

DORSEY MARKETPLACE

FINAL SUPPLEMENT TO THE FINAL ENVIRONMENTAL IMPACT REPORT

SCH# 2016022053
August 2024



Prepared for:

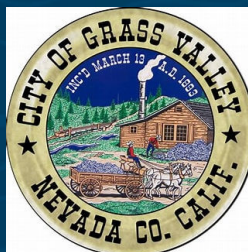
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Final Supplement to the Final
Environmental Impact Report

Dorsey Marketplace Project

AUGUST 2024

Prepared for:

CITY OF GRASS VALLEY

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Final Supplement to the Final EIR

Introduction

This volume of the Dorsey Marketplace Project Supplement to the Final Environmental Impact Report (SFEIR) presents the responses to comments that were received in response to the Draft SFEIR, which was circulated for a 45-day public review period that began on February 3, 2024, and ended on March 19, 2024. This volume also presents text revisions made to the Draft SFEIR to correct data presented in Chapter 2, Air Quality.

Purpose and Intended Use of the Final Supplement to the Final EIR

As discussed in Public Review Draft SFEIR Chapter 1, Introduction, the City of Grass Valley's (City) certification of the 2019 Dorsey Marketplace EIR was challenged in court, and the Court of Appeal found that the EIR did not adequately address potential human health effects associated with mobile source air pollution emanating from State Route (SR) 20/49. This SFEIR was prepared to address the October 19, 2023, Nevada Superior Court Judgment and Peremptory Writ of Mandate in Case No. CU20-084791, Community Environmental Advocates, Community Environmental Advocates Foundation, Protect Grass Valley and Ralph A. Silberstein (collectively, "Petitioners") v. City of Grass Valley (these documents are referred to together as the "Ruling" of the Superior Court; they are included in this SFEIR as Appendix M), which directed the City to correct the deficiencies in the EIR's analysis of SR 20/49 as a contributor of mobile source emissions, the associated health risks for future Project residents and occupants, and the degree to which the Project's contribution of vehicle trips on SR 20/49 may exacerbate these risks.

The ruling does not require the City Council to vacate its April 2020 project approvals, reconsider the merits of the project, or conduct any environmental analysis other than the health risk assessment. Thus, the SFEIR is not required to present analysis of any issues other than the project's potential to cause or exacerbate health risk effects on project residents and occupants associated with air pollutant emissions from traffic on SR 20/49.

This Final Supplement to the Final EIR complies with the requirements of CEQA Guidelines Section 15132, which states that a Final EIR shall consist of the following:

- The Draft EIR or a revision of the Draft EIR
- Comments and recommendations received on the Draft EIR, either verbatim or in summary
- A list of persons, organizations, and public agencies commenting on the Draft EIR
- The lead agency's responses to significant environmental points raised in the review and consultation process
- Any other information added by the lead agency

Overall, considering both the Draft and Final documents, this SFEIR provides the analysis of the potential health risks to project occupants and visitors associated with the Project's contribution to vehicle trips on SR 20/49, as required by the October 19, 2023, Nevada Superior Court Judgment and Peremptory Writ of Mandate.

Project Overview

As discussed in Draft SFEIR section 1.3, the project site consists of 26.8 acres on the south side of Dorsey Drive. The approved project will construct 104,350 square feet of commercial uses, including two major shops (35,000 and 21,500 square feet), five smaller shops (with sizes between 4,000 and 8,500 square feet), three pads for drive-through services such as fast-food and financial institutions (sizes between 3,200 and 4,200 square feet) and one 6,000-square-foot pad that would support food service without a drive-through. The commercial uses would be placed throughout the northern portion of the project site, with the major shops and two of the small shops along the western boundary, the restaurant pads in the northeastern portion of the site near the project site entrance on Dorsey Drive, and the additional three small shops completing the southwestern portion of the commercial area perimeter. Parking would be provided central to all of the commercial uses and would include electric vehicle charging stations.

The 172 residential apartments and 8,500 square feet of office space will be constructed as two-story and three-story buildings in the southern portion of the project site.

Responses to Comments

The City received 12 comment letters on the Draft SFEIR. The comment letters and the City's responses to each comment are presented in this Final SFEIR, which allows commenting agencies and the public an opportunity to review revisions to the Draft EIR and the responses to comments. As lead agency, the City must provide each public agency that commented on the Draft SFEIR with a copy of the lead agency's responses to those comments at least 10 days before certifying the Final SFEIR.

In some cases, comments received during the public review period for the SFEIR do not address the content of the SFEIR. Where such comments address the project's potential environmental effects, a brief response summarizing the relevant findings of the 2019 EIR and the court ruling, where applicable, is provided.

The commenters and the page number on which each commenter's letter appear are listed in Table 1.

Table 1. Comments Received on the Draft Supplement to the Final EIR

Comment Letter	Commenter	Date	Page Number
A	James Blair	03/08/2024	4
B	Star Carroll	03/19/2024	6
C	Central Valley Regional Water Quality Control Board	03/18/2024	10
D	Finney Arnold LLP	03/19/2024	16
E	Susan Henning	03/06/2024	26
F	Pamela Jung	03/07/2024	28
G	Jeff Kane & Concerned Citizens Roundtable	03/11/2024	30
H	Geraldine Kothe	03/18/2024	33
I	Northern Sierra Air Quality Control District	03/18/2024	37
J	Steve Smith	03/07/2024	43
K	Leslie Warren	03/07/2024	45
L	Charles Wilder	03/12/2024	53

Draft SFEIR Revisions


This Final SFEIR also presents revisions made to the text of the Draft SFEIR. No Draft SFEIR text revisions were required to address comments received. However, in consultation with the Northern Sierra Air Quality Management District, the City identified errors in the data reported in Chapter 2, Air Quality. Specifically, the revisions were made to correct the fine particulate matter (PM_{2.5}) concentrations reported in Tables 2-6 and 2-7, clarify that the project's contribution to the Chronic Hazard Index value would be less than or equal to 0.01, correct the level of significance associated with PM_{2.5} concentrations when 100% of project-generated traffic is added to SR 20/49 in the cumulative scenario, and replace the word 'baseline' with the word 'cumulative' in Table 2-7.

In all cases these Draft SFEIR text revisions do not alter the conclusions of the impact analysis, which found that the increased cancer and chronic health risks associated with project-generated traffic would remain below the applicable thresholds and thus impacts would remain less than significant.

Images of the pages on which text revisions were made are presented on pages 58 through 60 of this volume.

From: [Jim Bair](#)
To: [Amy Kesler-Wolfson](#)
Subject: Form submission from: Contact us
Date: Friday, March 8, 2024 8:51:38 AM

You don't often get email from info@cityofgrassvalley.com. [Learn why this is important](#)

		
03/08/2024 - 8:51am	City of Grass Valley »	

WEBFORM SUBMISSION

Submitted by anonymous user: [54.219.174.228]

Message:

Hi Amy,

When is the deadline for comments on the SFEIR Dorsey Marketplace? I've been working a lot of overtime and I'm finally getting to this project, not far from where I live.

I want to go on record with opposition because of the unmitigable negative environmental impacts, and specifically the traffic impacts which I consider to be life threatening due to SNMH ER access . The City could be liable for wrongful death if it goes ahead with this project and an accident or vehicle delays are causal.

Thank you,
Jim Bair

Attachment(s) (if applicable):

CONTEXT INFORMATION

Profile contacted:

[Amy Kesler-Wolfson](#)

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A-1
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Response to Comment Letter A

Jim Bair
March 8th, 2024

A-1 The comment asks when the deadline for comments is for the Dorsey Marketplace Project Supplement to the Final Environmental Impact Report (SFEIR). The comment also identifies the commenter's opposition to the Project due to the "unmitigable negative environmental impacts," particularly the traffic impacts and potential interference with Sierra Nevada Memorial Hospital access, which could result in life threatening situations.

The deadline for comments was March 19, 2024. This was stated on SFEIR page 1-7 and in the Notice of Availability of the SFEIR that was published in The Union on February 3, 2024.

This comment does not address the accuracy or adequacy of the SFEIR and its analysis of the potential for the project to cause or exacerbate risks for adverse health effects on project residents and occupants due to exposure to air pollutants associated with project-generated traffic. The SFEIR is not required to address the project's potential effects related to transportation and traffic. The petitioners in the litigation against the City of Grass Valley's April 2020 project approval raised arguments relating to the EIR's adequacy with respect to transportation and traffic but did not prevail on those arguments. The only directive from the courts was to complete additional analysis of potential adverse health effects of project-related traffic on future project residents and occupants. No changes or additions to the project description or environmental document are required in response to this comment. This response is provided for information and to be responsive to public concerns.

Vehicular access to Sierra Nevada Memorial Hospital is provided from the intersections of Dorsey Drive at Catherine Lane and East Main Street at Presley Way. The 2019 EIR included a thorough analysis of the project's potential transportation impacts and found that the project would not substantially increase delay at the intersections of Dorsey Drive with Catherine Lane and with East Main Street (the intersection of Dorsey Drive at East Main Street is approximately 0.25 miles northeast of Presley Way). The transportation analysis also found that the project would not substantially increase delay at any proximate intersections, such as Dorsey Drive at the SR 20/49 on- and off-ramps, or on SR 20/49. Thus, the project is not expected to cause interference with Sierra Nevada Memorial Hospital access.

From: [star.carroll](#)
To: [Amy Kettle-Wolfson](#)
Subject: Public comment on Dorsey Marketplace
Date: Tuesday, March 19, 2024 4:23:41 PM

You don't often get email from starcarroll@gmail.com. [Learn why this is important](#)

Amy Wolfson, Grass Valley City Planner
Members of the Grass Valley Planning Commission

We all agree that housing is a vital need in Nevada County. It is essential that housing reflect and enrich the special Sierra Foothills character of our communities.

When I moved to Nevada County in 1995, I had no idea of the amazing diversity of native flora found here. According to The California Native Plant Society, with over 8,000 species of native plants, California is a global treasure because of its native plants. No other state in the nation has as many species, and of those a third can't be found anywhere else in the world!

In the original EIR, the Redbud Chapter of California Native Plant Society commented on the Plant Survey that was conducted. The concerns raised are still relevant, in light of the updated provisions. In the Final EIR, Table E-S 2, 5-1 (Impacts and Mitigation Summary), Mitigation Measures 5a, 6a-f Pages 14- 24.

Moving forward from a gold mining past to being a place that people visit and move to for outdoor beauty and recreation, healthy lifestyle, and arts and cultural events, this project is a unique opportunity to expand, without becoming "the next Roseville", and native plants can be allies of such innovative planning.

I ask that you help maintain our county's unique biodiversity for future generations by retaining as much as possible of the important existing plant communities (e.g, McNab Cypress and Fremont Cottonwoods) and incorporating them as part of the landscaping and open space, consistent with the Plan B modifications. To meet these mitigation requirements, it is essential that as much of the original areas of McNab Cypress woodland and cottonwood forest be conserved, as part of the proposed landscaping plan in order to meet their habitat needs. Planting individual trees in containers or landscaping strips will not allow them to thrive.

This includes a new floristic survey per CNPS guidelines before grading permits are issued. In the absence of meaningful and successful on-site restoration, there must be off-site restoration sufficient to ensure no net loss of habitat functions or values. You have an unprecedented opportunity before you to decide on the future of the project at Dorsey. What will that look like, and who will benefit in the years to come?

Thank you for your time and consideration of my comments. As doing the City's business must get boring at times, please know that your commitment to a sometimes thankless job is appreciated.

Star D. Carroll
Member, Redbud Chapter California Native Plant Society



B-1
B-2
B-3

Response to Comment Letter B

California Native Plant Society Redbud Chapter
Star Carroll
March 19th, 2024

B-1 The comment states housing is needed in Nevada County, but it is essential that the housing reflects the character of the Sierra Foothills and the community. The comment discusses native plant species in the state and the project region and states that the concerns related to native plants raised by the Redbud Chapter of the California Native Plant Society in their comments on the 2019 EIR are still relevant.

This comment does not address the accuracy or adequacy of the Dorsey Marketplace Project Supplement to the Final Environmental Impact Report (SFEIR) because the SFEIR is not required to address the project's potential effects related to native plants. The only directive from the courts was to complete additional analysis of potential adverse health effects of project-related traffic on future project residents and occupants. The petitioners in the litigation against the City of Grass Valley's April 2020 project approval raised arguments relating to the EIR's adequacy with respect to biological resources but did not prevail on those arguments. The original Final EIR is therefore legally adequate with respect to the analysis that was unsuccessfully challenged in those arguments. The Court of Appeal had the following to say on this subject:

Plaintiffs argue that the EIR's analysis of protected plant species was flawed because the EIR relied exclusively on certain databases to conclude that special status plant species were not present on the site. Plaintiffs contend this was improper.

Plaintiffs' argument mischaracterizes the record. The EIR did not rely exclusively on databases to conclude that special status plant species were not present on the project site. As the EIR explains, onsite field surveys also were performed to analyze the site and surrounding habitat for special status plant species. Further, although no special status plant species were found during the surveys, the EIR concluded it is possible special status species could become established on site prior to construction. Since removal of special status species is a potentially significant impact, the EIR proposed mitigation measure 6a, requiring a preconstruction survey to be completed to reduce the potential impact to less than significant.

The EIR analyzed adequately the project's potential impacts on special status plant species and the EIR's conclusion of a less-than-significant impact is supported by substantial evidence. (*Association of Irrigated Residents v. County of Madera, supra*, 107 Cal.App.4th at pp. 1393, 1396-1397 [upholding reliance on biological report based on field study and use of "Natural Diversity Data Base"].)

No changes or additions to the project description or environmental document are required in response to this comment. This response is provided for information and to be responsive to public concerns.

This comment serves as an introduction to the subsequent comments and does not specify particular concerns. No further response is required because this comment does not address the accuracy or

adequacy of the SFEIR or the project's environmental effects. The comments on the 2019 EIR from the Redbud Chapter of the California Native Plant Society were thoroughly addressed in the 2019 Final EIR, Response to Comment Letter G.

B-2 The comment addresses the opportunity for the project to help the City expand while recognizing its gold mining history and providing community benefits such as recreation, scenic quality, and cultural/arts events, while retaining native plants and supporting biodiversity. The comment recommends retaining "important existing plant communities" such as McNab Cypress and Fremont Cottonwood. The comment also notes that these should be incorporated into proposed landscaping plans and advises against "planting individual trees in containers or landscaping strips."

This comment does not address the accuracy or adequacy of the SFEIR because the SFEIR is not required to address the project's potential effects related to existing plant communities; refer to Response to Comment B-1 for additional discussion of the EIR analysis regarding impacts to special status plants. No changes or additions to the project description or environmental document are required in response to this comment. This response is provided for information and to be responsive to public concerns.

Mitigation Measure 6e as identified in the 2109 EIR requires that the project provide compensatory habitat conservation and/or restoration for the loss of McNab Cypress woodland and cottonwood forest. This can occur by incorporating the habitat within the proposed landscaping plans and/or purchase of credits in a habitat mitigation bank and/or establishment of a conservation easement or other mechanism providing for perpetual conservation on an appropriate offsite parcel.

B-3 The comment states that a new floristic survey meeting the California Native Plant Society guidelines should be prepared before grading permits are issued and that either on-site or off-site restoration should be conducted to ensure no net loss of habitat functions or values.

As noted above in Response to Comment B-1, the Court of Appeal found that the 2019 EIR was sufficient with respect to its treatment of project effects on special status plants. This comment does not address the accuracy or adequacy of the SFEIR because the SFEIR is not required to address the project's potential effects related to plants and habitat functions and values. The only directive from the courts was to complete additional analysis on potential adverse health effects of project-related traffic on future project residents and occupants. No changes or additions to the project description or environmental document are required in response to this comment. This response is provided for information and to be responsive to public concerns.

Mitigation Measure 6a as identified in the 2019 EIR requires a floristic survey be conducted prior to issuance of building permits and specifies that this survey must be conducted by a qualified biologist and must meet the following standards:

- CNPS Botanical Survey Guidelines (CNPS 2001);
- Protocols for Surveying and Evaluating Impacts to Special Status Native Populations and Sensitive Natural Communities (CDFW 2018); and
- U.S. Fish and Wildlife Service General Rare Plant Survey Guidelines (Cypher 2002).

Mitigation Measure 6a also requires on-site and/or off-site restoration when impacts to individual special-status plants are unavoidable and provides the standards that must be attained by any restoration plan. In full, Measure 6a reads as follows:

Prior to issuance of grading permits, focused surveys for special-status plant species shall be conducted by a qualified project biologist according to the following protocol and guidance: CNPS Botanical Survey Guidelines (CNPS 2001); Protocols for Surveying and Evaluating Impacts to Special Status Native Populations and Sensitive Natural Communities (CDFW 2018); and U.S. Fish and Wildlife Service General Rare Plant Survey Guidelines (Cypher 2002). The preconstruction survey shall be conducted during a period when the target species would be observable and identifiable (e.g., blooming period).

If special-status plants are detected during pre-construction surveys, the location of the species will be mapped. If impacts to special-status plants cannot be avoided, the following measures will be implemented:

1. Special-status plants in the vicinity of the disturbance will be temporarily fenced or prominently flagged and a 50-foot buffer established around the populations to prevent inadvertent encroachment by vehicles and equipment during the activity;
2. Seeds/bulbs will be collected and stored in appropriate storage conditions (e.g., cool and dry), and dispersed/transplanted to an area that would not be impacted following the construction activity and reapplication of salvaged topsoil; and
3. The top 6 inches of topsoil will be salvaged, stockpiled, and replaced as soon as practicable after project completion. The salvaged topsoil shall be redistributed at the same depth and contoured to blend with surrounding grades.

Additionally, while it is not expected that a federally or state-listed plant would be observed during these surveys, the applicant shall consult with the applicable agency (i.e., CDFW and/or USFWS) and written concurrence for measures required for federally or state-listed plant species, if observed. If federal or state-listed plant species are observed, the applicant will submit a 2081(b) incidental take permit application to CDFW and a Biological Assessment for the "take" of certain plants that would be affected by the project. As part of the consultation process, a plan to transplant federal or state-listed species will be developed. A transplantation plan for any observed state or federally listed plants will be prepared that includes the following:

1. The area of occupied habitat to be preserved and removed.
2. Identification of on-site or off-site preservation, restoration, or enhancement locations.
3. Methods for preservation, restoration, enhancement, and/or translocation.
4. A replacement ratio and success standard of 1 :1 for impacted individuals.
5. A monitoring program to ensure mitigation success.
6. Adaptive management and remedial measures in the event that performance stands are not achieved.
7. Financial assurances and a mechanism for conservation of any mitigation lands required in perpetuity.



Central Valley Regional Water Quality Control Board

18 March 2024

Amy Wolfson
 City of Grass Valley
 125 East Main Street
 Grass Valley, CA 95945
 awolfson@cityofgrassvalley.com

COMMENTS TO REQUEST FOR REVIEW FOR THE SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT, DORSEY MARKETPLACE PROJECT, SCH#2016022053, NEVADA COUNTY

Pursuant to the State Clearinghouse’s 5 February 2024 request, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) has reviewed the *Request for Review for the Supplemental Environmental Impact Report* for the Dorsey Marketplace Project, located in Nevada County.

Our agency is delegated with the responsibility of protecting the quality of surface and groundwaters of the state; therefore our comments will address concerns surrounding those issues.

I. Regulatory Setting

Basin Plan

The Central Valley Water Board is required to formulate and adopt Basin Plans for all areas within the Central Valley region under Section 13240 of the Porter-Cologne Water Quality Control Act. Each Basin Plan must contain water quality objectives to ensure the reasonable protection of beneficial uses, as well as a program of implementation for achieving water quality objectives with the Basin Plans. Federal regulations require each state to adopt water quality standards to protect the public health or welfare, enhance the quality of water and serve the purposes of the Clean Water Act. In California, the beneficial uses, water quality objectives, and the Antidegradation Policy are the State’s water quality standards. Water quality standards are also contained in the National Toxics Rule, 40 CFR Section 131.36, and the California Toxics Rule, 40 CFR Section 131.38.

The Basin Plan is subject to modification as necessary, considering applicable laws, policies, technologies, water quality conditions and priorities. The original Basin Plans were adopted in 1975, and have been updated and revised periodically as required, using Basin Plan amendments. Once the Central Valley Water Board has adopted a Basin Plan amendment in noticed public hearings, it must be approved by

C-1

the State Water Resources Control Board (State Water Board), Office of Administrative Law (OAL) and in some cases, the United States Environmental Protection Agency (USEPA). Basin Plan amendments only become effective after they have been approved by the OAL and in some cases, the USEPA. Every three (3) years, a review of the Basin Plan is completed that assesses the appropriateness of existing standards and evaluates and prioritizes Basin Planning issues. For more information on the *Water Quality Control Plan for the Sacramento and San Joaquin River Basins*, please visit our website:
http://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/

Antidegradation Considerations

All wastewater discharges must comply with the Antidegradation Policy (State Water Board Resolution 68-16) and the Antidegradation Implementation Policy contained in the Basin Plan. The Antidegradation Implementation Policy is available on page 74 at:

https://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/sacsjr_2018_05.pdf

In part it states:

Any discharge of waste to high quality waters must apply best practicable treatment or control not only to prevent a condition of pollution or nuisance from occurring, but also to maintain the highest water quality possible consistent with the maximum benefit to the people of the State.

This information must be presented as an analysis of the impacts and potential impacts of the discharge on water quality, as measured by background concentrations and applicable water quality objectives.

The antidegradation analysis is a mandatory element in the National Pollutant Discharge Elimination System and land discharge Waste Discharge Requirements (WDRs) permitting processes. The environmental review document should evaluate potential impacts to both surface and groundwater quality.

II. Permitting Requirements

Construction Storm Water General Permit

Dischargers whose project disturb one or more acres of soil or where projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres, are required to obtain coverage under the General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Construction General Permit), Construction General Permit Order No. 2009-0009-DWQ. Construction activity subject to this permit includes clearing, grading, grubbing, disturbances to the ground, such as stockpiling, or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility. The Construction General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP). For more information on the Construction General Permit, visit the State Water Resources Control Board website at:

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http://www.waterboards.ca.gov/water_issues/programs/stormwater/constpermits.shtml

Phase I and II Municipal Separate Storm Sewer System (MS4) Permits¹

The Phase I and II MS4 permits require the Permittees reduce pollutants and runoff flows from new development and redevelopment using Best Management Practices (BMPs) to the maximum extent practicable (MEP). MS4 Permittees have their own development standards, also known as Low Impact Development (LID)/post-construction standards that include a hydromodification component. The MS4 permits also require specific design concepts for LID/post-construction BMPs in the early stages of a project during the entitlement and CEQA process and the development plan review process.

For more information on which Phase I MS4 Permit this project applies to, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/water_issues/storm_water/municipal_permits/

For more information on the Phase II MS4 permit and who it applies to, visit the State Water Resources Control Board at:

http://www.waterboards.ca.gov/water_issues/programs/stormwater/phase_ii_municipal.shtml

Industrial Storm Water General Permit

Storm water discharges associated with industrial sites must comply with the regulations contained in the Industrial Storm Water General Permit Order No. 2014-0057-DWQ. For more information on the Industrial Storm Water General Permit, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/water_issues/storm_water/industrial_general_permits/index.shtml

Clean Water Act Section 404 Permit

If the project will involve the discharge of dredged or fill material in navigable waters or wetlands, a permit pursuant to Section 404 of the Clean Water Act may be needed from the United States Army Corps of Engineers (USACE). If a Section 404 permit is required by the USACE, the Central Valley Water Board will review the permit application to ensure that discharge will not violate water quality standards. If the project requires surface water drainage realignment, the applicant is advised to contact the Department of Fish and Game for information on Streambed Alteration Permit requirements. If you have any questions regarding the Clean Water Act Section 404 permits, please contact the Regulatory Division of the Sacramento District of USACE at (916) 557-5250.

¹ Municipal Permits = The Phase I Municipal Separate Storm Water System (MS4) Permit covers medium sized Municipalities (serving between 100,000 and 250,000 people) and large sized municipalities (serving over 250,000 people). The Phase II MS4 provides coverage for small municipalities, including non-traditional Small MS4s, which include military bases, public campuses, prisons and hospitals.

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Clean Water Act Section 401 Permit – Water Quality Certification

If an USACE permit (e.g., Non-Reporting Nationwide Permit, Nationwide Permit, Letter of Permission, Individual Permit, Regional General Permit, Programmatic General Permit), or any other federal permit (e.g., Section 10 of the Rivers and Harbors Act or Section 9 from the United States Coast Guard), is required for this project due to the disturbance of waters of the United States (such as streams and wetlands), then a Water Quality Certification must be obtained from the Central Valley Water Board prior to initiation of project activities. There are no waivers for 401 Water Quality Certifications. For more information on the Water Quality Certification, visit the Central Valley Water Board website at: https://www.waterboards.ca.gov/centralvalley/water_issues/water_quality_certification/

Waste Discharge Requirements – Discharges to Waters of the State

If USACE determines that only non-jurisdictional waters of the State (i.e., “non-federal” waters of the State) are present in the proposed project area, the proposed project may require a Waste Discharge Requirement (WDR) permit to be issued by Central Valley Water Board. Under the California Porter-Cologne Water Quality Control Act, discharges to all waters of the State, including all wetlands and other waters of the State including, but not limited to, isolated wetlands, are subject to State regulation. For more information on the Waste Discharges to Surface Water NPDES Program and WDR processes, visit the Central Valley Water Board website at: https://www.waterboards.ca.gov/centralvalley/water_issues/waste_to_surface_water/

Projects involving excavation or fill activities impacting less than 0.2 acre or 400 linear feet of non-jurisdictional waters of the state and projects involving dredging activities impacting less than 50 cubic yards of non-jurisdictional waters of the state may be eligible for coverage under the State Water Resources Control Board Water Quality Order No. 2004-0004-DWQ (General Order 2004-0004). For more information on the General Order 2004-0004, visit the State Water Resources Control Board website at: https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2004/wqo/wqo2004-0004.pdf

Dewatering Permit

If the proposed project includes construction or groundwater dewatering to be discharged to land, the proponent may apply for coverage under State Water Board General Water Quality Order (Low Threat General Order) 2003-0003 or the Central Valley Water Board’s Waiver of Report of Waste Discharge and Waste Discharge Requirements (Low Threat Waiver) R5-2018-0085. Small temporary construction dewatering projects are projects that discharge groundwater to land from excavation activities or dewatering of underground utility vaults. Dischargers seeking coverage under the General Order or Waiver must file a Notice of Intent with the Central Valley Water Board prior to beginning discharge.

For more information regarding the Low Threat General Order and the application process, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0003.pdf

For more information regarding the Low Threat Waiver and the application process, visit the Central Valley Water Board website at:

https://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/waivers/r5-2018-0085.pdf

Limited Threat General NPDES Permit

If the proposed project includes construction dewatering and it is necessary to discharge the groundwater to waters of the United States, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. Dewatering discharges are typically considered a low or limited threat to water quality and may be covered under the General Order for *Limited Threat Discharges to Surface Water* (Limited Threat General Order). A complete Notice of Intent must be submitted to the Central Valley Water Board to obtain coverage under the Limited Threat General Order. For more information regarding the Limited Threat General Order and the application process, visit the Central Valley Water Board website at:

https://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/general_orders/r5-2016-0076-01.pdf

NPDES Permit

If the proposed project discharges waste that could affect the quality of surface waters of the State, other than into a community sewer system, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. A complete Report of Waste Discharge must be submitted with the Central Valley Water Board to obtain a NPDES Permit. For more information regarding the NPDES Permit and the application process, visit the Central Valley Water Board website at: <https://www.waterboards.ca.gov/centralvalley/help/permit/>

If you have questions regarding these comments, please contact me at (916) 464-4684 or Peter.Minkel2@waterboards.ca.gov.

Peter Minkel
Peter Minkel
Engineering Geologist

cc: State Clearinghouse unit, Governor's Office of Planning and Research,
Sacramento

C-1
Cont.

Response to Comment Letter C

Central Valley Regional Water Quality Control Board

Peter Minkel

March 18th, 2024

C-1 The comment references multiple plans and acts regarding water quality that may be applicable to the project including: the Basin Plan, Antidegradation Considerations/Policies, and permitting requirements (construction storm water general permit, phase I and II municipal separate storm sewer system MS4 permits, industrial storm water general permit, Clean Water Act Section 404 permit, Clean Water Act Section 401 permit, water discharge requirements, dewatering permit, Limited Threat General NPDES permit, and the NPDES permit). None of the discussion within this comment letter is addressed to potentially significant environmental issues related to the project but rather the letter provides broad summaries of potentially applicable regulations and permits that are generic in character, typical of comment letters sent out on many projects by this particular state agency.

This comment does not address the accuracy or adequacy of the Dorsey Marketplace Project Supplement to the Final Environmental Impact Report and its analysis of the potential for the project to cause or exacerbate the risks of adverse health effects on project residents and occupants due to exposure to air pollutants associated with project-generated traffic. No legal challenge to the Final EIR's water quality analysis was brought within the time to challenge the City's certification of that document. The Supplement to the Final Environmental Impact Report is not required to address the project's potential impacts related to water quality. The only directive from the courts was to complete additional analysis of potential adverse health effects of project-related traffic on future project residents and occupants. No changes or additions to the project description or environmental document are required in response to this comment. This response is provided for information and to be responsive to public concerns.

The Regional Water Quality Control Board submitted a similar letter in response to the 2019 EIR. All comments from the Regional Water Quality Control Board were thoroughly addressed in the 2019 Final EIR, Response to Comment Letter D.

FinneyArnoldLLP

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March 19, 2024

VIA EMAIL ONLY

awolfson@cityofgrassvalley.com

Ms. Amy Wolfson
City of Grass Valley
125 E. Main Street
Grass Valley, California 95945

RE: Dorsey Marketplace Supplemental Final Environmental Impact Report

Dear Ms. Wolfson:

Our firm represents Community Environmental Advocates, Community Environmental Advocates Foundation, Protect Grass Valley and Ralph A. Silberstein, the successful Petitioners in the legal challenge to this project. We offer the following public comments on the Supplemental Final Environmental Impact Report, of February 2024 (“SFEIR”). The Court of Appeal and the Superior Court, on remand, have required the City of Grass Valley to conduct a more fulsome air quality study that provides an assessment of the human health effects associated with exposure to mobile source air pollution generated by vehicle traffic on State Route 20/49 for Project residents and users. The study is required to address whether the Project could exacerbate an environmental hazard because the 2019 Final Environmental Impact Report (“2019 Final EIR”) noted that in the year 2035, SR 20/49 was projected to support daily traffic volumes of 56,000 vehicles, which exceeds the 50,000 vehicles per day threshold recommended in the California Air Resources Board (“CARB”) Handbook regarding the proximity of residential land uses to air pollutant sources.

The SFEIR performs the mandated air quality analysis and provides a Health Risk Assessment for sensitive receptors that estimates health risk impacts from roadway toxic air contaminants (“TACs”) at new residences, for visitors, and for employees at the commercial uses proposed by the Project as well as health risks associated with existing sensitive receptors within 1,000 feet of SR 20/49. [SFEIR, at 2-1] The analysis concentrated on diesel particulate matter (DM_{2.5}, which is fine matter, and DM₁₀, which is gross matter) and total organic gasses that are known carcinogens to the State of California using dispersion models provided by CARB. [SFEIR, at 2-1].

We note that additional and more recent traffic volume data was used to make the case on air pollution than was used in the 2019 Final EIR. The use of this traffic volume input data was potentially faulty in a couple of respects. The SFEIR states:

SR 20/49 has current traffic rates that are less than those assumed in the 2019 Final EIR [SFEIR, at 2-13; also SFEIR, at 2-17]]. For this reason, the existing and cumulative conditions of SR 20/49 presented in Table 9-5 of the 2019 EIR reflected higher average daily traffic (ADT) than are currently projected in the SFEIR. The volumes in the 2019 EIR were based on the Caltrans ADT projections developed in 2016. Specifically, the 2019 Final EIR assumed traffic volumes of 41,000 ADT for the baseline scenario, 42,000 ADT for the baseline + Project scenario, 56,000 ADT for the cumulative 2035 scenario, and 57,000 ADT for the cumulative 2035 + Project scenario [SFEIR, at 2-18]

D-2

To support these findings, the SFEIR states:

Although the current SR 20/49 traffic volumes would be less than the 50,000 ADT threshold established by the CARB Handbook, [the SFEIR] evaluates the potential health risks associated with traffic on SR 20/49, with and without the Project as required by the Court of Appeal Opinion and Nevada County Superior Court Ruling. [SFEIR, at 2-13]

The SFEIR then finds:

[B]ecause of the conservative assumptions used in the SFEIR versus the 2019 EIR...the cancer rates per 1,000 people are considered rather high [SFEIR, at 2-18].

The SFEIR claims that the "artificially conservative" input data they used generated somewhat "falsely" high cancer rates (because the traffic is lower than was assumed in the 2019 EIR and the projected traffic rates will be lower than 50,000 vehicles per day, given the 0.50% annual allotted increase in traffic the SFEIR employed, instead of the current negative growth rate. [SFEIR, at 2-18].

D-3

The traffic volume input data used in the SFEIR was necessarily influenced by the recent global COVID-19 pandemic (a situation which the world had not seen in 100 years). The pandemic depressed traffic volumes for several years. We believe it was error to use these artificially low traffic volumes and to assume these depressed traffic volumes will continue into the future, culminating in fewer than 50,000 vehicles per day in 2035. Traffic has been returning to normal over time and should be expected to increase as we progress toward 2035. The conservative assumption of 0.50% annual allotted increase in traffic does not consider any of these unusual variables.

D-4

Despite the reduced traffic volume input data used in the study, the air quality analysis found the air quality data and the number of days exceeding the ambient air quality standards for O3, NO2, PM10, and PM2.5, the pollutants monitored at the Grass Valley and Placer County stations, which are provided in Table 2-2, exceed CARB and NSAQMD standards. These figures, and others in the air quality analysis, also exceed annual standards. [SFEIR, at 2-8] The SFEIR asserts that the standards were exceeded artificially because they fudged some of their assumptions in ways they didn't have to, creating numbers that were larger than they should have been. [SFEIR, at 2-18] We disagree. These cancer rates are very concerning, especially given the pandemic-reduced traffic volume input data that was used in the analysis.

D-5

D-6

As noted above, the national and local economies have largely transitioned to an online retail economy during the pandemic, and this transition is expected to continue. This has led to ongoing problems with downtown Grass Valley business survival. Thus, the basis for overriding the significant and unavoidable impacts that were found in the 2019 Final EIR is no longer valid. We understand that the SFEIR focuses on the air quality impact analysis, but the City has a wider focus and greater responsibility to the community than the faulty air quality analysis. The City must consider what has happened to the local economy and how that impacts project planning. Downtown Grass Valley businesses are struggling to survive. This project increases that pressure needlessly.

D-7

Finally, one of the main reasons that the City approved the project is because of the need for housing. We want to be certain that the apartments are built concurrently with any retail development given these challenges in the local retail market and the need for affordable housing in the City.

D-8

Thank you for considering these public comments. We look forward to your response.

Sincerely,

Tal C. Finney, Esq., Of
FINNEY ARNOLD LLP

Response to Comment Letter D

Finney Arnold LLP
Tal C. Finney
March 19th, 2024

D-1 The comment states that Finney Arnold LLC represents Community Environmental Advocates, Community Environmental Advocates Foundation, Protect Grass Valley, and Ralph A. Silberstein, who collectively are the petitioners for Case Number CU20-084791, who challenged the City of Grass Valley’s certification of the Dorsey Marketplace Environmental Impact Report (EIR). The comment notes that the Court of Appeal Opinion and Nevada County Superior Court Ruling requires the City to conduct an “assessment of the human health effects associated with exposure to mobile source air pollution generated by vehicle traffic on State Route 20/49 for Project residents and users.” The comment notes that the Final EIR published in 2019 identified a projected daily traffic volume on State Route (SR) 20/49 of 56,000 daily vehicles in 2035, “which exceeds the 50,000 vehicles per day threshold recommended in the California Air Resources Board (“CARB”) Handbook regarding the proximity of residential land uses to air pollutant sources.” The comment also summarizes the nature of the Health Risk Assessment analysis presented in the Dorsey Marketplace Project Supplement to the Final EIR (SFEIR).

The City concurs with the characterization of the required additional analysis, the daily traffic volume reported in the 2019 Final EIR, and the scope of the Health Risk Assessment presented in the SFEIR.

D-2 The comment states that the SFEIR relies on a newer projected daily traffic volume for SR 20/49 than was used in the 2019 Final EIR. The comment cites text in the SFEIR, which explains that the data used in the 2019 Final EIR was developed by the California Department of Transportation (Caltrans) in 2016. The comment also cites text in the SFEIR which acknowledges that the current projected daily traffic volumes for SR 20/49 are below the 50,000 vehicles per day threshold recommended in the CARB Handbook. The comment then cites text from page 2-18 of the SFEIR regarding the assumptions used in the Health Risk Assessment analysis.

The comment is correct that the SFEIR relies on newer data regarding the projected traffic volume for SR 20/49 and that this new projection is lower than both the projection used in the 2019 Final EIR and the CARB Handbook threshold. The comment incorrectly characterizes the statement on page 2-18 of the SFEIR as being related to the new projected traffic volume. Other text on page 2-18 makes it clear that the conservative assumption being referenced is the assumption that 100% of the project-generated average daily traffic (ADT) would use the segment of SR 20/49 adjacent to the project site. As explained on page 2-18, the Health Risk Assessment analysis uses two different scenarios – one in which 100% of the project-generated ADT would use SR 20/49 and one in which 20% of the project-generated ADT would use SR 20/49. The 20% scenario was based on the findings of the transportation analysis prepared for the 2019 EIR and the 100% scenario was evaluated to provide a conservative analysis of the project’s potential contribution to health risk effects associated with traffic on SR 20/49. In addition, page 2-18 notes that a 0.50% growth rate was assumed for background (non-project related) traffic volumes on SR 20/49 because this is a more conservative assumption than the existing negative growth rate.

D-3 The comment states that the SFEIR claims that the cancer rates reported in the SFEIR are “‘falsely’ high ... because the traffic is lower than was assumed in the 2019 EIR.” The comment also notes that the SFEIR uses an assumption of a 0.50% annual increase in daily traffic instead of the current negative growth rate.

As described in the SFEIR, if the Health Risk Assessment analysis were prepared using a negative growth rate for SR 20/49 traffic based on current Caltrans data, cancer and chronic health risks would be lower in the cumulative scenario than in the baseline (existing conditions) scenario. Rather than the negative growth rate, the 0.50% annual increase in daily traffic assumed for the cumulative 2035 and cumulative 2035 + Project scenarios was based on professional judgement from experience with other projects where current data reflected a negative annual growth rate. This is a more conservative assumption than the existing negative growth rate and provides for consideration of both recent data as well as historic data and traffic volume trends.

Further, the Health Risk Assessment is primarily concerned with the contribution of the project-generated ADT on health risks associated with mobile sources on SR 20/49 rather than the health risks associated with total daily traffic volume on this roadway segment. The thresholds used to determine if the project would result in a significant impact is whether the project-generated ADT would cause the level of risk for cancer to increase by 10 in a million or increase the Hazard Index, which is a value expressing the risk of developing chronic health conditions from exposure to air pollution, by 1.0 or more. To calculate the chronic Hazard Index, the annual average ground level concentration of a substance is divided by the chronic Reference Exposure Level (REL) for the substance, where the REL is a level at which adverse health effects may occur. Therefore, a Hazard Index of 1.0 indicates that the estimated annual average ground level concentration exceeds the REL for the substance. The project’s effects related to cancer risk and the Hazard Index are presented in Tables 2.6 and 2.7 of the SFEIR.

As stated on SFEIR page 2-18, the Health Risk Assessment was conducted “in order to estimate the change between the baseline and cumulative scenarios with and without the Project-generated” ADT. The difference in health risks attributed to the Project under the baseline plus Project scenario and the cumulative 2035 plus Project scenario compared to the no Project scenarios would be similar regardless of whether the modeling uses the daily traffic volumes on SR 20/49 from the 2019 EIR or uses the current data and assumed 0.50% annual increase. The results would be similar because the project’s ADT and contribution to traffic on SR 20/49 would remain unchanged. Therefore, no revisions to the SFEIR are required in response to this comment.

D-4 The comment states that the current Caltrans traffic volume data was influenced by the Covid-19 pandemic and thus is artificially low. The comment states that it is not appropriate to assume that the lower traffic volumes will continue because traffic has been returning to normal. The comment states that the assumed 0.50% annual increase in traffic volumes does not reflect the unusual conditions associated with the pandemic.

The comment is correct that daily traffic volumes reduced substantially during the Covid-19 pandemic. However, this comment letter later states, in Comment D-7, that “national and local economies have largely transitioned to an online retail economy during the pandemic, and this transition is expected to continue.” This latter comment, which implies that the Covid-19 pandemic has resulted in *permanent* reductions in traffic (at least per capita) due to on-line shopping, is in tension with Comment D-4 which asserts that traffic levels on SR 20/49 should “return to normal over time.” Four years after the initial

stages of the pandemic, all evidence suggests that what used to be “normal” is no longer normal. After the pandemic, many more people telecommute from home and do more of their shopping online, which may involve shopping at local businesses using curbside pick-up or delivery options, as well as shopping at online-only businesses with delivery service. These changes appear to be permanent, and the traffic volume data on which the health risk analysis is based reflects these changes. Thus, there is no evidence that it would be reasonable to assume a return to the full daily traffic volumes and growth projections that were used prior to the pandemic. As noted in Response to Comment D-3, the 0.50% annual increase in daily traffic used in the Health Risk Assessment analysis was based on experience on other projects where current data reflected a negative annual growth rate. The Health Risk Assessment is based on the best available data at the time the analysis was conducted but is highly conservative in the sense that it assumed a positive growth rate which current traffic volume data indicates is likely to overstate future traffic on SR 20/49. Response to Comment D-3 also explains that use of a higher background traffic volume would not change the project’s ADT or its contribution to traffic on SR 20/49 and thus would not increase the extent to which the project’s incremental contribution to traffic and associated air pollutant emissions could increase health risks associated with exposure to air pollutants generated by traffic on SR 20/49.

D-5 The comment states that “despite the reduced traffic volume” data, the SFEIR finds that the region experiences levels of NO₂, PM₁₀ and PM_{2.5} that exceed the CARB and Northern Sierra Air Quality Management District (NSAQMD) standards.

The comment is correct that the region exceeded the national and state PM₁₀ standards and the national PM_{2.5} standards for monitoring years 2020 through 2022. The comment is incorrect that the region exceeds national or state NO₂ standards, however it is noted that the region did exceed national and state O₃ (ozone) standards. As shown in SFEIR Table 2-2, there were zero days on which the NO₂ standards were exceeded while the numbers of days on which the ozone and particulate matter standards were exceeded vary widely from year to year and among different standards. For example, the region exceeded the State’s 1-hour ozone concentration standard twice in 2020, six times in 2021, and once in 2022 while the region exceeded the State’s 8-hour ozone concentration standard 20 times in 2020, 40 times in 2021, and 17 times in 2022. In comparison, the 2019 EIR reported that region exceeded the State’s 1-hour ozone concentration standard four times in 2015, six times in 2016, and 13 times in 2017 and exceeded the State’s 8-hour ozone concentration standard 30 times in 2015, 46 times in 2016, and 85 times in 2017.

It is important to understand that the exceedances of the AQ standards are not related to the cancer risks determined by the Health Risk Assessment. Table 2-2 provides information about the existing air quality conditions in the region based on data obtained from two monitoring stations (one on Litton Drive in Grass Valley and one in Placer County because it is the nearest monitoring station for nitrogen dioxide and coarse particulate matter). However, the air quality standard exceedances identified in Table 2-2 do not directly correlate with the traffic volumes on the segment of SR 20/49 that was evaluated in the Health Risk Assessment and do not directly correlate with the health risks that individuals may be exposed to in any particular location. The monitoring stations measure emissions from all sources of air pollution, not just air pollution associated with vehicle traffic. As discussed in SFEIR Section 2.1.2, other sources of air pollution include construction activities, industrial and agricultural land uses, landfills, and electricity generation. The traffic volume data used in the SFEIR is specific to the segment of SR 20/49 adjacent to the project site.

D-6

The comment states that on page 2-18, the “SFEIR asserts that the standards were exceeded artificially because they fudged some of their assumptions in ways they didn't have to, creating numbers that were larger than they should have been.” The comment also states that the cancer rates identified by the Health Risk Assessment are very concerning, particularly given that the traffic volumes were reduced due to the pandemic.

None of the text on SFEIR page 2-18, or elsewhere in the SFEIR asserts that the standards were exceeded artificially. The assumptions discussed on page 2-18 include:

- Assuming the first year of project operations to be 2022. The SFEIR states that this provides a more conservative analysis because “vehicle emission factors and the percent of diesel vehicles on the roadway generally decreases over time due to more stringent vehicle standards, as well as fleet turnover replacing older vehicles in later years.” In other words, by relying on a start year of 2022 instead of a later year, such as 2026 (which would more accurately represent a likely first operational year for the project), the Health Risk Assessment is based on modeling years in which vehicle emissions are likely to be higher than they would be in later years.
- Assuming a 0.50% growth in background traffic volume to estimate year 2035 conditions. As discussed in Responses to Comments D-2 and D-4, this growth rate is more conservative than relying on the current negative growth rate and is expected to provide a more conservative estimate of the background conditions under the cumulative scenario. However, the background air pollutant concentrations are the portion of the measured ambient levels that are *not* attributable to emissions from the project; the health risks associated with these background conditions were included in the modeling to characterize the baseline conditions but were not used to determine the project’s impacts. The Health Risk Assessment was conducted to identify whether the project’s ADT could generate pollution concentrations that by themselves would cause or exacerbate health risks to project residents and occupants. Thus, the determination of whether the Project would result in a significant increase in health risk is based on the project-generated ADT.
- Assuming that all of the project’s ADT would use SR 20/49. The Health Risk Assessment presents two scenarios – one in which 100% of the project-generated traffic is added to SR 20/49 and one in which 20% of the project-generated traffic is added to SR 20/49. The scenario that assumes 20% of the project’s ADT would use SR 20/49 is based on the transportation impact analysis included in the 2019 EIR. The scenario that assumes that 100% of the project’s ADT would use SR 20/49 was evaluated to identify a potential worst-case scenario for the project’s potential to expose individual residents or project occupants to substantial cancer and chronic health condition risks.

The modeling found that the project would increase cancer risks under both the existing and cumulative conditions by 5.36 in a million under the scenario in which 100% of project-generated ADT uses SR 20/49 and by 0.17 in a million under the scenario in which 20% of project-generated ADT uses SR 20/49. Thus, the SFEIR correctly concluded that the project’s impacts would be less than significant because the project would not cause the cancer risk to increase by 10 in a million.

Specifically, the SFEIR states on page 2-26 “the additional cancer risk of five in one million associated with the 100% Project ADT scenario is not a significant exacerbation of the baseline cancer risk from mobile source emissions on SR 20/49 under current or 2035 conditions. Similarly, the additional cancer risk of 0.17 in one million associated with the 20% Project ADT scenario is not a significant exacerbation of the baseline cancer risk from mobile source emissions on SR

20/49 under current or 2035 conditions.” Further the project generated traffic would increase the Hazard Index by 0.02 or less in each scenario (Refer to Response to Comment D-3 for a brief explanation of the Hazard Index). As this increase is well-below the threshold of significance, which is a Hazard Index of 1.0, the project would not cause a significant exacerbation of the baseline chronic health risk associated with exposure to air pollution from traffic volumes on SR 20/49.

D-7 The comment states that the transition of national and local economies to largely online retail sales during the pandemic is expected to continue, which has led to challenges for the survival of downtown Grass Valley businesses. The comment also states that this condition would be exacerbated by construction of this project.

The comment does not address the accuracy or adequacy of the SFEIR. The SFEIR was prepared to comply with the October 19, 2023, Nevada Superior Court Judgment and Peremptory Writ of Mandate, specifically to evaluate the potential for the project to cause or exacerbate health risks on project residents and occupants due to exposure to air pollutants associated with project-generated traffic. The SFEIR is not required to evaluate potential effects on existing retail businesses or the local economy. The procedural remedy resulting from the litigation over the City’s April 2020 project approvals does not require the City Council to reconsider the merits of the project. The judgment and peremptory writ of mandate issued by the superior court on remand from the Court of Appeal did not direct the City Council to vacate its April 2020 project approvals. Those approvals remain in place. The only directive from the courts was to complete additional analysis of potential adverse health effects of project-related traffic on future project residents and occupants. No changes or additions to the project description or environmental document are required in response to this comment. This response is provided for information and to be responsive to public concerns.

The 2019 Draft EIR included a thorough analysis of the project’s potential impacts related to capture of retail sales from existing local businesses. The analysis found that there is sufficient retail demand in the local area to support the project, and that the project would be capable of capturing a portion of the retail sales attributed to residents of Grass Valley that currently occur in other jurisdictions (referred to in the 2019 EIR as retail leakage). Specifically, the Economic Analysis prepared in support of the 2019 EIR (which was provided as Appendix D to the EIR) found that there was “roughly \$150 million in existing retail spending leakage from the western Nevada County market area” while the project would generate approximately \$32 to \$36 million in sales, representing about 23% of existing retail leakage. The Economic Analysis concluded that “the Dorsey Marketplace project would not depend on cannibalizing from existing retail establishments in Grass Valley” and that “a reasonable shift in market area retail spending patterns in the near term, combined with moderate growth in the market area over time, provide ample support for the proposed increase in the city’s retail inventory.”

The trial court and Court of Appeal found this analysis to be adequate, and rejected the commenters’ arguments attacking the analysis (in part) as follows:

Plaintiffs contend that the EIR violated CEQA because it failed to analyze adequately the project’s potential to draw business away from the downtown Grass Valley shopping area and thereby cause business closures and physical deterioration of the downtown area. Plaintiffs argue that “[c]ommon sense” suggests adding more than 100,000 square feet of new retail space would have significant economic impacts on downtown businesses and, as a result, the EIR should have analyzed that impact to determine if it may result

in urban decay, either individually or in conjunction with other retail projects. We find no abuse of discretion.

In the EIR for this project, the City considered the potential for the project to cause urban decay in the downtown area. The EIR's analysis is supported by an economic study, attached to the EIR as appendix D. The study evaluates the scale and characteristics of the proposed project in the context of the city and regional retail markets. Based on evaluation of the market area demand and supply projections and project characteristics, the study concludes that the proposed project would help to recapture some of the estimated \$150 million in retail sales "leakage" spent outside of Grass Valley, and that the project "would not depend on cannibalizing from existing retail establishments in Grass Valley."

With respect to the downtown business district, the study notes that it serves a "special function" within the City's retail landscape. Marketed to visitors as Grass Valley's "historic, walkable centerpiece," the downtown area is known for its "eclectic mix of locally owned shops and restaurants" in a "concentrated collection of buildings boasting the patina of age." Based on a retail sales analysis, the study concludes that sales activity downtown is most heavily influenced by general economic conditions and factors affecting visitor travel and discretionary spending on entertainment and recreation. After considering the mix of potential tenants for the proposed project and other factors, the study concludes that development of the project "would not change the reasons for shopping and dining Downtown." Because the proposed project was not expected to decrease economic activity in the downtown area, the EIR concluded there was no evidence that the project would lead to urban decay.

Plaintiffs challenge the EIR's conclusion that the project would not take business away from the downtown area and thereby potentially cause business closures. In this context, we do not reweigh the evidence in the record to determine whether the EIR's conclusions are correct. (*Bakersfield Citizens, supra*, 124 Cal.App.4th at p. 1197.) Rather, we review the record in the light most favorable to the City's conclusion to determine whether substantial evidence supports the conclusion that the impact of urban decay is less than significant. (*Anderson First Coalition v. City of Anderson* (2005) 130 Cal.App.4th 1173, 1183; *Save Panoche Valley v. San Benito County* (2013) 217 Cal.App.4th 503, 514.)

Here, plaintiffs provided no evidence that the project would have significant economic impacts on the downtown area, much less evidence of potential urban decay. (*Placerville Historic Preservation League v. Judicial Council of California* (2017) 16 Cal.App.5th 187, 197 [urban decay is a relatively extreme economic condition; there is no reason to presume urban decay would be a consequence of a project].) In contrast, the record contains substantial evidence that the project would not have significant economic impacts on the downtown area. Accordingly, we conclude the City did not abuse its discretion in concluding that the project would not have any significant urban decay impacts.

Although retail and commercial sales conditions locally, statewide, and nationally have been affected by the Covid-19 pandemic and ongoing changes in shopping choices and behaviors, the courts found no inadequacies in the 2019 EIR analysis of potential effects on existing local businesses that could lead to blight conditions, and the SFEIR is not required to address these issues. Additionally, while there has been an increase in online retail sales, this commercial activity includes shopping from local businesses using ‘curbside pick-up,’ thus recent changes in shopping choices and behaviors do not completely shift retail sales activity away from the local economy. As noted above, the Economic Analysis prepared in support of the 2019 EIR found that retail sales within the project would represent approximately 23% of the documented retail sales leakage from the western Nevada County market area. Thus, despite recent changes in retail and commercial sales conditions, it is expected that there is sufficient retail sales activity in the western Nevada County market area to support the proposed project without putting substantial additional pressure on existing local businesses.

D-8

The comment states that the need for housing is one of the main reasons that the City approved the project and thus the apartments should be built concurrently with any retail space.

The comment does not address the accuracy or adequacy of the SFEIR, which was prepared to evaluate the potential for the project to cause or exacerbate the risks for adverse health effects on project residents and occupants due to exposure to air pollutants associated with project-generated traffic. The commenter’s suggestion would not contribute to any lessening of such potential health-related impacts. As discussed in Response to Comment D-7, the procedural remedy resulting from the litigation over the City’s April 2020 project approvals does not require the City Council to reconsider the merits of the project. The SFEIR therefore is not required to evaluate the timing of construction for the residential units included in the project. No changes or additions to the project description or environmental document are required in response to this comment. This response is provided for information and to be responsive to public concerns.

The findings of Fact and Statement of Overriding Considerations adopted for the project include eight individual overriding considerations, They address a range of topics, including remediation of the brownfield site, development of a mixed-use community with opportunities for economic activity and multifamily housing, development of an infill site as anticipated in the General Plan and other city planning documents, support for attainment of the City’s Housing Element goals for development of new residential units, reducing vehicle miles traveled (VMT) by capturing some of the retail sales that are made in locations further from Grass Valley and by creating a mixed-use walkable community that is less reliant on automobiles, road and infrastructure improvement that provide connectivity to existing trail systems, and creating a modern shopping center that is capable of attracting new retail and commercial tenants. Both the analysis of the project’s potential adverse environmental effects and the project’s potential to attain the benefits expressed in the Statement of Overriding Considerations are based on the project characteristics overall, rather than individual project components. In the long run, the specific timing for construction of the residential units compared to other project components would not affect the project’s ability to realize the identified benefits.

From: [Susan Hennings](#)
To: [Amy Kesler-Wolfson](#)
Subject: Dorsey Market Place
Date: Wednesday, March 6, 2024 3:40:49 PM

You don't often get email from susan022549@att.net. [Learn why this is important](#)

Affordable housing is desperately needed in Nevada County. More shops/retail space is not. There are so many empty shop spaces already. What would be immensely useful is a park site for the proposed complex. Some open space where kids can kick a ball, or elders can read a book sitting on a bench in the sun.

Sincerely
Susan Hennings

Sent from [Mail](#) for Windows

E-1

Response to Comment Letter E

Susan Hennings
March 6th, 2024

E-1 The comment states the commenter's view that affordable housing is much needed within Nevada County, but that more retail space and development is not needed. The comment notes that the City already has many empty retail spaces and that development of the project site as a park would better serve the community.

This comment does not address the accuracy or adequacy of the Dorsey Marketplace Project Supplement to the Final Environmental Impact Report because the Supplement to the Final Environmental Impact Report is not required to address the project's potential effects related to retail space or project alternatives. As discussed in Response to Comment D-7, the procedural remedy resulting from the litigation over the City's April 2020 project approvals does not require the City Council to reconsider the merits of the project. The only directive from the courts was to complete additional analysis of potential adverse health effects of project-related traffic on future project residents and occupants. No changes or additions to the project description or environmental document are required in response to this comment. This response is provided for information and to be responsive to public concerns.

As required by CEQA, the 2019 EIR evaluated the project as proposed as well as alternatives to the project that could feasibly attain most of the basic project objectives. Development of the project site as a park would not meet any of the project objectives, as identified in 2019 EIR Section ES.3, and thus is not a feasible alternative that must be considered in the EIR.

From: Pam Jung
To: Amy Kesler-Wolfson
Subject: Dorsey Marketplace Project SFEIR
Date: Thursday, March 7, 2024 11:19:22 AM

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My concern is about Idaho-Maryland Road and the added burden it will face because of this project. This road is already declining. Lots of new traffic will doom it.
Pamela Jung

]

F-1

Response to Comment Letter F

Pamela Jung
March 7th, 2024

F-1 The comment identifies concern about the project's impacts on Idaho-Maryland Road. The comment characterizes the road as "already declining" and unable to accommodate "lots of new traffic."

This comment does not address the accuracy or adequacy of the Dorsey Marketplace Project Supplement to the Final Environmental Impact Report and its analysis of the potential for the project to cause or exacerbate the risks for adverse health effects of project residents and occupants due to exposure to air pollutants associated with project-generated traffic. The Supplement to the Final Environmental Impact Report is not required to address the project's potential effects related to transportation and traffic. The petitioners in the litigation against the City of Grass Valley's April 2020 project approval raised arguments relating to the EIR's adequacy with respect to transportation and traffic but did not prevail on those arguments. The 2019 EIR is therefore deemed to be adequate with respect to transportation impacts. The only directive from the courts was to complete additional analysis of potential adverse health effects of project-related traffic on future project residents and occupants. No changes or additions to the project description or environmental document are required in response to this comment. This response is provided for information and to be responsive to public concerns.

The 2019 EIR included a thorough analysis of the project's potential transportation impacts and found that the project would not substantially increase delay at any of the studied intersections along Idaho Maryland Road in the existing plus project conditions but would substantially worsen congestion at two intersections in the cumulative plus project conditions. The project's effect on these intersections is discussed on page 8-36 of the 2019 EIR. With implementation of Mitigation Measure 8a, the 2019 EIR finds that the project's impacts at both intersections would be reduced to a less-than-significant level.

From: [Jeff Kane](#)
To: [Amy Kesler-Wolfson](#)
Cc: [Rob Agrimonti](#); [Rondal Snodgrass](#); [Tim Ogburn](#); [Jeff Kane](#); [Randy Newsome](#); [Brad Miller](#); [Yasha Aginsky](#); [Kathy Ogburn](#); [Charlie Brock](#); [Jeff Gold](#); [Scott Kellermann](#)
Subject: Dorsey Marketplace comment on drive-thrus
Date: Monday, March 11, 2024 11:52:11 AM

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Response to Dorsey Marketplace SFEIR, March, 2024

We strongly recommend omitting all drive-thru establishments from the plan, especially because of our concern for air quality.

As you may already know, California's air quality in general is poor. According to the American Lung Association, the five cities in the nation with the worst annual particulate pollution and highest ozone levels are in California, and include the Sacramento-Roseville region.

Nevada County is even more affected than the state. The American Lung Association gives our community an F grade for ozone levels, designating 105 days per year "unhealthy." We've long been considered inhabitants of "Sacramento's tailpipe," as auto exhaust emitted there funnels here. During recent summers, wildfires contributed to entire weeks which the Northern Sierra Air Quality Management District labeled "very hazardous."

G-1

In sum, Nevada County can't tolerate additional air pollution, including significant contributions from unnecessarily idling vehicles. Consider the Starbucks drive-thru on Freeman Lane (though we could name many others). One can often see a dozen cars or more waiting in line, engines idling. An average vehicle idling for ten minutes burns over a cup of fuel, producing 1.5 lb of carbon dioxide, a major greenhouse gas. Auto exhaust also consists of carbon monoxide, unburnt hydrocarbons, and oxides of nitrogen--all either poisonous or smog precursors. Eight cars in line at Starbuck's, then, waiting an average ten minutes each, will burn a gallon of gas and release 8 lb of CO2 and significant amounts of toxins--and the line persists all day, every day.

Considering our poor air quality alone, we already suffer too many drive-thrus and can't take more. But air pollution isn't their only problem. Sometimes their lines are long enough to block traffic. They discourage walking, public transit use and visits to neighboring businesses. They also lead to accidents with pedestrians, cyclists and other cars, and favor individual isolation over healthy community contact. That's why Minneapolis; Long Beach and Lincoln, CA; Fair Haven, New Jersey; Creve Coeur, Missouri; Orchard Park, New York, and other cities have banned new drive-thrus.

G-2

The City of Grass Valley isn't obligated to emulate north Auburn's commercial strip, but to protect the interests of its residents, including their health and sense of community.

Respectfully,

Jeff Kane 530-557-0105
 for
 Concerned Citizens Roundtable

Response to Comment Letter G

Concerned Citizens Roundtable

Jeff Kane

March 11th, 2024

G-1 The comment recommends that drive-through restaurants be omitted from the project to reduce the project's adverse air quality effects. The comment notes that the American Lung Association gives Nevada County an F grade for ozone levels because the region experiences unhealthy ozone conditions 105 days each year and that wildfire smoke causes the air quality to be "very hazardous" for weeks. The comment states that Nevada County cannot tolerate any more pollution and that cars idling at drive-throughs emit air pollution, including greenhouse gases, toxins, and smog precursors.

The comment does not address the accuracy or adequacy of the Dorsey Marketplace Project Supplement to the Final Environmental Impact Report (SFEIR), which was prepared to evaluate the potential for the project to cause or exacerbate the risks of adverse health effects on project residents and occupants due to exposure to air pollutants associated with project-generated traffic. The petitioners in the litigation against the City of Grass Valley's April 2020 project approval raised arguments relating to the EIR's adequacy with respect to the air quality analysis but did not prevail on those arguments other than the subject of potential adverse health effects of project-related traffic on future project residents and occupants. Thus, the SFEIR is not required to evaluate the project's effects on local and regional air quality associated with operational air pollutant emissions outside of the Health Risk Assessment presented in the SFEIR. No changes or additions to the project description or environmental document are required in response to this comment. This response is provided for information and to be responsive to public concerns.

The effects of the project on the local and regional air quality were evaluated in the 2019 EIR based on the thresholds adopted by NSAQMD. The 2019 EIR determined that construction and operational emissions, including emissions associated with vehicles using the drive-through restaurants, would result in less-than-significant impacts after implementing Mitigation Measures 10a and 10b.

The SFEIR focuses only on the potential for the project to exacerbate health risks associated with exposure of project residents and occupants to toxic air contaminants from motor vehicle activity. The SFEIR finds that even under the assumption that 100% of the project-generated traffic would use SR 20/49, the project would increase cancer risk by 5.36 in a million, which is below the Bay Area Air Quality Management District 10 in a million threshold.

As shown in the 2019 EIR and the SFEIR, the project's impacts associated with air pollutant emissions from vehicle use, including the drive-through restaurants, would remain less than significant and no mitigation, such as eliminating one or more of the planned drive-through restaurants, is needed.

G-2 The comment states that drive-through restaurants are also undesirable because sometimes their lines are long enough to block traffic; they discourage walking, public transit use and visits to neighboring businesses; they lead to accidents with pedestrians, cyclists, and other cars; and they "favor individual isolation over healthy community contact."

The comment does not address the accuracy or adequacy of the SFEIR analysis of the potential for the project to cause or exacerbate the risks of adverse health effects on project residents and occupants due to exposure to air pollutants associated with project-generated traffic. The SFEIR is not required to evaluate the concerns regarding drive-through restaurants listed in this comment. No changes or additions to the project description or environmental document are required in response to this comment. This response is provided for information and to be responsive to public concerns.

As identified in the 2019 EIR Chapter 2 Project Description, the project is designed with two main access points, one from Dorsey Drive and one from Spring Hill Drive. The access points for each drive-through restaurant are interior to the project site. This minimizes the potential for vehicle queues at any of the drive-through restaurants to block traffic on public roads. The site design would accommodate drive-through traffic such that it is not expected that these drive-throughs would create hazards or increased frequency of traffic collisions.

The site design also includes sidewalks and crosswalks that provide safe access for pedestrians to all portions of the project site, including the drive-through restaurants. The onsite residential units and shops are all generally less than 1,000 feet from each of the drive-through restaurants, which is considered a walkable distance because it is less than 0.25 miles, and the project would include a bus stop that is located less than 1,000 feet from each drive-through. The mixed-use character of the project and provision of a centrally located bus stop would lessen the degree to which the drive-through restaurants within the project discourage walking and transit use and would not interfere with an individual's choice to walk.

From: [Geraldine Kothe](#)
To: [Amy Kesler-Wolfson](#)
Subject: dorseymarketplaceprojectSFEIR
Date: Monday, March 18, 2024 1:12:43 PM

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My name is Geraldine Kothe , I live at 321 Dorsey Dr. I am expressing my disagreement with this marketplace project.It will require leveling that entire woodland area. The noise during construction will be heard by people living nearby. I also think the traffic going in and coming will cause problems.There is a lot of wildlife and birds that call those woods home. I think this will be a monstrous project that will greatly alter the look and feel of Grass Valley.Not to mention the fact that they are building a housing project on the other end of Dorsey Dr. that is going to affect traffic and noise also. I hope people will voice their dislike for this project.Mr. Jeter can do his dirty work somewhere else. This town needs to have some green spaces that unable to be developed . Thank you for letting me express my opinion.

H-1

Response to Comment Letter H

Geraldine Kothe
March 18th, 2024

H-1 The comment identifies the commenter's opposition to the project and discusses specific concerns regarding loss of woodland, noise during construction, traffic, wildlife and bird habitat, and aesthetics. The comment mentions a nearby housing project that could also affect traffic and noise.

This comment does not address the accuracy or adequacy of the Dorsey Marketplace Project Supplement to the Final Environmental Impact Report because the Supplement to the Final Environmental Impact Report is not required to address the project's potential effects related to loss of woodland, noise during construction, traffic, wildlife and bird habitat, and aesthetics. No changes or additions to the project description or environmental document are required in response to this comment. The petitioners in the litigation against the City of Grass Valley's April 2020 project approval raised arguments relating to the EIR's adequacy with respect to biological resources, noise, and traffic but did not prevail on those arguments. Additionally, no legal challenge to the Final EIR's aesthetics analysis was brought within the time to challenge the City's certification of that document. The original Final EIR is therefore legally adequate with respect to analysis that was unchallenged or unsuccessfully challenged in those arguments. The only directive from the courts was for the City to complete additional analysis of potential adverse health effects from project-related traffic on future project residents and occupants. This response is provided for information and to be responsive to public concerns.

The 2019 EIR included a thorough analysis of the project's potential impacts related to the topics identified in this comment. The following list identifies the sections of the 2019 EIR sections where each topic mentioned in this comment were evaluated and the key findings of that analysis:

- Loss of woodland was addressed in Chapter 6, Biological Resources. The analysis found that the project would result in the loss of McNabb Cypress woodland and cottonwood forest, which are both considered to be sensitive natural communities, as defined by the California Native Plant Society's Inventory of Rare and Endangered Plants. In Impact 6-2, the 2019 EIR found that the project would result in the loss of all 3.15 acres of McNab cypress woodland and the majority of the 0.62 acres of cottonwood forest currently existing within the project site and found that this impact would be reduced to a less-than-significant level through implementation of Mitigation Measure 6e, which requires that the project applicant provide compensation for the loss of McNab cypress woodland and cottonwood forest from the project site through a combination of on-site replanting and off-site restoration sufficient to ensure no net loss of habitat functions or values.
- Noise during construction was addressed in Chapter 9, Noise. Specifically, Impact 9-4 addresses the potential for the project to create substantial temporary increases in noise levels during project construction. This analysis found that the noise levels during construction would exceed the applicable thresholds but implementation of Mitigation Measure 9d, which includes construction-related noise requirements, would reduce annoyance impacts and ensure that this impact remains less than significant. The petitioners who challenged the 2019 EIR in court raised noise issues, but their arguments were rejected. The Court of Appeal explained as follows:

The EIR includes extensive background information to help readers assess the significance of the project's expected noise impacts, including a discussion of typical sound levels measured in the environment, existing ambient noise levels in the vicinity of the project, applicable noise level performance standards, and general guidelines for noise sensitivity. Among other things, the EIR explains that normal speech has a sound level of approximately 60 decibels (dB), that a noisy urban daytime area is about 70 dB, that a diesel truck traveling 50 miles per hour from 50 feet away is about 80 dB, that a gas lawn mower from three feet is about 90 dB, and that physical discomfort to humans begins at above approximately 120 dB. Applying the information in the EIR, a reader reasonably could assess the significance of the project's noise impacts. (*Mission Bay Alliance, supra*, 6 Cal.App.5th at pp. 195-196.)

Here, the EIR projected the increase in ambient noise levels from construction at both the nearest noise receptor (30 feet from the site) and the distance of typical noise receptors (100 feet). The EIR disclosed that the average construction noise levels from the project would be from 68 dBA (A-weighted decibels) to 82 dBA Lea (equivalent continuous sound level), which are up to 27 dB above the ambient daytime noise level restriction for fixed source noise levels, and that the maximum noise levels from the project would be from 78 to 92 dBA lea, up to 37 dB above the daytime noise level restriction. Applying the threshold of significance, the EIR concluded that the construction noise impacts were potentially significant. Thus, the City did not use an inappropriate threshold of significance to avoid a finding of potential significance.

To mitigate the potentially significant impacts, the EIR proposed mitigation measure 9d, which includes construction-related noise requirements, such as requiring stationary equipment to be at least 150 feet from construction zone boundaries, "and/or other measures that are demonstrated to be sufficient to ensure that the maximum noise level at the property boundary would remain at or below 90 dB and increases in hourly noise levels at the property boundary would not exceed 10 dBA above the ambient noise level for two or more hours per day." In essence, the City translated the qualitative threshold into a quantitative maximum threshold of 90 dB, with a two-hour incremental threshold of 10 dBA. Substantial evidence supports the City's conclusion that implementation of the mitigation measures will reduce construction noise to a less-than-significant level. Accordingly, we find no prejudicial abuse of discretion in the EIR's analysis of noise impacts.

- The project's impacts associated with traffic and transportation were evaluated in Chapter 8, Transportation. The 2019 EIR found that the project would not result in substantial increases in traffic volumes or congestion on SR 20/49 or City roadways and intersections under existing plus project conditions, and would not create traffic safety hazards, inadequate emergency access, or barriers to pedestrian, bicycle, and public transit modes of transportation. The 2019 EIR requires implementation of Mitigation Measures 8a, 8b, 8e, and 8h to ensure that the project would not result in substantial increases in traffic volumes or congestion on SR 20/49 or City roadways and intersections under cumulative plus project conditions.

-
- Impacts to wildlife and bird habitat were addressed in Chapter 6, Biological Resources. The analysis found that the project would have less than significant impacts on special status wildlife species as well as sensitive natural communities and wetlands (which often provided habitat for wildlife).
 - The project's impacts associated with aesthetics and community character were evaluated in Chapter 5, Aesthetics. The analysis found that the project could result in potentially significant impacts due to changes in views of the project site, but these impacts would be reduced to less-than-significant levels with implementation of Mitigation Measure 5a and that impacts to the visual character of the project area in the cumulative scenario would remain less than significant.

Northern Sierra Air Quality Management District
 200 Litton Drive, Suite 320
 Grass Valley, CA 95945
 (530) 274-9360 / FAX: (530) 274-7546
 email: office@myairdistrict.com

NSAQMD – Planning Dept.

Date: March 18, 2024

To: City of GV, Amy Wolfson – City Planner
 530-274-4711 / Awolfson@cityofgrassvalley.com

Dorsey Marketplace Comments: APN’s: 035-260-062, 035-260-077, and 035-260-064

This document acknowledges that the Northern Sierra Air Quality Management District (NSAQMD) has reviewed the Supplement to the Final EIR for the **Dorsey Marketplace** project located south of Dorsey Drive, east of SR 20/49, in Grass Valley, CA.

The NSAQMD is providing the following information in the interest of compliance assistance.

Since this project encompasses 26.8 acres, and is located on mapped ultramafic soils, an NSAQMD approved Asbestos Dust Mitigation Plan (ADMP) is required before soil disturbance commences. CCR Title 17, §93105 (e.2.A) of the Asbestos Airborne Toxic Control Measure for Construction, Grading, Quarrying and Surface Mining Operations applies in this case.

I-1

“No person shall engage in any construction or grading operation on property where the area to be disturbed is greater than one (1.0) acre unless: (A) An Asbestos Dust Mitigation Plan for the operation has been: 1. Submitted to and approved by the district before the start of any construction or grading activity...”

It appears that an ADMP has been prepared as part of the Remediation Action Workplan (RAW) but was not part of the currently available project materials on the Grass Valley Active Project webpage. Please submit the ADMP to NSAQMD for approval before any grading permits are issued. The ADMP negates the need for a Dust Control Plan, which would otherwise be required under NSAQMD Rule 226, as an ADMP is more stringent.

As normal residential activities on the site could easily cause naturally occurring asbestos fibers to become airborne if ultramafic material is on the surface, it is appropriate (and widely precedented) for the ADMP to include post construction stabilization methods to be maintained in perpetuity. This is particularly important for the “tot lot” and the dog park areas, where the contact between users and the soil will be more intensive.

I-2

Please note that under regulations of the California Department of Real Estate, the presence of environmental hazards, including asbestos, must be disclosed by a property seller during the real estate transaction process. In the interest of public health, the District recommends that all prospective residents (buyers and renters) shall be clearly made aware that the property is located on serpentinite which has been tested and found to contain naturally occurring asbestos. The NSAQMD feels that with this knowledge, site users will tend to be careful to minimize dust emissions from daily activities.

I-3

Additionally, if any ultramafic material or material containing serpentinite is being used in surfacing applications, the Asbestos ATCM for Surfacing Applications (CCR Title 17, §93106) shall be consulted for applicability. Also, if any material containing 1% or more friable asbestos (technically a “hazardous material”) is to be transported, CCR Title 22 applies, and proper

I-4

Northern Sierra Air Quality Management District
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email: office@myairdistrict.com

handling procedures must be followed. Furthermore, Cal-OSHA regulations require hazard communication plans including signage and postings at job sites. The District requires compliance with Cal-OSHA regulations. Contact Cal-OSHA at (800)963-9424 for information.

↑
I-4 Cont.

For future reference, the air quality mitigation measure on page 1-5 to 1-6 “two apartment buildings separated by a drive aisle and parking spaces” which “creates an open area between the buildings that allows for air flow to disperse pollutants” is not valid. The quoted mitigation measures, from the CARB document Strategies to Reduce Air Pollution Exposure Near High-Volume Roadways, are intended for pollutant dispersion in urban street canyons, which is not applicable in this case. The buildings on either side of Highway 20/49 do not constitute an urban street canyon. Additionally, the creation of a street canyon perpendicular to the “street canyon” in question would simply move the problem to an adjacent set of residences. A more effective air quality mitigation measure would be to eliminate one or more of the three drive through facilities at the property. Drive throughs encourage additional car use, discourage pedestrian connectivity, promote idling, and exacerbate traffic congestion, all of which are detrimental to air quality.

I-5

If future retail or commercial tenants require the use of diesel generators greater than 49 hp, NSAQMD permits will be required. And finally, if any commercial tenants will use toxic air contaminant substances, there will be supplementary NSAQMD reporting and permitting requirements.

I-6

Sincerely,



Julie Hunter
Air Pollution Control Officer

Submitted by Suzie Tarnay APCS I / NSAQMD – (530) 274-9360 x505

Response to Comment Letter I

Northern Sierra Air Quality Management District

Julie Hunter

March 18th, 2024

I-1 The comment notes that ultramafic soils have been mapped within the project site and thus an Asbestos Dust Mitigation Plan (ADMP) must be approved by the Northern Sierra Air Quality Management District (NSAQMD) prior to any soil disturbance on the site. The comment also notes that it appears an ADMP was prepared as part of the Remediation Action Workplan (RAW) prepared for the site, but the ADMP was not available online. The comment states that the ADMP must be provided to NSAQMD prior to issuance of any grading permits and notes that a Dust Control Plan would not be required.

The comment does not address the accuracy or adequacy of the Dorsey Marketplace Project Supplement to the Final Environmental Impact Report (SFEIR) analysis of the potential for the project to cause or exacerbate the risks for adverse health effects on project residents and occupants due to exposure to air pollutants associated with project-generated traffic. The SFEIR is not required to address issues related to asbestos and dust management. The petitioners in the litigation against the City of Grass Valley's April 2020 project approval raised arguments relating to the EIR's adequacy with respect to asbestos and dust management during project construction but did not prevail on those arguments. The only directive from the courts was to complete additional analysis of potential adverse health effects of project-related traffic on future project residents and occupants. No changes or additions to the project description or environmental document are required in response to this comment. This response is provided for information and to be responsive to public concerns.

The Final EIR, on pages 2-294 and 2-295, explained that the presence of naturally occurring asbestos (NOA) "has been confirmed as reflected in the Remediation Action Workplan (RAW, Draft EIR Appendix J-3A) that was prepared for the project site and has been approved by the California Department of Toxic Substances Control (DTSC)," the ADMP "reflects the NSAQMD's standard approach and conditions for construction activity where NOA is likely to occur." and that the project would be required to implement the ADMP that is included in the RAW. The RAW, on page 18, states that the Dust Mitigation Plan included in the RAW addresses NSAQMD Rule 226, which requires that a dust control plan be prepared for construction activity disturbing over one acre of land. The RAW also identifies that implementation of an ADMP is required under the California Environmental Protection Agency Air Resources Board Regulation 93105, Asbestos Airborne Toxic Control Measure for Construction, Grading, Quarrying, and Surface Mining Operations (Construction ATCM). Section (e) of the Construction ATCM requires air district approval of the ADMP.

The Draft EIR, on page 15-18, explains that mechanical soil disturbance, such as site clearing, excavation, grading, underground utility work, transportation, and disposal activities, could disrupt asbestos-containing soil, and health hazards could occur if NOA becomes airborne. The potential for NOA to become airborne would be controlled through implementation of the ADMP included in the RAW, consistent with the requirements of NSAQMD and the Construction ATCM. The Draft EIR explains that the ADMP "outlines engineering controls that must be used on site to reduce the risk of release of metals and NOA fibers into the environment during site clearing, excavation, grading, underground utility work, transportation, and disposal activities."

The RAW acknowledges section 93105 of Title 17 of the California Code of Regulations, which, as the commenter notes, requires air district approvals of ADMPs. As required by Section 25356.1 of the California Health and Safety Code, DTSC circulated the RAW for a 30-day public comment period from August 8, 2013, to September 9, 2013. At that time, NSAQMD would have had an opportunity for input on the Dust Mitigation Plan included in the RAW.

Pursuant to approved Mitigation Measures 10a and 15a and the accompanying provisions of the Mitigation Monitoring and Reporting Program for the project, the City may not approve grading permits for the project until, among many other things, the applicant has implemented the RAW as approved by DTSC. Each of these measures further provide that “[t]hroughout all activities conducted in implementation of the RAW, contractors must adhere to each component of the RAW, including, but not limited to the Site Safety Plan and the Asbestos Dust Mitigation Plan.”

Pursuant to the Construction ATCM Section (e), the City will not issue any grading permits without verification that NSAQMD has approved the ADMP. As discussed in the 2019 EIR, Chapter 15, Hazards and Hazardous Materials, if NOA is identified during earthwork, NSAQMD must be notified no later than the following business day and compliance with the Construction ATCM would be required.

I-2 The comment states that the ADMP should include post construction stabilization methods that would be maintained in perpetuity to ensure that ultramafic material is not present at the surface level, particularly for the “tot lot” and the dog park area.

The comment does not address the accuracy or adequacy of the SFEIR analysis because the SFEIR is not required to address issues related to asbestos and dust management. The only directive from the courts was to complete additional analysis of potential adverse health effects of project-related traffic on future project residents and occupants. No changes or additions to the project description or environmental document are required in response to this comment. This response is provided for information and to be responsive to public concerns.

As discussed in Response to Comment I-1, the project is subject to the requirements of the ATCM. Section (4)(G) of the Construction ATCM requires that the ADMP include one or more of the post construction stabilization methods identified in the Construction ATCM. Regarding surfacing materials, the project is also required to comply with the statewide Asbestos Airborne Toxic Control Measure for Surfacing Applications (Surfacing ATCM, found in California Code of Regulations Title 17), which prohibits the use of material containing 0.25% asbestos or greater for surfacing of areas such as trails, pedestrian walkways, and roads.

I-3 The comment states that regulations of the California Department of Real Estate require disclosure of environmental hazards, including the presence of asbestos, during the real estate transaction process. The comment recommends that all site occupants, including renters, be “clearly made aware that the property is located on serpentinite which has been tested and found to contain naturally-occurring asbestos.” The comment suggests that such knowledge will encourage site users to be careful to minimize dust emissions.

The comment does not address the accuracy or adequacy of the SFEIR because the SFEIR is not required to address issues related to asbestos and disclosures during real estate transactions. The only directive from the courts was to complete additional analysis of potential adverse health effects of project-related traffic on future project residents and occupants. No changes or additions to the project description or environmental document are required in response to this comment. This response is provided for information and to be responsive to public concerns.

As noted in the comment, state law requires that property owners receive disclosure notice of the potential for NOA to be present.

- I-4** The comment states that use of any ultramafic material or material containing serpentinite may require compliance with the Surfacing ATCM. The comment notes that any material containing 1% or more friable asbestos meets the definition of a hazardous material and California Code of Regulations Title 22 applies to the transport and handling of such material. The comment also identifies that Cal-OSHA regulations require that hazard communication plans be prepared and implemented at a project site where such materials are used and that NSAQMD requires compliance with Cal-OSHA regulations.

The comment does not address the accuracy or adequacy of the SFEIR analysis because SFEIR is not required to address issues related to asbestos. No changes or additions to the project description or environmental document are required in response to this comment. This response is provided for information and to be responsive to public concerns.

The project would comply with current state and local environmental regulations. As discussed in Response to Comment I-1, the RAW confirms the presence of NOA at the project site and thus the project is subject to the Construction ATCM, which requires air district approval of the ADMP.

As discussed in Response to Comment I-2, the project is also subject to the Surfacing ATCM, which prohibits the use of material containing 0.25% asbestos or greater for surfacing of areas such as trails, pedestrian walkways, and roads.

- I-5** The comment advises the City that, for future reference, the statement on pages 1-5 and 1-6 regarding separation between apartment buildings allowing for dispersal of air pollutants is not valid because there are no urban street canyons in the project vicinity and the project would not create such conditions. The comment states that eliminating one or more of the drive-through restaurants would be a more effective air quality mitigation measure.

The statement referenced in this comment was not identified in the SFEIR or the 2019 EIR as a mitigation measure. The 2019 EIR found that project operation, including the drive-through restaurants, would result in less-than-significant air quality impacts because emissions would remain below NSAQMD's adopted thresholds with implementation of Mitigation Measures 10a and 10b which would reduce emissions from construction and operations. Mitigation Measure 10b requires several design features that would serve to reduce operational air pollutant emissions, including providing adequate pedestrian and transit improvements to encourage reduced reliance on automobiles. There is no significant impact that could be reduced or avoided with elimination of one or more of the drive-through restaurants.

Nor does the SFEIR, to which the comment is addressed, find a significant environmental effect that would trigger mitigation under CEQA. Regardless of the effectiveness of the apartment buildings in creating open space allowing for air flow to disperse pollutants, the SFEIR did not propose any additional mitigation measures, as none was required. There is no need under CEQA to disallow drive-through restaurants within the project site. Impacts will remain less-than-significant even with drive-through restaurants.

- I-6** The comment states that if future tenants require use of diesel generators greater than 49 horsepower and/or use of toxic air contaminant substances, additional NSAQMD permitting and reporting requirements will be applicable.

The comment does not address the accuracy or adequacy of the SFEIR because the SFEIR is not required to address issues related to air quality impacts associated with the potential use of diesel generators. The only directive from the courts was to complete additional analysis of potential adverse health effects of project-related traffic on future project residents and occupants. No changes or additions to the project description or environmental document are required in response to this comment. This response is provided for information and to be responsive to public concerns.

No specific future tenants have been identified and the City will not be party to any tenant agreements. Future NSAQMD permitting and reporting requirements will be the responsibility of individual businesses that may occupy the project site. The City assumes that any business that requires the use of generators greater than 49 horsepower will comply with the adopted regulations by submitting to NSAQMD the appropriate applications such as the Permit Application Form and/or the Internal Combustion Engine Supplemental form.

From: [Steve Smith](#)
To: [Amy Kesler-Wolfson](#)
Subject: Dorsey Marketplace Project SFEIR
Date: Thursday, March 7, 2024 9:39:03 AM

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Amy,

Thank You for being open for communication to support or voice concerns regarding the Dorsey Marketplace Project. I realize there may be some sales tax / employment benefits to the commercial side however the larger box sized space may only take sales tax / employment from one local business to another. Currently with Target, Big 5 and many grocery store options this seems to not bring much value to the community. Amazon has really impacted the brick and mortar stores and those sales tax revenues will continue to support Nevada County

J-1

The value of this project is the residential units which are much needed along with the smaller professional office spaces. I would support this project if additional residential spaces were added in lieu of the larger box footprint.

J-2

Thanks for hearing me out.

Steve Smith

--
Steve

Response to Comment Letter J

Steve Smith
March 7th, 2024

J-1 The comment identifies concern regarding effects on local businesses and the community from potential tenants of the project's largest commercial space.

The comment does not address the accuracy or adequacy of the Dorsey Marketplace Project Supplement to the Final Environmental Impact Report because the Supplement to the Final Environmental Impact Report is not required to evaluate potential effects on existing retail businesses or the local economy. As discussed in Response to Comment D-7, the procedural remedy resulting from the litigation over the City's April 2020 project approvals does not require the City Council to reconsider the merits of the project. The only directive from the courts was to complete additional analysis of potential adverse health effects of project-related traffic on future project residents and occupants. No changes or additions to the project description or environmental document are required in response to this comment. This response is provided for information and to be responsive to public concerns.

The 2019 EIR included analysis of the project's potential to draw customers from other retail areas around the city, such as downtown, which could result in a degradation of visual character in the older retail areas. The Urban Decay analysis presented in 2019 EIR Chapter 5, Aesthetics, was based on the Dorsey Marketplace Economic Analysis included in the 2019 EIR as Appendix D. The economic analysis and EIR found that "roughly \$150 million in existing retail spending is spent outside of the western Nevada County market area (in the combined comparison and eating and drinking out categories)" and the project "could recapture some of that retail leakage spent outside of the county and would not depend on taking business from existing retail establishments in Grass Valley. Therefore, the proposed project would not be expected to decrease economic activity in downtown or other parts of Grass Valley and thus would not lead to urban decay associated with commercial buildings becoming vacant and owners deferring maintenance on such buildings."

J-2 The comment identifies support for the residential and professional office spaces within the project and states that the commenter would support the project if it included more residential space.

This comment does not address the accuracy or adequacy of the SFEIR or the project's environmental effects. No response is required.

From: [Leslie Warren](#)
To: [Amy Kesler-Wolfson](#)
Subject: Dorsey Marketplace
Date: Thursday, March 7, 2024 7:44:20 PM

You don't often get email from lesliewarren52@gmail.com. [Learn why this is important](#)

Thank you for sharing my comments on the supplemental EIR for the Dorsey Marketplace project with members of the City Council.

I feel that the Supplemental EIR is inadequate because it fails to address three things:

1. Big Box Stores

The developer proposes to provide several commercial "pads" of sufficient size to accommodate big box stores which tend to undercut price points of smaller merchants and lead to the loss of small merchants which are so important to the tourist economy that in large part supports employment and economic stability in Grass Valley. Additionally, big box stores will diminish the unique character of Grass Valley, characteristics that make it a wonderful place to live and raise a family (or retire) and further push us toward "everywhere'sville". The parking that big box stores require in order to sign a lease is typically far in excess of the building code - because these stores want believe excess parking attracts shoppers. That may be the case but it also create heat islands, visual blights and a diminution of character that is so important to Grass Valley's economic health. I believe the SEIR is inadequate because it fails to consider these important issues.

2. Remote work

The developer proposes many thousands of sq. ft. of office space. The SEIR fails to consider how a glut of new office space will affect leasing rates at existing offices spaces - many of which will be unable to compete with a new space by virtue of the fact that they are older. The new office space will drive existing office spaces into obsolescence, create financial duress for owners and create blight in Grass Valley which will affect adjoining businesses and neighborhoods. Syphoning off is likely the only way that the new office space will be filled as remote work for office workers is the overwhelming trend today and for the future. The SEIR fails to adequately evaluate - and a private independent economics consultant with a regional business perspective would likely be the appropriate firm to evaluate these marketplace realities in a rapidly changing office rental environment.

3. Growth Inducement and the jobs housing balance

In general the SEIR is inadequate because it fails to consider the growth inducing



impacts of the commercial, residential, and office aspects individually and collectively.

↑ K-4
| Cont.

Additionally the SEIR fails to consider the impacts of the project's jobs-housing imbalance. The project aims to provide an abundance of entry level jobs without providing housing at a price point affordable to entry level workers. This will create a demand for lower cost housing which because of its scarcity in Grass Valley will become more costly - simply by virtue of supply and demand.

| K-5

A smart growth project provides housing stock for a jobs-housing balance. This refers to how many jobs there are per dwelling unit within a given area. If the jobs-housing balance is too high, there are many more jobs than housing units. As a result, adequate housing may be unaffordable or unavailable to workers in an area, leading to issues such as housing unaffordability and traffic congestion from in-commuting workers. If the housing-jobs balance is too low, this may indicate too few jobs locally and a housing oversupply. Over time housing in this environment is left vacant and turns derelict. The ideal ratio for the greater Sacramento Area, of which Grass Valley is a part, is 1 dwelling unit for every 2 jobs. The SEIR fails to provide any data regarding the jobs housing balance, nor is the project itself planned within smart growth principles .

| K-6

For the jobs housing balance to function properly, the types of houses must be appropriate for the income of workers in the local area. These issues were not considered adequately in the SEIR. Further, growth inducement in and of itself will have wide impacts. The growth inducing aspects of the project should be considered in light of the City's General Plan and policies - including its consistency with quality of character, school facilities, child care, environmental , traffic, air quality, and social factors; in addition to the potential loss of Grass Valley's unique small town character and the implications for existing residents and the tourist economy.

| K-7
| K-8

The SEIR must consider if the Dorsey Marketplace project has an acceptable jobs-housing ratio by considering:
Nevada County average wages
Grass Valley average wages
Affordable housing price by wage sector
Project sector job count
Affordable for sale and rental home price for the project
Dorsey Marketplace jobs and dwelling units by income group

| K-9

The SEIR does not provide supported statistical and economic data necessary to determine if the Dorsey Marketplace will be a vibrant, walkable, mixed use project meeting the needs of workers or a growth traffic inducing project that is

↓

incompatible with Grass Valley's vision for itself. Now is the time to work toward climate resilience and to meet housing affordability measures for workers so that they need not commute.

I hope that the City Council will direct the developer to redesign the Dorsey Marketplace project in light of these important issues and most importantly to ensure that housing types relate to the spectrum of jobs anticipated to avoid disadvantaging particular income groups. It is also important that decision makers consider the impacts of the project on quality of life and climate.

Thank you for the opportunity to comment.

Leslie Warren



K-9
Cont.

Response to Comment Letter K

Leslie Warren
March 7th, 2024

K-1 The comment states that the SFEIR is inadequate because it fails to address the potential for retail businesses that occupy the project's larger commercial spaces to lead to closure of smaller local retail stores, which are important to the local economy.

The comment does not address the accuracy or adequacy of the Dorsey Marketplace Project Supplement to the Final Environmental Impact Report (SFEIR) because the SFEIR is not required to evaluate potential effects on existing retail businesses or the local economy. As discussed in Response to Comment D-7, the procedural remedy resulting from the litigation over the City's April 2020 project approvals does not require the City Council to reconsider the merits of the project. The only directive from the courts was to complete additional analysis of potential adverse health effects of project-related traffic on future project residents and occupants. No changes or additions to the project description or environmental document are required in response to this comment. This response is provided for information and to be responsive to public concerns.

As discussed in Response to Comments D-7 and J-1, the 2019 EIR included analysis of the project's potential to cause urban decay by leading to decreased economic activity in existing commercial areas and found that the project could capture some of the retail spending that currently occurs outside of the western Nevada County market area such that the project "would not depend on taking business from existing retail establishments in Grass Valley" and "would not lead to urban decay associated with commercial buildings becoming vacant and owners deferring maintenance on such buildings."

K-2 The comment states that the SFEIR is inadequate because it fails to address the aesthetic impacts of 'big box stores' which diminish the community character and require extensive parking that causes heat island effects and blight.

The comment does not address the accuracy or adequacy of the SFEIR because the SFEIR is not required to evaluate the community character, aesthetics, and heat island concerns raised in this comment. No legal challenges to the Final EIR's analysis regarding community character and aesthetics or the lack of analysis regarding heat islands were brought within the time to challenge the City's certification of that document. The original Final EIR is therefore legally adequate with respect to analysis that was unchallenged or unsuccessfully challenged in those arguments. The only directive from the courts was to complete additional analysis of potential adverse health effects of project-related traffic on future project residents and occupants. This response is provided for information and to be responsive to public concerns.

Chapter 5, of the 2019 EIR included a thorough analysis of the project's potential impacts related to aesthetics and community character. The analysis found that the project would result in potentially significant impacts due to the loss of vegetation on the site. The EIR notes that many of the onsite trees would need to be removed in order to complete the excavation and soil remediation that is necessary to address soil contamination from the prior mining activities at the site. The EIR notes that in compliance with the City's Tree Preservation Ordinance, the project would be required to plant a replacement tree onsite for each tree removed. The project's landscaping plans include the required

replacement trees. They also incorporate a variety of plant types and sizes to provide year-round color and screening. The EIR found that “Once matured, the perimeter landscaping would help screen views of the proposed development, while trees planted within the parking lots and along circulation routes would be visible between and over the tops of the proposed buildings.” Further, the EIR requires implementation of Mitigation Measure 5a, which establishes standards for the project site landscaping, including use of landscaping to “providing visual screening of large walls, loading docks, and parking areas.”

K-3 The comment states that the SFEIR does not consider how more office space will affect leasing prices at existing office spaces and anticipates that older existing office spaces will be left vacant, which could lead to blight that may affect other nearby businesses and neighborhoods. The comment notes that remote work is the “overwhelming trend today and for the future” and thus the new office space developed as part of the project would draw tenants away from existing office space.

The comment does not address the accuracy or adequacy of the SFEIR because the SFEIR is not required to evaluate the demand for office space or the project’s potential economic effects on existing office space. As explained above in the Response to Comment K-1, the courts have not required the City Council to reconsider the merits of its decision to approve the project in April 2020. The only directive from the courts was to complete additional analysis of potential adverse health effects of project-related traffic on future project residents and occupants. This response is provided for information and to be responsive to public concerns.

The project would develop 8,500 square feet of office space within a mixed-use community that would also include 104,350 square feet of commercial space and 171 residences. The comment is correct that there has been an increase in the number of people who work remotely for all or a portion of their work hours, and this has reduced the overall demand for office space. However, there are many individuals and businesses that continue to require office space. The Grass Valley General Plan found that there would be ongoing demand for new office space to meet increased demands for “medical services, professional services (engineering, legal) and business support services” and for “small office-space leasing, to accommodate numerous small business operations,” while recognizing that some of the demand for small office spaces would be “somewhat tempered by in-home business boom” (City of Grass Valley 1999). Although this analysis was prepared prior to the Covid-19 pandemic and the current trend towards remote work, the demand for medical and professional services is still present. The additional of 8,500 square feet of office space along with the increased local economic activity that the new commercial space is expected to substantially alter the office real estate market in the City. Regardless of the General Plan and zoning designations on the project site, investors will not make the expenditures needed to construct office space in the absence of any perceived demand for such a use. If, in the future, the property owner seeks changes in these designations, a public process with public input will ensue.

K-4 The comment states that the SFEIR is inadequate because it does not evaluate the project’s potential effects related to growth inducement and the jobs-housing balance.

The comment does not address the accuracy or adequacy of the SFEIR because the SFEIR is not required to evaluate growth inducement or the jobs-housing balance. The only directive from the courts was to complete additional analysis of potential adverse health effects of project-related traffic on

future project residents and occupants. This response is provided for information and to be responsive to public concerns.

Growth inducement and the jobs-housing balance was evaluated in the 2019 EIR Chapter 4, Population, Employment, and Housing. The analysis found that the project would increase the City's population by approximately 2.7% and that this growth "would not result in the City exceeding historic average growth rate or reaching a total population that is greater than the estimated population range in the City's General Plan." The Dorsey Marketplace Economic Analysis provided as Appendix D to the 2019 EIR projected that the project could generate between 170 and 190 jobs within the commercial, retail and office uses within the project site. The EIR also found that the infrastructure improvements constructed as part of the project "would only support the project and would not support additional development or growth outside of the city boundary."

The 2019 EIR concluded that the residential and employment growth supported by the project "would be consistent with the growth anticipated by and accounted for in the General Plan. The project would support the City's growth and economic development goals by generating new employment, shopping, and housing opportunities."

K-5 The comment states that the project would provide entry level jobs without providing housing that is affordable to entry level workers, which will increase demand and costs for the limited amount of lower cost housing that is available in the community.

The comment does not address the accuracy or adequacy of the SFEIR because the SFEIR is not required to evaluate jobs-housing balance and housing affordability. The only directive from the courts was to complete additional of potential adverse health effects of project-related traffic on future project residents and occupants. This response is provided for information and to be responsive to public concerns.

Housing affordability is evaluated in the 2019 EIR as Impact 4-3. The analysis found that the project "could satisfy a portion of the City's need for 100 moderate and 220 above-moderate income housing units and may contribute to meeting the City's need for low-income units but would not contribute to filling the City's need for very low-income units." It also found that "while some of the individuals that work in the lower pay range jobs available at the project site may have incomes at the moderate and low ranges, it is not expected that the majority of the jobs generated on site would add to the City's demand for affordable housing."

K-6 The comment states a "smart growth project provides housing stock for a jobs-housing balance" and identifies adverse conditions that may arise when there is not a good balance between jobs and housing, including increased housing costs when there are more jobs than housing units and increased commuting time and distances if there are too few jobs locally. The comment asserts that the ideal ratio is one dwelling unit for every two jobs. The comment states that the SFEIR does not address or provide any data on the balance of housing and jobs and that the project was not planned with smart growth principles in mind.

The comment does not address the accuracy or adequacy of the SFEIR because the SFEIR is not required to evaluate jobs-housing balance and housing affordability. The only directive from the courts was to complete additional analysis of potential adverse health effects of project-related traffic on

future project residents and occupants. This response is provided for information and to be responsive to public concerns.

As noted in Responses to Comments K-4 and K-5, the 2019 EIR Chapter 4 addresses the project's contribution to employment and housing within the City. The analysis in Impact 4-1 finds that the project would generate between 170 and 190 jobs. The project includes 171 dwelling units; thus Impact 4-3 identifies that the project would result in a 1:1 jobs-housing ratio. The 2019 EIR found that the project "would support the City's growth and economic development goals by generating new employment, shopping, and housing opportunities."

Further, development of both residential and non-residential land uses on this infill site is consistent with the General Plan, which states "It is realistic to expect infill development to accommodate about one-third of new housing in the Planning Area, including the City in the next 20 years. Depending on market factors, infill may be able to provide a larger percentage of non-residential development, but by no means will it be able to meet the total commercial and industrial land demand" (City of Grass Valley 1999). The 2019 EIR found that the project would provide commercial, residential and office infill development, "consistent with the policies included in the City's General Plan, such as LUP-8, -9, and -23, which encourage and facilitate mixed-use development on fill sites and provide for higher residential densities on infill sites.

K-7 The comment states that to support a jobs-housing balance, the available housing options must be applicable to the income earned by local workers, and that the SFEIR does not address this topic.

The comment does not address the accuracy or adequacy of the SFEIR because the SFEIR is not required to evaluate jobs-housing balance and housing affordability. The only directive from the courts was to complete additional analysis of potential adverse health effects of project-related traffic on future project residents and occupants. This response is provided for information and to be responsive to public concerns.

The 2019 EIR states that the project would "provide 171 dwelling units consisting of 38 three-bedroom units, 95 two-bedroom units, and 38 one-bedroom units. All units would be market-rate and would range in size from 1,013 to 1,600 square feet." As noted in Response to Comment K-5, the 2019 EIR found that the project would provide a portion of the moderate and above-moderate income housing units needed in the City and that the commercial jobs available at the project site are expected to provide incomes at the moderate and low ranges. The EIR also found that "the office jobs would be likely to be at higher pay ranges than the commercial and retail jobs." The residences at the project site would contribute to the City's housing stock and would provide housing options that are expected to be affordable for a large portion of the employment base that would be supported by the project.

K-8 The comment states that the growth inducing aspects of the Project should be considered in relation to the City's General Plan policies, such as "quality of character, school facilities, childcare, environmental, traffic, air quality, and social factors". The comment also states that Grass Valley's unique character, the tourist economy, and the current residents should be further considered.

The comment does not address the accuracy or adequacy of the SFEIR because the SFEIR is not required to evaluate growth inducement, community character, schools and childcare, traffic, and social factors. It is also not required to evaluate the project's effects on local and regional air quality

associated with operational air pollutant emissions outside of the Health Risk Assessment presented in the SFEIR. This response is provided for information and to be responsive to public concerns.

As stated in Response to Comment K-4, the 2019 EIR evaluated growth inducement Chapter 4, Population, Employment, and Housing. The analysis found that the project is not considered growth inducing because the residential and employment growth supported by the project “would be consistent with the growth anticipated by and accounted for in the General Plan. The project would support the City’s growth and economic development goals by generating new employment, shopping, and housing opportunities.”

The 2019 EIR also addresses the other environmental topics raised in this comment. Community character is addressed in Chapter 5, Aesthetics; schools are addressed in Chapter 14, Public Services and Utilities, traffic is addressed in Chapter 8, Transportation, and air quality is addressed in Chapter 10, Air Quality. As noted in chapter 4, social and economic effects and are not considered physical effects on the environment.

K-9

The comment states that the SFEIR should evaluate the project’s jobs housing ratio by analyzing the average wages in Nevada County and in Grass Valley, the affordable housing price by wage sector, the job count in the Project area, the prices of the project’s residential units, and the project’s “jobs and dwelling units by income group.” The comment notes that the SFEIR does not provide the statistical and economic data necessary to determine if the Project would be a “vibrant, walkable, mixed-use project” that meets the needs of workers or a “growth traffic inducing project that is incompatible with Grass Valley’s vision for itself.” The comment advocates working towards climate resilience and affordable housing for workers to limit commuting. The comment suggests the project should be redesigned to provide a better jobs-housing balance, and that decision makers should consider the impacts of the Project on quality of life and climate.

The comment does not address the accuracy or adequacy of the SFEIR because the SFEIR is not required to evaluate the project’s jobs-housing ratio or growth inducement. The only directive from the courts was to complete additional analysis of potential adverse health effects of project-related traffic on future project residents and occupants. This response is provided for information and to be responsive to public concerns.

As stated in Response to Comment K-4, the 2019 EIR evaluated growth inducement Chapter 4, Population, Employment, and Housing. The analysis found that the project is not considered growth inducing because the residential and employment growth supported by the project “would be consistent with the growth anticipated by and accounted for in the General Plan. The project would support the City’s growth and economic development goals by generating new employment, shopping, and housing opportunities.” As discussed in Responses to Comments K-5 and K-7, the project is expected to contribute positively towards the overall jobs-housing balance in the City because residences at the project site would provide housing options that are expected to be affordable for a large portion of the employment base that would be supported by the project.

Amy Kesler-Wolfson

From: wigwamchip@gmail.com
Sent: Tuesday, March 12, 2024 6:51 AM
To: Amy Kesler-Wolfson
Subject: Dorsey Development
Attachments: PUBLIC HAS TWO WEEKS.docx

You don't often get email from wigwamchip@gmail.com. [Learn why this is important](#)

Please don't okay this development. If you do, you will have to come back to us to raise taxes for a future sewerage treatment plant. And Bullards Bar Reservoir will not be enough to support the water it will need.

Charles Wilder
Grass Valley

L-1

From the Union article 3/6/24: Public has less than two weeks to review environmental studies for mixed-use development. (LTE or Other Voices?)

The saying “like a bad penny” here comes the developer again telling us the merits of turning the Dorsey interchange into another “opportunity” for our community. There will be 172 multi-family dwelling units, 8,500 square feet of office space, and 104,350 square feet of commercial uses. 3 additional drive through slabs for more fast food “In addition to the \$200-plus million in local sales being lost ‘down the hill’ each year, local job opportunities are also being lost...It’s estimated 400 to 450 new local jobs will be generated at the Dorsey Marketplace.”

Taking the language about “sales being lost down the hill”, and “400 to 450 new jobs will be created” according to the developer. What? At least half of those jobs will disappear when the construction of this development is complete. With the cost of fuel, less and less foothills shoppers go “down the hill”. More and more that means their money stays here!

But the main concern should be where our city engineers stand. Where are those guys? With the Loma Rica development going full throttle, and now this, where does the water come from and where does the sewage go? Shouldn’t one or more city engineers in Grass Valley and Nevada City have a say in the impact it could mean for the town’s infrastructure? Wouldn’t adding 1000 new toilets and sinks dramatically impact the already fragile balance regarding our precious resources? Or---- a few years from now will we be faced with enlarging the existing sewage treatment plant? And revisiting water distribution and the cost of serving folks who are already facing higher and higher costs for electricity.

At this point wouldn’t it be cheaper to just buy the developer a yacht, and send him “down the hill”?

Charles Wilder
Grass Valley

L-2

L-3

Response to Comment Letter L

Charles Wilder
March 12th, 2024

L-1 The comment states that if the proposed development is approved, then the public will be taxed for a future sewerage treatment plant and that Bullards Bar Reservoir will not be sufficient to meet the project's water demands.

This comment does not address the accuracy or adequacy of the Dorsey Marketplace Project Supplement to the Final Environmental Impact Report (SFEIR) because the SFEIR is not required to address the project's water and wastewater treatment demands. The petitioners in the litigation against the City of Grass Valley's April 2020 project approval raised arguments relating to the EIR's adequacy with respect to water supply and wastewater treatment demand but did not prevail on those arguments. The only directive from the courts was for the City to complete additional analysis of potential adverse health effects from project-related traffic on future project residents and occupants. No changes or additions to the project description or environmental document are required in response to this comment. This response is provided for information and to be responsive to public concerns.

The 2019 EIR included a thorough analysis of the project's potential impacts related to water supply and wastewater treatment in Chapter 14, Public Services and Utilities. The project site is within the Nevada Irrigation District (NID) service area for water supply. The EIR found that the project's water demand would not exceed NID's projected water supplies as identified in NID's Urban Water Management Plan, and that "NID has sufficient water supplies to meet the anticipated future water demands in normal, single dry year, and multiple dry year conditions" through 2040. As noted above, the petitioners who challenged the City's April 2020 project approvals argued in court that the water supply analysis in the EIR was inadequate, but those arguments were unsuccessful. The Court of Appeal reasoned in part as follows:

Plaintiffs argue that the EIR's water supply analysis is inadequate because it (1) fails to demonstrate there is adequate supply to meet future demand; and (2) fails to analyze the likely environmental effects of securing additional water supplies to meet future demand. We disagree.

The EIR relied on existing and recently adopted water conservation plans and standards to conclude that water demand would be reduced adequately to avoid water shortages in future dry years. The EIR also noted that the anticipated water demand from the proposed project would not substantially exceed that assumed under the NID's urban water management plan. There is substantial evidence to support the EIR's conclusion.

The present situation is unlike that in *Santa Clarita Organization for Planning the Environment v. County of Los Angeles* (2003) 106 Cal.App.4th 715, 721-722, where the lead agency relied on illusory "paper water." Here, the EIR properly concluded that, with conservation efforts, there is a reliable water supply, and the proposed project would not alter the water supply and demand projections or make a substantial contribution to any potential water shortages in the cumulative scenario. As a result, there was no requirement for the EIR to discuss possible alternative sources and their impacts. (*Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova*)

(2007) 40 Cal.4th 412, 432; see *Ocean Street, supra*, 73 Cal.App.5th at pp. 1019-1021 [upholding conclusion that project’s contribution was not cumulatively considerable because the project implemented and funded system improvements and conservation measures to reduce water supply demand].) The EIR’s water supply analysis was adequate.

The project would be served by the Grass Valley Wastewater Treatment Plant (WWTP). The EIR found that the WWTP has sufficient capacity to treat wastewater generated at the project site. The Sewer Capacity Assessment for the project, which was provided as Appendix L to the 2019 EIR, found that “the addition of the proposed project is not expected to cause any new sewer segments to exceed capacity of the infrastructure.” The EIR concluded that the project’s impacts related to wastewater generation would be less than significant because the “project would not exceed existing treatment, collection, and disposal facilities, resulting in the need for expansion or new wastewater infrastructure.”

L-2 The comment quotes an article published in The Union on March 6, 2024. The comment summarizes the project components and references a 2015 quote from the project developer regarding the loss of local sales and job opportunities and the project’s anticipated ability to create 400 to 450 new local jobs. The comment states that half of these new jobs would end once construction is complete and that fuel prices have reduced the extent to which retail sales occur outside of the City.

This comment does not address the accuracy or adequacy of the SFEIR because the SFEIR is not required to address the project’s effects on the local economy. The procedural remedy resulting from the litigation over the City’s April 2020 project approvals does not require the City Council to reconsider the merits of the project. The only directive from the courts was for the City to complete additional analysis of potential adverse health effects from project-related traffic on future project residents and occupants. This response is provided for information and to be responsive to public concerns.

As noted in Response to Comment K-4, the Dorsey Marketplace Economic Analysis provided as Appendix D to the 2019 EIR projected that the project could generate between 170 and 190 permanent jobs within the commercial, retail and office uses within the project site.

As discussed in Response to Comment D-7, the Dorsey Marketplace Economic Analysis found that there was “roughly \$150 million in existing retail spending leakage from the western Nevada County market area” while the project would generate approximately \$32 to \$36 million in sales, representing about 23% of existing retail leakage. Thus, despite recent changes in retail and commercial sales conditions, it is expected that there is sufficient retail sales activity in the western Nevada County market area to support the proposed project without putting substantial additional pressure on existing local businesses.

Although the amount of spending outside of the region may have decreased due to increased fuel prices, it is expected that there is sufficient retail sales activity that occurs outside of the western Nevada County market area that the project would be capable of capturing some of this activity without putting substantial additional pressure on existing local businesses.

L-3 The comment states that the main concern is how the project would affect water supply and wastewater conveyance and treatment for the community.

This comment does not address the accuracy or adequacy of the SFEIR because the SFEIR is not required to address the project's water and wastewater treatment demands. The only directive from the courts was to complete additional analysis of potential adverse health effects of project-related traffic on future project residents and occupants. This response is provided for information and to be responsive to public concerns.

As discussed in Response to Comment L-1, the 2019 EIR found that there is adequate water supply and wastewater treatment and conveyance capacity to serve the project. This conclusion was upheld by both the Nevada County Superior Court and the Court of Appeal.

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2 - AIR QUALITY

exposure and therefore health risk, although it is difficult to quantify the uncertainties associated with all the assumptions made in the HRA.

2.4 Impact Analysis

Impact 2.4.1 Would the project expose sensitive receptors to substantial pollutant concentrations?

Health Impacts of Operational Toxic Air Contaminants

Based on the 30-year exposure scenario, the MEIR for cancer risk would be at the Golden Empire Nursing and Rehab Center which is adjacent to SR 20/49, located north of the Project site. The results of the HRA for each of the proposed scenarios (baseline, baseline + Project with 100% ADT added to SR 20/49, baseline + Project with 20% of ADT added to SR 20/49, cumulative 2035, cumulative 2035 + Project with 100% ADT added to SR 20/49, and cumulative + Project with 20% of ADT added to SR 20/49) are summarized in Tables 2-6 and 2-7, below. The results based on the assumption that 100% of the project-generated ADT (approximately 8,873 vehicle trips) would be added to SR 20/49 represents a worst-case scenario while the results based on the assumption that 20% of the project-generated ADT (approximately 1,775 vehicle trips) reflects the trip distribution analysis presented in the Transportation Impact Analysis Report prepared for the project, which was provided in Appendix G of the 2019 Draft EIR.

Table 2-6. Summary of Maximum Cancer and Chronic Health Risks and PM_{2.5} Concentrations (Baseline Scenario)

Impact Parameter	Units	Risk	CEQA Threshold	Level of Significance
Baseline				
Cancer Risk	Per Million	22.02	10	Potentially Significant
Chronic Hazard Index	Index Value	0.01	1.0	Less than Significant
PM _{2.5} Concentration (µg/m ³)	µg/m ³	0.1622	0.3	Less than Significant
Baseline + Project with 100% ADT added to SR 20/49				
Cancer Risk	Per Million	27.38	10	Potentially Significant
Chronic Hazard Index	Index Value	0.02	1.0	Less than Significant
PM _{2.5} Concentration (µg/m ³)	µg/m ³	0.2028	0.3	Less than Significant
Project with 100% ADT added to SR 20/49 Impact (Baseline + 100% Project ADT minus Baseline)				
Cancer Risk	Per Million	5.36	10	Less than Significant
Chronic Hazard Index	Index Value	<0.01	1.0	Less than Significant
PM _{2.5} Concentration (µg/m ³)	µg/m ³	0.0406	0.3	Less than Significant
Baseline + Project with 20% ADT added to SR 20/49				
Cancer Risk	Per Million	22.19	10	Potentially Significant
Chronic Hazard Index	Index Value	0.01	1.0	Less than Significant
PM _{2.5} Concentration (µg/m ³)	µg/m ³	0.23	0.3	Less than Significant

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2 - AIR QUALITY

Project with 20 % ADT added to SR 20/49 Impact (Baseline + 20% Project ADT minus Baseline)				
Cancer Risk	Per Million	0.17	10	Less than Significant
Chronic Hazard Index	Index Value	<0.01	1.0	Less than Significant
PM _{2.5} Concentration (µg/m ³)	µg/m ³	0.01	0.3	Less than Significant

Source: Appendix O.

Notes: CEQA - California Environmental Quality Act; HRA - Health Risk Assessment.

¹ The Golden Empire Nursing and Rehab Center which is located adjacent to SR 20/49 was conservatively assumed to be the MEIR, though patients would not be considered residents with a 30-year exposure duration. Furthermore, this facility for seniors specifically, would not have the 3rd trimester start of exposure. Furthermore, the nursing facility would install MERV-14 filters per the American Society of Heating, Refrigeration, and Air-Conditioning Engineers or the filter with the highest compatible filtering efficiency depending on the existing HVAC system. Use of such filters was not included in the assessment and would serve to lower the indoor exposure to particulate matter and associated health risks.

Table 2-7. Summary of Maximum Cancer and Chronic Health Risks and PM_{2.5} Concentrations (Cumulative Scenario)

Impact Parameter	Units	Risk	CEQA Threshold	Level of Significance
Cumulative 2035				
Cancer Risk	Per Million	23.56	10	Potentially Significant
Chronic Hazard Index	Index Value	0.01	1.0	Less than Significant
PM _{2.5} Concentration (µg/m ³)	µg/m ³	0.1824	0.3	Less than Significant
Cumulative 2035 + 100% Project ADT				
Cancer Risk	Per Million	28.92	10	Potentially Significant
Chronic Hazard Index	Index Value	0.02	1.0	Less than Significant
PM _{2.5} Concentration (µg/m ³)	µg/m ³	0.2230	0.3	Potentially Significant Less than Significant
100% ADT Project Impact (Cumulative + 100% Project ADT minus Cumulative)				
Cancer Risk	Per Million	5.36	10	Less than Significant
Chronic Hazard Index	Index Value	<0.0101	1.0	Less than Significant
PM _{2.5} Concentration (µg/m ³)	µg/m ³	0.064	0.3	Less than Significant
Cumulative 2035 + Project with 20% ADT added to SR 20/49				
Cancer Risk	Per Million	23.73	10	Potentially Significant
Chronic Hazard Index	Index Value	0.01	1.0	Less than Significant
PM _{2.5} Concentration (µg/m ³)	µg/m ³	0.25	0.3	Less than Significant
Project with 20 % ADT added to SR 20/49 Impact (Cumulative + 20% Project ADT minus BaselineCumulative)				
Cancer Risk	Per Million	0.17	10	Less than Significant
Chronic Hazard Index	Index Value	<0.01	1.0	Less than Significant
PM _{2.5} Concentration (µg/m ³)	µg/m ³	0.01	0.3	Less than Significant

Source: Appendix O.

Notes: CEQA - California Environmental Quality Act; HRA - Health Risk Assessment.

¹ The Golden Empire Nursing and Rehab Center which is located adjacent to SR 20/49 was conservatively assumed to be the MEIR, though patients would not be considered residents with a 30-year exposure duration. Furthermore, this facility for seniors specifically, would not have the 3rd trimester start of exposure. Furthermore, the nursing facility would install MERV-14 filters per the American Society

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of Heating, Refrigeration, and Air-Conditioning Engineers or the filter with the highest compatible filtering efficiency depending on the existing HVAC system. Use of such filters was not included in the assessment and would serve to lower the indoor exposure to particulate matter and associated health risks.

As depicted in Tables 2-6 and 2-7, for the existing scenario, the maximum potential cancer risk within the Project area from on-road vehicle exhaust along SR 20/49 would be approximately 22.02 in a million and in the cumulative 2035 scenario the maximum potential cancer risk within the Project area from on-road vehicle exhaust along SR 20/49 would be approximately 23.56 in a million. These risk levels reflect the baseline conditions that are present or will be present in the area without the addition of Project-generated traffic.

For the existing + 100% Project ADT scenario, the maximum potential cancer risk within the project area from on-road vehicle exhaust along SR 20/49 would be approximately 27.38 in a million and for the cumulative 2035 + 100% Project ADT scenario, the maximum potential cancer risk within the Project area from on-road vehicle exhaust along SR 20/49 would be approximately 28.92 in a million. Therefore, assuming 100% of the Project ADT is added to SR 20/49, the maximum potential increase in cancer risk due to the Project would be approximately 5.36 in a million at the MEIR⁵ (or a potential increase of 0.000536%), which represents the estimated delta between the baseline and baseline + Project or the cumulative 2035 and cumulative 2035 + Project scenarios, which includes Project-generated vehicle travel. The maximum chronic hazard and the maximum PM_{2.5} concentration would be below the thresholds for each of the modeled scenarios (baseline, baseline + 100% Project ADT, cumulative 2035, and cumulative 2035 + 100% Project ADT).⁶

The HRA modeling found that when 20% of the Project's total trip generation is added to SR 20/49, under the existing + 20% Project ADT scenario, the maximum potential cancer risk within the Project area from on-road vehicle exhaust along SR 20/49 would be approximately 22.19 in a million and for the cumulative 2035 + 20% Project ADT scenario, the maximum potential cancer risk within the Project area from on-road vehicle exhaust along SR 20/49 would be approximately 23.73 in a million.

Therefore, assuming a 20% trip distribution on SR 20/49, the maximum potential increase in cancer risk due to the Project would be approximately 0.17 in a million at the MEIR (or a potential increase of 0.00007717%), which represents the estimated the delta between the baseline and baseline + 20% Project ADT or the cumulative 2035 and cumulative 2035 + 20% Project ADT scenarios, which includes Project-generated vehicle travel. The maximum chronic hazard and the maximum PM_{2.5} concentration would be below the thresholds for each of the modeled scenarios (baseline, baseline + Project, cumulative 2035, and cumulative 2035 + Project).

As such, the future residents and occupants at the Project site and sensitive receptors within 1,000 feet of SR 20/49 would be exposed to less than significant cancer, chronic, as well as PM_{2.5} concentrations due to traffic generated by the Project. In other words, mobile source emissions from Project generated traffic would not significantly exacerbate an existing or future environmental hazard. While Project generated traffic would increase

⁵ The MEIR is a nursing facility located adjacent to SR 20/49. Healthcare settings are recommended to install MERV-14 filters, which can theoretically remove at least 75% of dust, pollen, mold, bacteria, and any airborne particles with a size of 0.3 µm, which would further reduce potential health impacts. Notably, if MERV-14 filters are not compatible with the existing HVAC system, the facility would use filters with the highest compatible filtering efficiency. The recommendation for MERV-14 filtration is based on updated recommendations for healthcare settings from the American Society of Heating, Refrigeration, and Air-Conditioning Engineers.

⁶ For context, as mentioned in Section 2.3.1, the National Cancer Institute estimates that approximately 39.5% of people will be diagnosed with cancer during their lifetimes (National Cancer Institute 2020). This equates to a baseline rate of about 39 cancer cases in 100 people. As identified by the American Association for Cancer Research, approximately 40% of all cancers (or about 16 cancer cases in 100 people) are associated with lifestyle behaviors, including smoking tobacco, excess body weight, unhealthy dietary patterns, alcohol intake, and physical activity (American Association for Cancer Research 2023).

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