential land uses on the adjoining and confronting properties, and poses no threat to public health, safety and welfare.

The applicant has addressed this criteria in their application.

A previous Conditional Use Permit was issued on March 25, 2015 to allow a Dollar General store to operate at the referenced location. The Dollar General store, which received site plan approval in November 2015, has been constructed and is currently operating. The current request is to include the sale of tobacco, beer, and wine as part of their inventory and merchandising; therefore, it appears that the proposed use is compatible in intensity and scale with the existing and potential land uses on the adjoining and confronting properties, and does not appear to pose any threat to public health, safety, and welfare.

Staff Report
Jefferson County Board of Zoning Appeals Meeting
September 28, 2017

**Dolgencorp, LLC (Dollar General - Middleway)
Conditional Use Permit Request (#CUP17-04)**

- 3. The proposed site development shall be such that the use will not hinder nor discourage the appropriate development and use of adjacent land and buildings.**

The applicant has addressed this criteria in their application.

All site development was completed under the previously approved Conditional Use Permit (CU14-02). There is no site development proposed as part of the current request.

- 4. Neighborhood character and surrounding property values shall be safeguarded by requiring implementation of the landscaping buffer requirements found in Appendix B and Section 4.11 of this Ordinance.**

As noted above, there is no site development proposed; therefore, no landscaping or buffering will be required as part of this request.

- 5. Commercial and Industrial Uses shall be in conformance with Section 8.9 of this Ordinance.**

As part of the Conditional Use Permit application, the applicant was informed of this criteria and shall comply with this standard.



JEFFERSON COUNTY, WEST VIRGINIA
Department of Engineering, Planning and Zoning
Office of Planning and Zoning
116 East Washington Street, 2nd Floor
P.O. Box 716
Charles Town, West Virginia 25414

File #: CUP 17-04
Mtg. Date: 09/28/17
Fee Paid: \$
Staff Int.: CTC

Email: zoning@jeffersoncountywv.org

Phone: (304) 728-3228
Fax: (304) 728-8126

Application for a Conditional Use Permit

Conditional Use Permit process is outlined in Article 6 of the Zoning Ordinance

Project Name

Dollar General Store #16066

Property Owner Information

Name: SAGA Holdings, LLC c/o Anil Suwal
Business Name:
Mailing Address: 203 Fairfield Dr., Winchester, VA 22602 Mail ☐ Yes
Phone Number: 540-352-3159 Email Response: anilsuwal@gmail.com Response: ☐ No

Applicant Information

Name: Dolgencorp, LLC
Business Name: Dollar General Store #16066
Mailing Address: 100 Mission Ridge, Attn: Tax Dept. Goodlettsville, TN Mail ☐ Yes
Phone Number: 615-855-4000 Email Response: 37072 Response: ☐ No
Tax-beerandwinelicense
@dollargeneral.com

Engineer(s), Surveyor(s), or Consultant(s) Information

Name:
Business Name:
Mailing Address:
Phone Number: Email Response: N/A **RECEIVED**
AUG 29 2017 Mail ☐ Yes
Response: ☐ No

Physical Property Details

Physical Address: 4735 Middleway Pike, Kearneysville, WV 25430
Tax District: Map No: Parcel No:
Parcel Size: Deed Book: Page No:

Zoning District (please check one)

Residential Growth (RG) <input type="checkbox"/>	Industrial Commercial (I-C) <input type="checkbox"/>	Rural* (R) <input checked="" type="checkbox"/>	Residential-Light Industrial-Commercial (R-LI-C) <input type="checkbox"/>	Village (V) <input type="checkbox"/>	Neighborhood Commercial (NC) <input type="checkbox"/>
General Commercial (GC) <input type="checkbox"/>	Highway Commercial (HC) <input type="checkbox"/>	Light Industrial (LI) <input type="checkbox"/>	Major Industrial (MI) <input type="checkbox"/>	Planned Neighborhood Development (PND) <input type="checkbox"/>	Office/Commercial Mixed-Use (OC) <input type="checkbox"/>

* For properties in the Rural Zoning District:

Is property located on a primary or secondary road?

☒ Yes ☐ No

Name of Road and/or Route Number:

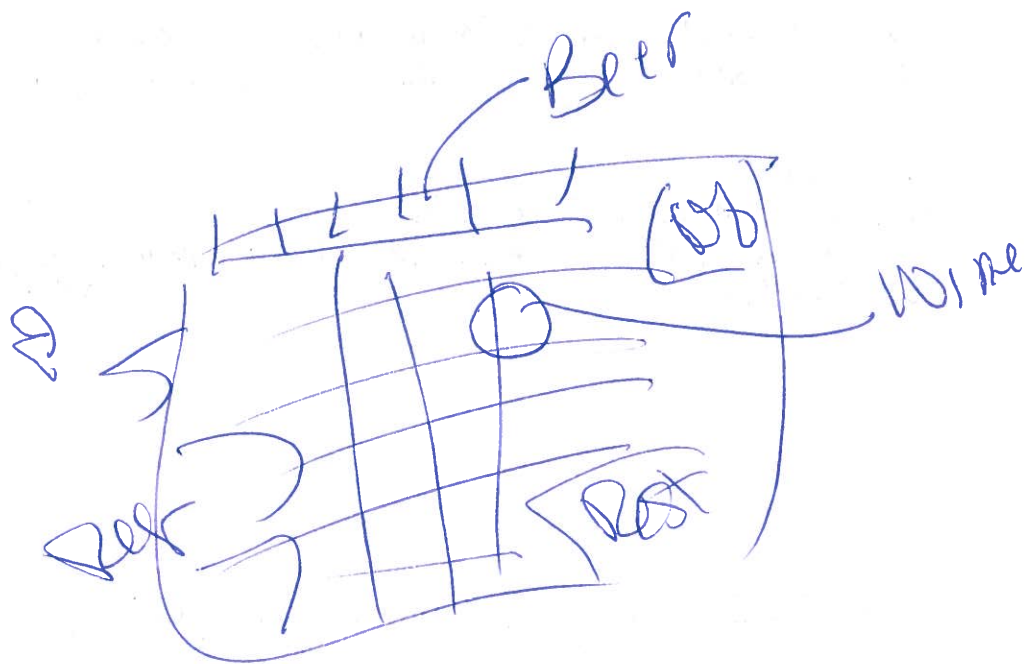
Route 51 in Middleway

Find out exactly how much B/W-
and where -

Trish Keenan - (Spec/Store Planning)

Ken Harper - Merch

email them that you have cop



Sketch Plan (see cover sheet for description)

☒ Attached

A list of all adjacent and confronting property owners (see cover sheet for description)

☒ Attached

Please provide any information or known history regarding this property.

Plot of land owned by CD DG Middleway, LLC
and rented by Dolgencorp, LLC

Please respond (in detail) to the following statements located in Section 6.3 of the Zoning Ordinance:

1. The proposed use is compatible with the goals of the adopted Comprehensive Plan. *Section 6.3A.1*

Yes - General Retail Merchandise with tobacco
and beer & wine sales. - boost economy.

2. The proposed use is compatible in intensity and scale with the existing and potential land uses on the adjoining and confronting properties, and poses no threat to public health, safety, and welfare. *Section 6.3A.2*

Existing building w/ general retail merchandise
Dolgencorp LLC is only adding new product of
8 linear feet of assorted Beer & Wine

3. The proposed site development shall be such that the use will not hinder nor discourage the appropriate development and use of adjacent land and buildings. *Section 6.3A.3*

Existing Building - on a parcel of land
that adheres to all Jefferson County guidelines.

4. Neighborhood character and surrounding property values shall be safeguarded by requiring implementation of the landscaping buffer requirements found in Appendix B and Section 4.11 of this Ordinance. *Section 6.3A.4*

☒ I am aware of the landscaping buffer requirements and will adhere to them.

☐ I am aware of the landscaping buffer requirements; however, I may be seeking a variance to modify them.

5. For properties in the Rural zoning district, roadway adequacy shall be assessed by the Comprehensive Plan's Highway Road Classification Map. If a rural parcel is not shown as commercial on the Future Land Use Guide or does not front on a Principal Arterial, Minor Arterial, or Major Collector road (as identified in the Comprehensive Plan), the applicant shall submit trip generation data, including Average Daily and Peak Hour trips, for the Board of Zoning Appeals to review in conjunction with the Highway Problem Areas Map when determining roadway adequacy for the proposed use. *Section 6.3A.6*

☐ Applicable (Trip Generation Data attached)

Landlord needs to be sent
via FedEx with Return label

☒ Not Applicable

The information given is correct to the best of my knowledge. **Original Signature Required.**


Property Owner

7/27/17
Date


Property Owner

7/27/17
Date

on behalf of Dolgencorp LLC



JEFFERSON COUNTY, WEST VIRGINIA
DEPARTMENTS OF PLANNING AND ZONING

CONDITIONAL USE PERMIT

**DOLLAR GENERAL - MIDDLEWAY WV
FILE #CP14-02**

This is to certify that effective March 26, 2015, the property described below has been granted a Conditional Use Permit.

Project Name: Dollar General – Middleway WV

Owner: Wilbur A. Alger Jr.
Business Address: P.O. Box 445, Bunker Hill WV 25413
Telephone Number: 304-264-6633

Developer: Cross Development, LLC
Business Address: 17430 Campbell Road, Suite 225, Dallas, TX 75252
Telephone Number: 765-215-1444

Property Location: Northwest corner of Leetown Road (Route 1) and
Middleway Pike (Route 51), Kearneysville, WV

Tax Reference: District: Middleway (07); Map: 19A; Parcel: 16.6

Deed Reference: Book: 1163; Page: 299

Zoning District: Rural

Parcel Size: 1.59 acres

Approved Use: A 9,100 square foot retail store, to include public restrooms, merchandise storage, storefront and pole signage and an asphalt parking lot that will accommodate the required 40 parking spaces, plus drive aisles.

On March 26, 2015 the Board approved a variance request to reduce the required number of parking spaces from 40 to 30 spaces (ZV15-06); and, to permit a freestanding sign to be located less than the required 1000' from the existing signs along Route 51 (ZV15-07).

The developer agreed to the following conditions at the Compatibility Assessment Meeting that was held on January 9, 2015.

1. Adhere to all Jefferson County Stormwater Management standards, which will not permit the rate of runoff to increase.
2. Prepare a photometric drawing as a part of the site plan including specifications for full cut-off lighting; statements documenting that the exterior parking lot lights are turned off

one hour after closing (approximately 10:00 p.m.), while the security lights surrounding the building would remain on; consider placement of street trees in a manner which would take in to consideration the possibility of screening any lighting.

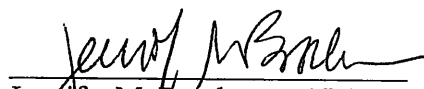
3. Utilize on-site well and septic systems.
4. If the well construction impacts neighboring wells in any way, the applicant shall work with the neighbors to mitigate the issue.
5. Conform with the West Virginia Board of Health requirements regarding the spacing between all wells and their septic system prior to Site Plan approval.
6. Pursue the option of using Shepherd students for a "salvage assessment" prior to soil disturbance.
7. Conform with the requirements of the local fire department and the state fire marshal regarding whether sprinklers are be required.
8. Pursue the option of installing a dry hydrant on site with the local fire company.

Pursuant to Article 7.6F of the Jefferson County Zoning and Land Development Ordinance the Board of Zoning Appeals, at its regularly scheduled meeting on January 22, 2015, imposed the following conditions as found in the approved Findings of Fact and Conclusions of Law signed February 26, 2015 (attached):

- a. The applicant is bound by his testimony.
- b. The applicant is bound by the resolved issues from the Compatibility Assessment Meeting.
- c. The applicant will consider the feasibility of a second entrance onto Leetown Road.
- d. The applicant will offer adjacent property owners a water quality well test to establish a baseline, and if the construction should negatively impact the adjoining wells the applicant will attempt to mitigate such problems.

In the event that construction has not commenced by September 26, 2016, eighteen months from date of signature, said permission will expire unless an extension is granted. Extensions must be formally requested of the Jefferson County Department of Zoning, for consideration by the Board of Zoning Appeals, prior to the expiration date. (See Jefferson County Zoning and Land Development Ordinance, revised January 1, 2015, Article 3, Section 3.2G.

This Permit in no way relieves the Owner/Developer from any requirements of the Jefferson County Ordinances unless the relevant waivers/variances are granted by the appropriate County authority.


Jennifer M. Brockman, AICP
Acting Zoning Administrator
Director of Planning and Zoning

March 26, 2015
Date



Section 6.2 Variances³²

The Board of Zoning Appeals shall consider requests for variances from the terms of the Ordinance.²³

- A. The Board shall approve a variance request if the Board finds that a variance:
 - 1. Will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents;
 - 2. Arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance;
 - 3. Would eliminate an unnecessary hardship and permit a reasonable use of the land; and
 - 4. Will allow the intent of the Zoning and Land Development Ordinance to be observed and substantial justice done.^{17, 21}
- B. The owner or authorized representative of the owner of the property which is the subject of a variance request shall complete and sign forms provided for this purpose by the Board, and shall pay the associated fees. The variance request shall be filed with the Board in the Office of Planning and Zoning.
- C. Notification for a variance must be conducted according to the requirements of Section 6.1B.
- D. A public hearing must be conducted according to the requirements of Section 6.1C and such hearing may be continued according to the requirements of Section 6.1D.

Section 6.3 Conditional Use Permit³²

The Board of Zoning Appeals shall have the authority over the issuance or denial of a conditional use permit for uses listed as “Conditional Uses (CU)” in each zoning district. The Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed conditional use permit.^{2, 32}

- A. The Board shall consider each Conditional Use Permit request that is filed in accordance with this Ordinance and the procedural requirements of the Board of Zoning Appeals. The Board may require reasonable conditions or special requirements which allows for the proper integration of the proposed uses into the community and are directly related to and incidental to the proposed conditional use permit. The following General Standards shall be considered in approving or denying the CUP:
 - 1. The proposed use is compatible with the goals of the adopted Comprehensive Plan.
 - 2. The proposed use is compatible in intensity and scale with the existing and potential land uses on the adjoining and confronting properties, and poses no threat to public health, safety and welfare.
 - 3. The proposed site development shall be such that the use will not hinder nor discourage the appropriate development and use of adjacent land and buildings.
 - 4. Neighborhood character and surrounding property values shall be safeguarded by requiring implementation of the landscaping buffer requirements found in Appendix B and Section 4.11 of this Ordinance.
 - 5. Commercial and Industrial Uses shall be in conformance with Section 8.9 of this Ordinance.
 - 6. For properties in the Rural zoning district, roadway adequacy shall be assessed by the Comprehensive Plan’s Highway Road Classification Map. If a rural parcel is not shown as commercial on the Future Land Use Guide or does not front on a Principal Arterial,

Minor Arterial, or Major Collector road (as identified in the Comprehensive Plan), the applicant shall submit trip generation data, including Average Daily and Peak Hour trips, for the BZA to review in conjunction with the Highway Problem Areas Map when determining roadway adequacy for the proposed use.

- B. The owner or authorized representative of the owner of the property for which the Conditional Use Permit is being requested shall complete and sign forms provided for this purpose by the Board, and shall pay the associated fees. The Conditional Use Permit request shall be filed with the Board at the Office of Planning and Zoning.
- C. Staff will notify the adjacent and confronting property owners of the date, time, and location of the Public Hearing by registered mail. Notification for a Conditional Use Permit must be conducted according to the requirements of Section 6.1B.
- D. A public hearing must be conducted according to the requirements of Section 6.1C and such hearing may be continued according to the requirements of Section 6.1D.
- E. If there are no negative public comments received by the Board, the Board shall issue the Conditional Use Permit but may require reasonable conditions.

Section 6.4 Seasonal Uses^{5, 7, 32}

Seasonal uses must be approved by the Board of Zoning Appeals pursuant to a public hearing according to the requirements of Section 6.1C. Newspaper notification requirements of Section 6.1B apply. Seasonal uses cannot be approved for longer than one year at a time.^{17, 21, 23}

Section 6.5 Special Exception Uses^{26, 32}

- A. Special Exception uses listed in this section may be approved by the Board of Zoning Appeals following a public hearing.
 - 1. The public hearing shall be conducted according to the requirements of Section 6.1C.
 - 2. Such hearing may be continued according to the requirements of Section 6.1D.
 - 3. The public hearing is subject to the notification requirements of Section 6.1B.
- B. The following uses may be approved as a Special Exception:
 - 1. Outdoor advertising signs including billboards. The Board of Zoning Appeals shall determine if such a sign conforms to existing State law and does not have a negative effect on the neighborhood or intent of this Ordinance.^{17, 21}

Middleway, WV Dollar General – Jefferson County Conditional Use Permit – Adjoining
Property Owners

Applicant: Josh Allen – Cross Development, LLC

List of Adjoining Property Owners:

Parcel ID	Name	Address
	John D McKee 244 Tel Farm Ln. Kearneysville, WV 25430	
	Middle-of-the-Way Real Estate LTD PO Box 445 Bunker Hill, WV 25413	
Across Leetown Rd.		
	Larry R. & Judy C. Weatherholtz 7872 Leetown Rd. Kearneysville, WV 25430	
	Lee S II & Melissa A. Mackey 11 Marshall St. Kearneysville, WV 25430	
	Jefferson Reality, LLC 62 Orchard Drive Ranson, WV 25438	
1. 19A00130000000	Toronta P Goodman & Robert W. White PA – Property Sold 11/03/14	PO Box 1325 Winchester,

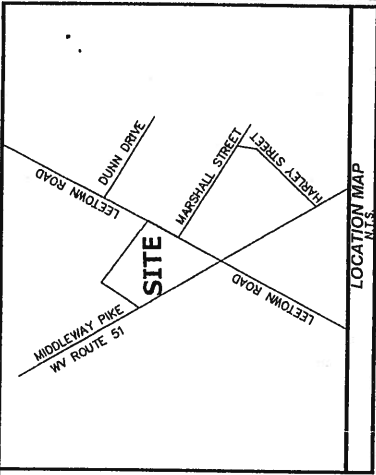
Across Middleway Pike

Juanita E White
4650 Middleway Pike
Kearneysville, WV 25430

Maurice M & Crystal T. Cato
222 Harry Shirley Rd.
Kearneysville, WV 25430

Patrick D Riley & Susan L Williams
8713 Leetown Rd.
Kearneysville, WV 25430

Franklin D & Janet G Harding
4995 Middleway Pike
Kearneysville, WV 25430

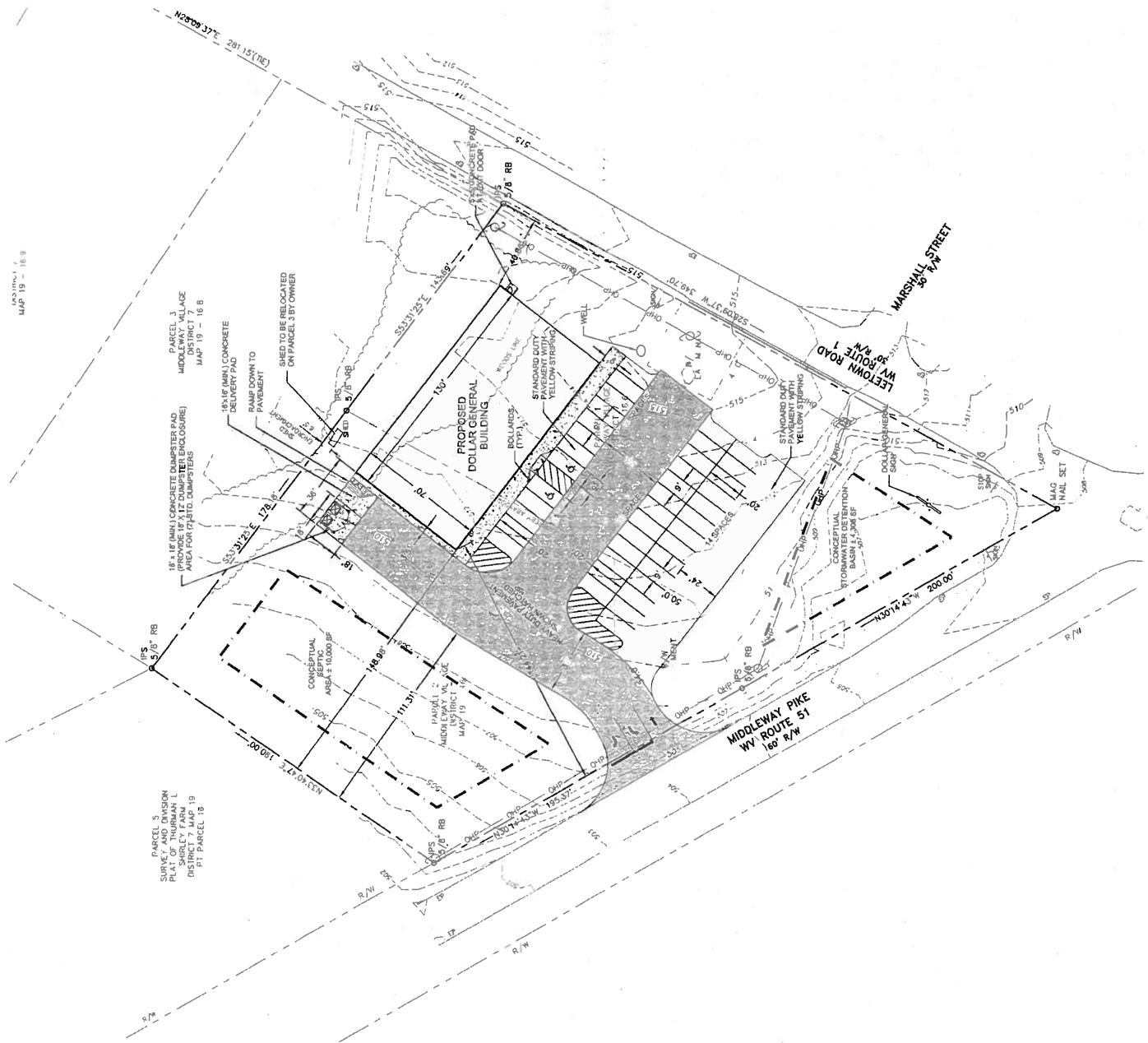


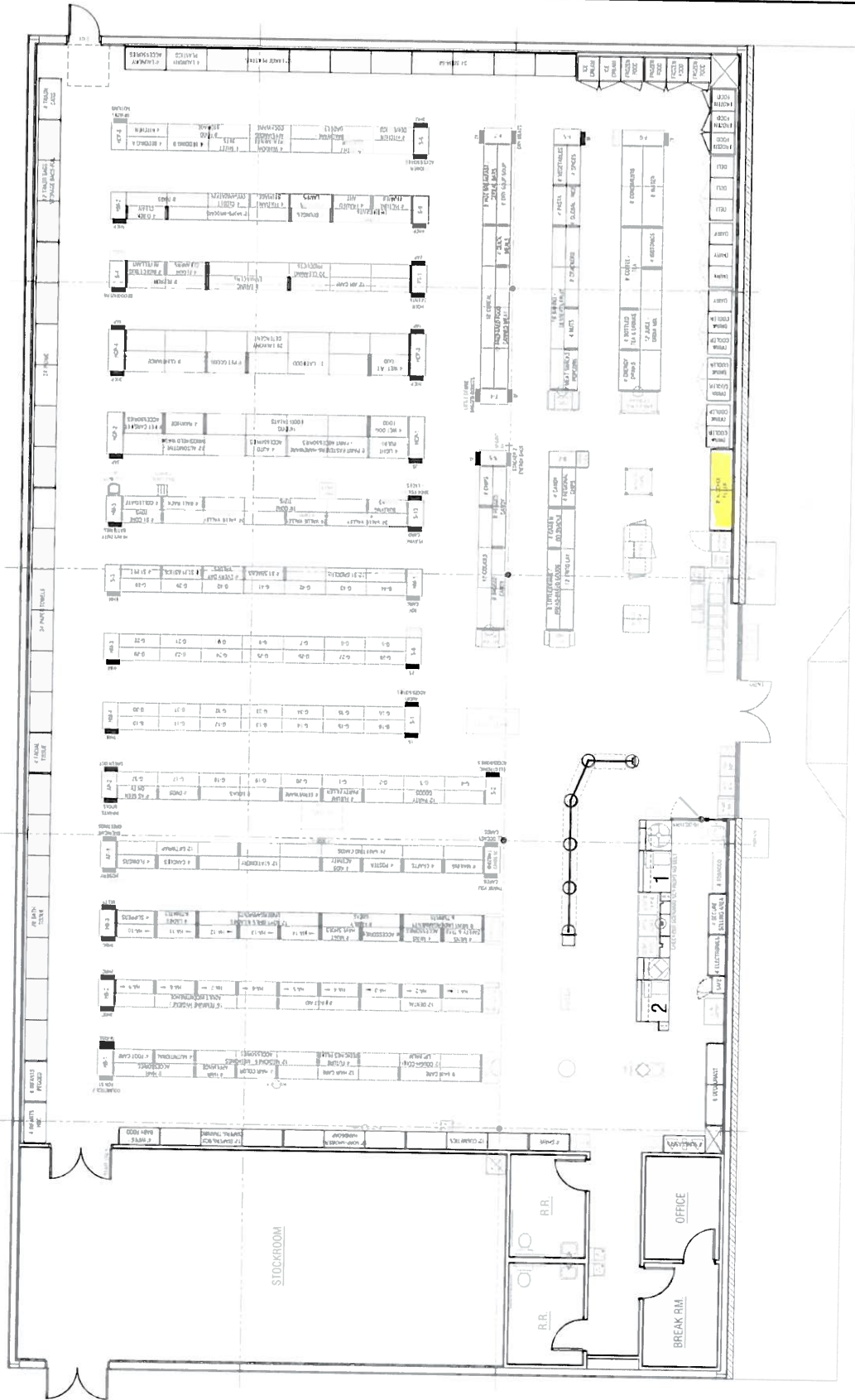
DEVELOPMENT INFORMATION:

DEVELOPER:	CHOW DEVELOPMENT LLC 1100 CAMPBELL ROAD, SUITE 205 COLLIER, FL 32201
ENGINEER:	P.O. BOX 100, GORDONVILLE, SC 29026 P.O. BOX 100, GORDONVILLE, SC 29026 P.O. BOX 100, GORDONVILLE, SC 29026
TAX PARCEL 4:	PARCEL 1: 100.00 ACRES (100.00 ACRES) PARCEL 2: 100.00 ACRES (100.00 ACRES) PARCEL 3: 100.00 ACRES (100.00 ACRES) PARCEL 4: 100.00 ACRES (100.00 ACRES)
LOT SIZE:	12.85 ACRES (COMBINED)
ZONING INFORMATION:	RURAL / COMMERCIAL
PARKING SUMMARY:	REGULAR SPACES: 15 HANDICAPPED SPACES: 3 TOTAL: 18 PROVIDED MINIMUM PARKING STANDARD IS 3 SPACES PER 1,000 SF RETAIL 15 SPACES + 3 SPACES = 18 REQUIRED

LEGEND

ADJOURNER	ADJOURNER
SETBACK LINE	SETBACK LINE
RIGHT OF WAY	RIGHT OF WAY
H.O. PAVEMENT	H.O. PAVEMENT
EXISTING CONCRETE	EXISTING CONCRETE
NEW CONCRETE	NEW CONCRETE
EXISTING CONTOUR LINE	EXISTING CONTOUR LINE
EXISTING POWER POLE, OVERHEAD ELECTRIC LINE AND GUY WIRE	EXISTING POWER POLE, OVERHEAD ELECTRIC LINE AND GUY WIRE
FENCE LINE (WOOD OR CHAINLINK)	FENCE LINE (WOOD OR CHAINLINK)
EXISTING SINKER MAN AND MANHOLE	EXISTING SINKER MAN AND MANHOLE
EXISTING WATER MAIN WITH VALVE	EXISTING WATER MAIN WITH VALVE
EXISTING GAS MAIN	EXISTING GAS MAIN
EXISTING TELEPHONE LINE	EXISTING TELEPHONE LINE
EXISTING TREES	EXISTING TREES
FLOOD ZONE	FLOOD ZONE
PROPERTY LINE & IRON PIN FOUND OR SET	PROPERTY LINE & IRON PIN FOUND OR SET





FRAME AND HANG ON OFFICE WALL

DOLLAR GENERAL

PRELIMINARY

Date: 5/11/11

(1)

(2)

DRAWING HISTORY
DATE 01/08/16 BY SEH

DATE	BY
[1] 01 3 16	SEH
[2]	
[3]	
[4]	
[5]	
[6]	
[7]	
[8]	
[9]	

NEW	BTS-C
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Standard Type	DG16-7	STANDARD
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02/15/16	7,368
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9 221

OPEN

11-0	176
ASCOM 15	

NAME NUMBER	16066	\$2,060,000
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735 MIDDLEWAY PIKE

25430	W	25430
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(615) 855-4192

DOLLAR GENERAL

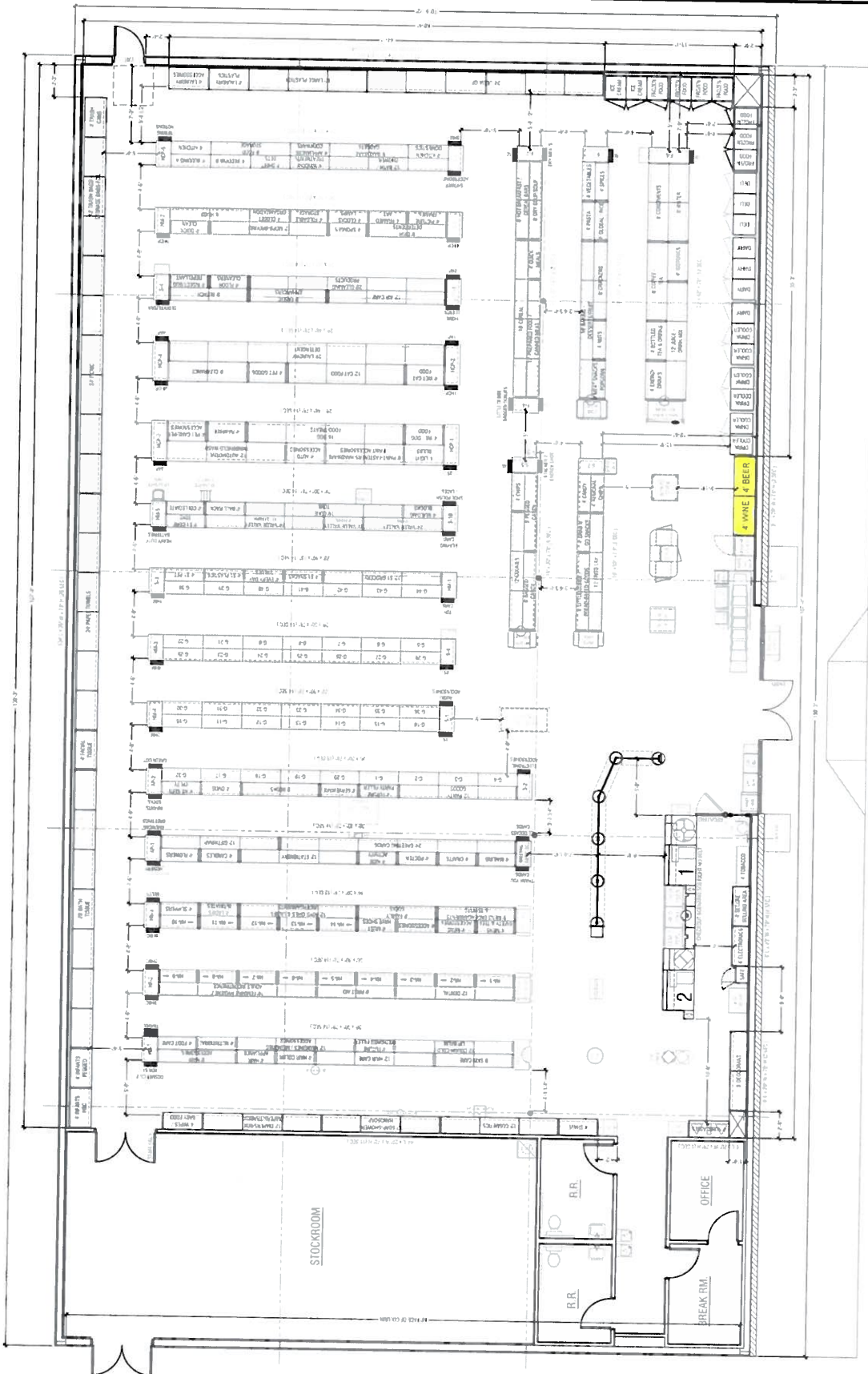
DATE: 01/08/16
 PRELIMINARY: BY: SEH
 [1] [2]

DRAWING HISTORY
 DATE: 01/08/16 BY: SEH
 [1] [2] [3] [4] [5] [6] [7] [8] [9]

PROJECT TYPE: NEW
 PLAN TYPE: BTS-C
 LAYOUT TYPE: DG16-7
 SOURCE: STANDARD
 DATE: 02/15/16
 SALES FLOOR SQ FT: 7,368
 TOTAL SQ FT: 9,221
 CEILING HEIGHT: 11'-0"
 LIGHT HEIGHT: 176
 SEASONAL: \$2,060,000
 SALE: 16066

ADDRESS: 4735 MIDDLEWAY PIKE
 CITY: KEARNEYSVILLE
 STATE: WV
 ZIP: 25430

STORE PLANNING HOTLINE
 (615) 855-4192



This is a detailed architectural floor plan of a large building, likely a school or institutional facility. The plan is oriented with the main entrance at the top. The layout includes a large central hall (labeled 'STOCKROOM' at the bottom) and numerous smaller rooms, corridors, and service areas. Key areas include:

- Top Section:** A large hall with a 'STOCKROOM' label at the bottom. This area contains many small rooms, each labeled with a number and a description (e.g., '1. 1000', '2. 1000', '3. 1000').
- Right Side:** A long corridor with a series of rooms, including a 'KITCHEN' and a 'RESTROOM'.
- Bottom Section:** A large hall with a 'STOCKROOM' label at the bottom. This area contains many small rooms, each labeled with a number and a description (e.g., '1. 1000', '2. 1000', '3. 1000').
- Central Corridor:** A long corridor running through the center of the building, with various rooms and service areas branching off.
- Service Areas:** A 'KITCHEN' and a 'RESTROOM' are located on the right side. A 'STOCKROOM' is located at the bottom.
- Dimensions:** The plan is annotated with numerous dimensions, including room sizes and overall building dimensions.
- Labels:** Various labels are used throughout the plan to identify specific rooms and areas, such as 'STOCKROOM', 'KITCHEN', 'RESTROOM', and 'STOCKROOM'.