

*Public Hearing in re: Montgomery County IDA -
DG Distribution Northeast, LLC*

February 6, 2023



M-F Reporting, Inc.



5 Southside Drive
Suite 11
Clifton Park, NY 12065
518-478-7220

info@mfreportingny.com
www.mfreportingny.com

STATE OF NEW YORK

COUNTY OF MONTGOMERY

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MONTGOMERY COUNTY INDUSTRIAL DEVELOPMENT AGENCY

DG DISTRIBUTION NORTHEAST, LLC d/b/a DOLLAR GENERAL

CORPORATION

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HELD AT: Florida Town Justice Court
Florida, New York
February 6, 2023
Start time: 1:00 p.m.

PUBLIC HEARING PURSUANT TO SECTION 859-a OF
THE GENERAL MUNICIPAL LAW.

APPEARANCES:

MONTGOMERY COUNTY INDUSTRIAL DEVELOPMENT AGENCY
9 Park Street
Fonda, New York 12068

BY: KENNETH ROSE, Chief Executive Officer
518-853-8334

krose@co.montgomery.ny.us.

VINCENZO NICOSIA, Director of Program
Development.

vnicosia2@co.montgomery.ny.us.

ALSO PRESENT: Carol & Chuck Henderson

Jaclyn Bellino-Conte,
Court Reporter.

NOTICE OF PUBLIC HEARING
ON PROPOSED PROJECT
AND FINANCIAL ASSISTANCE
RELATING THERETO

Notice is hereby given that a public hearing pursuant to Section 859-a(2) of the General Municipal Law of the State of New York (the "Act") will be held by the Montgomery County Industrial Development Agency (the "Agency") on the 6th day of February, 2023 at 1:00 o'clock p.m., local time, at the Florida Town Justice Court located at 214 Fort Hunter Road, in the Town of Florida, Montgomery County, New York in connection with the following matters:

DG Distribution Northeast, LLC, d/b/a Dollar General Corporation, a limited-liability company organized and existing under the laws of the State of Tennessee (the "Company"), submitted an application (the "Application") to the Agency, a copy of which Application is on file at the office of the Agency, which Application requested that the Agency consider undertaking a project (the "Project") for the benefit of the Company, said Project consisting of the following: (A) (1) the acquisition of an interest in an approximately 21 acre portion of a 54.4 acre parcel of land located at NYS Route 5S (Tax Map No. 54.-2-2.31), in the Town of Florida, Montgomery County, New York (the "Land"), (2) the construction of an approximately +/- 150,000 square foot facility on the Land (the "Facility"), and (3) the acquisition and installation of certain machinery and equipment therein and thereon (the "Equipment") (the Land, the Facility and the Equipment hereinafter collectively referred to as the "Project Facility"), all of the foregoing to be owned and operated by the Company and used as a perishable goods warehousing and distribution space for the Company's operations and any other directly or indirectly related activities; (B) the granting of certain "financial assistance" (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain sales and use taxes and real property taxes (collectively, the "Financial Assistance"); and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency.

The Agency is considering whether (A) to undertake the Project, and (B) to provide certain exemptions from taxation with respect to the Project, including (1) exemption from mortgage recording taxes with respect to any documents, if any, recorded by the Agency with respect to the Project in the office of the County Clerk of Montgomery County, New York or elsewhere, (2) exemption from deed transfer taxes on any real estate transfers, if any, with respect to the Project, (3) exemption from sales taxes relating to the acquisition, construction, renovation and installation of the Project Facility, and (4) in the event that the Project Facility would be subject to real property taxation if owned by the Company but shall be deemed exempt from real property taxation due to the involvement of the Agency therewith, exemption from real property taxes (but not including special assessments and special ad valorem levies), if any, with respect to the Project Facility, subject to the obligation of the Company to make payments in lieu of taxes with respect to the Project Facility. If any portion of the Financial Assistance to be granted by the Agency with respect to the Project is not consistent with the Agency's uniform tax exemption policy, the Agency will follow the procedures for deviation from such policy set forth in Section 874(4) of the Act prior to granting such portion of the Financial Assistance.

If the Agency determines to proceed with the Project, the Project Facility will be acquired, constructed, reconstructed and installed by the Agency and will be leased (with an obligation to purchase) or sold by the Agency to the Company or its designee pursuant to a project agreement (the "Agreement") requiring that the Company or its designee make certain payments to the Agency.

The Agency has not yet made a determination pursuant to Article 8 of the Environmental Conservation Law (the "SEQR Act") regarding the potential environmental impact of the Project.

The Agency will at said time and place hear all persons with views on either the location and nature of the proposed Project, or the Financial Assistance being contemplated by the Agency in connection with the proposed Project. A copy of the Application filed by the Company with the Agency with respect to the Project, including an analysis of the costs and benefits of the Project, is available for public inspection during business hours at the offices of the Agency. A transcript or summary report of the hearing will be made available to the members of the Agency.

Additional information can be obtained from, and written comments may be addressed to: Kenneth F. Rose, Chief Executive Officer, Montgomery County Industrial Development Agency, Old County Courthouse, 9 Park Street, Fonda, New York 12068; Telephone: (518) 853-8334.

Dated: January ____, 2023.

MONTGOMERY COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

BY: _____
Kenneth F. Rose, Chief Executive Officer

1 MR. ROSE: All right. Good afternoon.
2 My name is Kenneth Rose. I'm the chief executive
3 officer of the Montgomery County Industrial
4 Development Agency, in connection with the project
5 which is the subject of this Public Hearing.

6 Today we are holding this Public Hearing
7 to allow citizens to make a statement, for the
8 record, relating to the involvement of the Agency
9 with the project for the benefit of DG
10 Distribution Northeast, LLC, d/b/a Dollar General,
11 a limited liability company organized and existing
12 under the laws of the State of Tennessee.

13 The Proposed Project consists of the
14 following: The acquisition of an interest in an
15 approximately 21 acre portion of a 54.4 acre
16 parcel of land located in New York State 5S, in
17 the Town of Florida of Montgomery County, New
18 York; the construction of approximately 150,000
19 square foot facility on the Land and the
20 acquisition and installation of certain machinery
21 and equipment therein and thereon; all of the
22 foregoing to be owned and operated by the Company
23 and used as a perishable goods warehousing and
24 distribution space for the Company's operation and
25 any other directly or indirectly-related

1 activities; the granting of certain financial
2 assistance within the meaning of Section 854(14)
3 of the Act; and, C, the lease with an obligation
4 to purchase or sale of the Project Facility for
5 the Company or such other person that may be
6 designated by the Company and agreed upon by the
7 Agency. The Land is currently owned by the Agency
8 and proposed to be sold.

9 The provisions of Chapter -- Legal
10 Authorization and Powers of the Agency: The
11 provisions of Chapter 1030 of Laws of 1969 of New
12 York, constituting Title 1 of Article 18-A of the
13 General Municipal Law, Chapter 24 of the
14 Consolidated Laws of New York, as amended, and
15 Chapter 666 of the 1970 Laws of New York, as
16 amended, constituting Section 895-d of said
17 General Municipal Law, authorize the Agency to
18 promote, develop, encourage and assist in the
19 acquiring, constructing, reconstructing,
20 improving, maintaining and equipping and
21 furnishing of manufacturing, warehousing,
22 research, commercial and industrial facilities,
23 among others.

24 Purpose of this Public Hearing:
25 Pursuant to Section 859-a2 of the Act, prior to

1 the Agency providing any financial assistance of
2 more than \$100,000 to any project, the Agency,
3 among other things, must hold a public hearing
4 pursuant to Section 859-a of the Act with respect
5 to said project. Since the proposed financial
6 assistance to be provided by the Agency with
7 respect to the Proposed Project may exceed
8 \$100,000, prior to providing any financial
9 assistance, as defined in the Act, of more than
10 \$100,000 to the Proposed Project, the Agency must
11 hold a public hearing on the nature and location
12 of the Project Facility and the proposed financial
13 assistance to be provided by the Agency with
14 respect to the Proposed Project.

15 After consideration of the Application
16 received from the Company, the members of the
17 Agency adopted a resolution on July 14, 2022
18 authorizing the Agency to conduct this Public
19 Hearing with respect to the Proposed Project
20 pursuant to Section 859-a2 of the Act.

21 By way of background, notice of this
22 Public Hearing was published on January 20, 2023
23 in The Recorder, a newspaper of general
24 circulation available to the residents of the Town
25 of Florida, Montgomery County, New York. In

1 addition, as required by New York State Law, the
2 notice of this Public Hearing was, A, mailed on
3 January 18, 2023 to the County Executive of
4 Montgomery County, the Town Supervisor of the Town
5 of Florida, the Superintendent and Board President
6 of the Fonda-Fultonville Central School District
7 and, B, was posted on January 18, 2023 on a public
8 bulletin board located at 9 Park Street, in the
9 Village of Fonda, Montgomery County, New York and
10 on the Agency's website.

11 Copies of the notice of this Public
12 Hearing are available here on the table.

13 Now, unless there is any objection, I am
14 going to suggest waiving the full reading of the
15 notice of Public Hearing, and instead request that
16 the full text of the notice of this Public Hearing
17 be inserted into the record of this Public
18 Hearing.

19 The comments received today at this
20 Public Hearing will be presented to the members of
21 the Agency at or prior to the meeting at which the
22 members of the Agency will consider whether to
23 approve the undertaking of the Proposed Project by
24 the Agency and the granting by the Agency of the
25 financial assistance in excess of \$100,000 with

1 respect to the Proposed Project. The Agency
2 currently intends to consider the Proposed Project
3 at the meeting of the Agency to be held on
4 March 10, 2023. This, like all meetings of the
5 Agency, will be open to the public.

6 I will now open this Public Hearing for
7 public comment at 1:07 p.m..

8 By way of operating rules, if you wish
9 to make a public comment, please raise your hand,
10 and I will call on you. Please wait to be
11 recognized. Once recognized, please stand and
12 state your name and address for the record.

13 When everyone has had the opportunity to
14 speak, I will conclude this Public Hearing. A
15 record of this Public Hearing will be prepared and
16 reviewed by the members of the Agency in
17 connection with the Agency's consideration of the
18 Proposed Project.

19 Again, the purpose of this Public
20 Hearing is to solicit public comment. We are not
21 here to answer questions. However, we will, in
22 the course of this Public Hearing, consider
23 questions if we have the information to answer the
24 question and there is sufficient time to consider
25 such question.

1 I will now ask if there's anyone in
2 attendance who wishes to comment either on the
3 nature and location of the Proposed Project or the
4 proposed financial assistance being contemplated
5 by the Agency with respect to the Proposed
6 Project.

7 For the record, please state your name
8 and indicate your comments on either the Proposed
9 Project or the proposed financial assistance being
10 contemplated by the Agency with respect to the
11 Proposed Project.

12 CAROL HENDERSON: Hi. I'm Carol
13 Henderson, a Montgomery County taxpayer and a
14 resident of the Town of Amsterdam, and I know many
15 of the people that live along that route where the
16 Dollar General section is going to be built, and
17 several people have come forward with concerns and
18 issues that were spoken to at the Town of Florida
19 Planning Board. I would like to know if those
20 will be addressed by the county or were they
21 merely just spoken and submitted in writing?

22 MR. ROSE: Are you referring to -- I
23 will answer that. Are you referring to the
24 planning board's site plan review?

25 CAROL HENDERSON: There was a site plan

1 review. There was a SEQR review. The concerns
2 that were raised were about highway expansion,
3 excessive lights, the noise, the snowmobile
4 trails, the adjoining properties on Queen Anne
5 Road an impact to them and the home across from
6 Helen Marks, the red one, there were concerns
7 about a fern (sic) being made with trees for
8 privacy so that their home would be least affected
9 by noise, light and so on.

10 With all that collectively being spoken
11 on behalf of various, different people, what
12 happens to those issues and concerns that have
13 been raised?

14 MR. ROSE: Well, obviously, that's the
15 local permitting agency, which in this case is the
16 Town of Florida Planning Board who site plan
17 reviewed those comments, then that site plan is
18 referred to the county planning board for their
19 comments. And then we do not act on that -- as
20 far as an agency, we don't approve this project
21 until it's been approved by the town planning
22 board.

23 CAROL HENDERSON: Okay. So they will be
24 the point lead agency to address anything or
25 respond?

1 MR. ROSE: The state items that you
2 mentioned, as far as traffic, ferns and those
3 types of things, yes, that will be the Town of
4 Florida Planning Board.

5 CAROL HENDERSON: Okay. And --

6 MR. ROSE: That's outside of our
7 purview. Like I said, we as an agency do not pass
8 this. We are anticipating March 10th, but it
9 could be longer, if it hasn't gone through the
10 whole town planning board site plan review
11 process, the SEQR process.

12 CAROL HENDERSON: Actually, at the last
13 planning board, they stated they were unable to
14 reply. Is that because it's going to be at a
15 future meeting that they will reply (inaudible) --

16 MR. ROSE: You lost me.

17 CAROL HENDERSON: The planning board.

18 MR. ROSE: The town planning board?

19 CAROL HENDERSON: The town planning
20 board.

21 MR. ROSE: I don't know what you're
22 talking about. See, how it works is, that the
23 town gets the site plan application, it gets
24 referred to the county planning board before the
25 town planning board can make a final

1 determination.

2 CAROL HENDERSON: Okay.

3 MR. ROSE: I do know that the county
4 planning board has received it, made the
5 determination and sent it back to the Town of
6 Florida Planning Board. So that process is done.
7 So now it's back in to the Town of Florida's
8 Planning Board's hands.

9 CAROL HENDERSON: Okay. All right.

10 MR. ROSE: So I can't speak, other than
11 that.

12 CAROL HENDERSON: Okay. And then two
13 other points I want to make. The first Dollar
14 General that was built, there were issues with
15 construction and then there were post-construction
16 issues that were put in writing to the town. They
17 were brought to your attention, also, the
18 executive from Montgomery County, and we referred
19 back to Dollar General. So we were able to
20 address most of the issues, and Dollar General
21 took care of them. But as a resident of the
22 county, I would have expected more from the county
23 or the town to address such a large project that
24 was impacting people. So the residents, actually,
25 approached Dollar General and had them remedy,

1 except for one, and there's one open item. So for
2 this next Dollar General expansion, should the
3 planning board be the point of contact for the
4 issues? Because it's my understanding the
5 planning board only approves the project.

6 MR. ROSE: Well, it would be someone
7 from the Town of Florida. Obviously, the planning
8 board approved it, but then there's also a code
9 enforcement, you got your town supervisor. So I
10 would defer to them.

11 CAROL HENDERSON: Okay. And we were
12 referred to Dollar General. We worked with the
13 corporate office in Tennessee, just so you know,
14 to bring closure to that.

15 MR. ROSE: Good.

16 CAROL HENDERSON: And then last of all,
17 as a taxpayer, the infrastructure for all of these
18 bills and all of the exemptions, who pays for the
19 infrastructure for the fire departments and also
20 any other extra security or what else might be
21 needed?

22 MR. ROSE: As far as infrastructure --

23 CAROL HENDERSON: For the growth of
24 warehouses. There's more warehouses.

25 MR. ROSE: The infrastructure -- for

1 this particular project, the infrastructure is
2 already in place. The only on-site infrastructure
3 that takes place would be on their property, so
4 they're responsible for any those water and sewer
5 lateral extensions to their physical property.

6 CAROL HENDERSON: Okay.

7 MR. ROSE: There's already water and
8 sewer up there, so those -- those are there;
9 they're already in place along 5S, as you're
10 aware. This project here doesn't require any
11 other public infrastructure, improvement to those
12 water and sewer lines.

13 CAROL HENDERSON: And the fire
14 department is the volunteer fire department?

15 MR. ROSE: Yes, the fire department
16 would be the volunteer fire department. Keep in
17 mind that just -- that we don't exempt ad valorem
18 taxes. The fire taxes that are paid, they pay
19 them 100 percent.

20 CAROL HENDERSON: Okay. Well, that's
21 good.

22 MR. ROSE: So, yes, they don't get
23 exempted from the ad valorem taxes.

24 CAROL HENDERSON: Okay. All right. And
25 then just for --

1 MS. ROSE: There's a special ad valorem
2 tax exemption there.

3 CAROL HENDERSON: Okay. Am I being
4 recorded here?

5 MR. NICOSIA: Correct.

6 CAROL HENDERSON: The square footage,
7 the notice out to the residents in the area said
8 it was 167,000 square feet, and then it was
9 reduced down to 150,000. Is that related for them
10 planning on making it taller rather than wider?

11 MR. ROSE: Not that I know of, no.
12 Whatever they submitted to the Town of Florida for
13 that site plan review, whatever is on that
14 application, whatever that height is, that's what
15 the Town of Florida Planning Board is reviewing.
16 Obviously, if they went above that height, from
17 that application, they would have to let the Town
18 of Florida Planning Board know that --

19 CAROL HENDERSON: Okay.

20 MR. ROSE: -- during that site plan
21 review process.

22 CAROL HENDERSON: Okay. And those
23 details weren't available yet, because they hadn't
24 received the approval yet to start with permits?

25 MR. ROSE: Correct. As far as I know,

1 the Town of Florida Planning Board won't be
2 meeting this month. They will be meeting again
3 next month.

4 CAROL HENDERSON: Oh, okay. All right.
5 There's a discrepancy of about 17,000 square feet.

6 MR. ROSE: Whatever they put on their
7 site plan review application, that's what the Town
8 of Florida Planning Board is reviewing.

9 CHUCK HENDERSON: I have two things.
10 Even in the letter from the paper, the 150,000 --

11 MR. ROSE: Right. This here is a plus
12 or minus 150,000. They submitted their
13 application to us in June and -- whatever it was,
14 back in the spring of 2022, for permitting
15 processes, i.e. the Town of Florida site plan
16 review process, that is the official number that
17 they came in with to the town. So this here is an
18 approximate, because that's what we had at the
19 time. So as far as the site plan review and the
20 land use and all of that stuff, that is handled by
21 the Town of Florida Planning Board.

22 CAROL HENDERSON: Won't it matter,
23 though, the size of the building for the tax
24 exemption you're providing?

25 MR. ROSE: We have that -- they will

1 get -- what we've done is, they worked with the
2 town assessor on what that tax exemption is, what
3 they potentially will be assessed at.

4 CAROL HENDERSON: The town assessor that
5 does residential assessments will be doing the
6 corporate and commercial --

7 MR. ROSE: Usually -- I don't know how
8 this in the past -- I can't speak for the town.
9 You'll have to talk with the assessor office to
10 see who they utilized to assess these big
11 projects. So that's a question for the Town of
12 Florida.

13 CAROL HENDERSON: Okay. Thank you.

14 MR. ROSE: Keep in mind, too, the Town
15 of Florida does not have a town tax.

16 CAROL HENDERSON: No, they don't.

17 MR. ROSE: It's one of the few towns in
18 the county that do that.

19 CAROL HENDERSON: I'd like to say one
20 last thing about the vehicle growth on 5S, in that
21 the relationship of the use of the IDT property is
22 for trucks and traffic versus residential front
23 yards, and that is something that the planning
24 board was unable to reply to, was the expansion of
25 the highway with the use of residential

1 properties.

2 MR. ROSE: Most likely they wouldn't be
3 able to, because that's being handled by the State
4 of New York and DOT. That's part of the New York
5 State DOT highway construction project. So the
6 county doesn't have that detailed engineering
7 information, nor does the Town of Florida have the
8 detailed engineering information. So if you want
9 the detailed information or want to have comments
10 about the DOT highway expansion project, you'd
11 probably want to contact the regional DOT office
12 in Utica; they're the ones that -- they would have
13 all those details.

14 CAROL HENDERSON: I have all those
15 details, yes.

16 MR. ROSE: Okay. We'll give it to 1:20.

17 CHUCK HENDERSON: One more question.
18 Who determines -- you say DOT determines the roads
19 and things like that. But how can they come in
20 and take people's land without going to the Dollar
21 General side for expansion on Dollar General?
22 Right now it's -- the existing Dollar General, the
23 first one that was there - okay - they've taken --
24 they've come back on the second term and they've
25 taken land from the residential -- six houses all

1 the way --

2 MR. ROSE: So you're not -- the road
3 work that DOT is proposing was proposed 2 or
4 3 years ago, I believe is when this first came up,
5 and it was before anything -- this new project,
6 this new 150 plus thousand square foot perishable
7 DC, that road work was already planned before this
8 project was even announced.

9 CHUCK HENDERSON: Oh, I realize that.
10 But as far as the road work itself - okay - why
11 wasn't that -- was that brought out to the people
12 that --

13 MR. ROSE: I do -- I believe that --
14 they've already, actually, paid us, so they're
15 actually taking property from us that's on the
16 southern side of the -- or the -- what would it
17 be -- the northern side of the road, where this
18 project is going, so those areas along there. But
19 I do believe they are taking some property; I
20 could be wrong, but I believe there is some
21 encroachment on the existing Dollar General
22 property as well.

23 CAROL HENDERSON: It is minimal. And
24 the basis of the question is, we got all of the
25 details from the New York State DOT. The traffic

1 study was done from 2015 to 2018, and at that time
2 they decided they needed to do a fairly large
3 expansion and it would be in two phases. So they
4 knew that before the Dollar General completed all
5 of the roadways entering into the center. So they
6 had an opportunity to put in creeper lanes -
7 they're calling it creeper lanes - but they chose
8 not to. And because they decided -- Dollar
9 General did not put in their own creeper lanes on
10 the IDT property, they're impacting the residents'
11 homes along the way. Some of them are now out of
12 the town zoned for front yardage, for space
13 between a four lane highway and their home.

14 MR. ROSE: Right. But I mean -- like I
15 said, Dollar General has to -- any individual,
16 whether it's a private residence or a commercial
17 industrial resident, has to get a curb cut permit
18 from DOT. Obviously Dollar General went through
19 that process. Why DOT -- DOT issued a permit to
20 Dollar General. That's all I can say on that.
21 That's between DOT and Dollar General.

22 CAROL HENDERSON: There was obviously an
23 oversight. In hindsight, they should have used
24 the IDT property for the needs of the warehouse.
25 They should have.

1 MR. ROSE: Right. I mean, that's not
2 for me to --

3 CAROL HENDERSON: And when brought to
4 New York State DOT's attention, they had said they
5 are only focused on what they are assigned to do,
6 and that's to put in road expansion, period. And
7 we went to the May 2022 public hearing, and the
8 town building was full; there were several people
9 from New York State there, and they listened to
10 all of the residents' concerns. They took a log
11 of all of the people that attended and their phone
12 numbers and they filed them.

13 MR. ROSE: This is DOT?

14 CAROL HENDERSON: This is DOT. So just
15 so you know, the concern from people is because
16 there's -- there's a voice to be heard, but that's
17 all it is, is a voice. Nothing happened. There
18 are no notes from the May meeting last 2022. And
19 it was a public hearing posted by the New York
20 State and the Town of Florida. There was nothing
21 documented. There's no documentation. No one
22 took notes. There was no one person gathering
23 information, hearing concerns. So a traffic light
24 was requested, that was turned down. Reduced
25 speed was requested, that was turned down. And

1 there are children getting on buses along that
2 route there. It's a bus route now. So basing all
3 of expansions on the 2018 traffic study was
4 inadequate.

5 MR. ROSE: Like I said, we don't control
6 what DOT does in that regard.

7 CAROL HENDERSON: There's no one
8 accountable. There really is no one accountable.

9 MR. ROSE: Anything else before we end?

10 CAROL HENDERSON: No.

11 MR. ROSE: We can close this public
12 hearing at 1:24.

13 (Whereupon, the Hearing adjourned)

14 (End time: 1:24 p.m.)

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C E R T I F I C A T E

I, JACLYN B. CONTE, a Shorthand Reporter and
Notary Public in and for the State of New York, DO
HEREBY CERTIFY that the foregoing is a true and correct
transcript of my shorthand notes in the above-entitled
matter

Date: February 13, 2023



JACLYN CONTE,
COURT REPORTER.

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