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CEA Foundation Wins Dorsey Marketplace Lawsuit

In August of 2020, CEA Foundation joined Protect Grass Valley in a lawsuit challenging the Environmental Impact Report (EIR) for the Dorsey Marketplace. Attorneys Tal Finney, Finney Arnold LLP, filed the petition. The case was won on appeal. The final ruling has been issued by the Nevada County Superior Court, **requiring the City of Grass Valley to reverse the approvals of the project** and to correct the deficiencies in the EIR if the project is to proceed.

A corrected copy of a “Notice of Issuance of Peremptory Writ of Mandate” was filed on November 28, 2023. Specifically, it states that the EIR failed to adequately address the cumulative impacts of air pollution from the adjoining freeway traffic on the residents of the proposed apartment complex and the project shall be rescinded. If the applicant chooses to proceed, the EIR must be corrected and the approval process repeated.

Dorsey Marketplace is a proposed 104,000 square foot shopping center with 172 residential apartment units located at Dorsey Drive/Highway 49. It required a general plan amendment and a zone change for approval. It was approved by the Grass Valley City Council on April 28. Remarkably, on May 26, the City Council removed the only minor condition of approval which would achieve a partial reduction in Greenhouse Gas emissions (GHG) and save energy costs for tenants. The requirement was to use electric space and water heating, which could be powered by the rooftop solar.

Our Concerns:

◆ The project provided no affordable housing.

Plans included 172 residential apartments, none of which are specified for moderate, low, or very low income housing. At the time it was the third major project approved by the City within the preceding year with no affordable housing. Grass Valley needs more affordable housing.

◆ The project would negatively impact our downtown businesses.

The project would add yet another large freeway accessed drive-to center which would impact the success of our downtown businesses in an era when on-line shopping is already taking a big share of the retail market.

◆ The Climate Change crisis was ignored.

This car-culture project would create significant traffic impacts. CEA Foundation asked that the project address the climate change crisis by including a project-based solar system with electric space and water heating to reduce GHG emissions. We also asked that the developers reduce the overall size of the commercial portion of the development and eliminate the 3 drive-up windows to reduce excessive traffic, a major source of GHG emissions and air pollution.

◆ **Our image as a charming mountain community has value!**

Aesthetically, the project would eliminate a forested ridge-line, cut down the existing wooded hill top by 20', and replace it with massive built up pads (45-60 feet of fill) and vertical structures 20-30 feet tall, plainly visible throughout the valley.

◆ **Residents should be fully protected from the health impacts of air pollution from Hwy 49.**

Under the CARB Handbook standards, apartment units within 500 feet of Hwy 49/20 would be impacted. Under the chosen Alternative B, the residences are as close as 170 feet. Given the significant issues we already face with air pollution in Nevada County and its health effects, new construction should certainly not exacerbate the problem. The impacts should be fully mitigated.

What Happens Now?

The EIR and project approval is overturned by the court judgement.

A corrected copy of the "Notice of Issuance of Peremptory Writ of Mandate" was filed on November 28, 2023. (See <https://www.cea-nc.org/category/dorsey-marketplace/> for Writ of Mandate and courts findings.)

The next steps in the process will be:

- 1) Await City Council action consistent with the Judgement and Writ (rescission of approvals).
- 2) The applicant can revise the EIR and bring the project back before the Grass Valley City Council all over again. If project applicant seeks to move forward, City to proceed with Supplement/Amendment to the EIR.
- 3) A new Air Quality Analysis and EIR revisions must be completed.
- 4) Council would have to review and re-certify the EIR, and since there are significant impacts from the project, a new statement of overriding considerations would have to be approved plus approval of the zoning change and general plan amendment. There would be a public hearing.
- 5) Return on the Writ to Trial court.

CEA Foundation is opposed to this project in its current form. We ask that the City Council consider the project with fresh eyes: Is a hill-top drive-to shopping center with yet more drive up fast food businesses, a wall of high end apartments, and an immoral disregard for the Climate Change crisis an appropriate project for this site? How will it affect our quality of life, tourism, downtown businesses, and air quality? Traffic impacts are significant and unavoidable. The zoning is Business Park.

The project should be denied.

CEA Foundation Board of Directors

CEA Foundation advocates for responsible land use and environmental protection policies and actions in Nevada County. Our goal for Nevada County's future is a thriving community, a strong economy, and a healthy environment.