

West Slope courthouse clears litigation hurdle

By Joann Eisenbrandt

The legal roadblock that has prevented construction of a new courthouse facility in Placerville has just been removed. More than two years after the Placerville Historic Preservation League first challenged the environmental document approving the courthouse, the First Appellate Court of Appeal in San Francisco denied the appeal.

Currently, the county's Superior Court services on the West Slope are divided among the historic 1912 courthouse on Main Street in Placerville, Building C in the County Government Center on Fair Lane, and a small court facility in Cameron Park. The new courthouse would consolidate court services in an 88,000-square-foot facility on Forni Road off Highway 50 just west of Placerville and adjacent to the county jail.

A decadeslong process

El Dorado County has been considering constructing a new courthouse adjacent to the jail since the jail was built in 1988. It prepared its own environmental document on such a project in 2000. The courts were under the jurisdiction of the counties until 2002, when the state of California took them over under the oversight of the Judicial Council. The land on which the new courthouse would be built will eventually be given by the county to the state.

The process has been a contentious one. The Judicial Council certified its environmental impact report (EIR) for the Placerville courthouse in June 2015. Some have alleged that favoritism, back-door dealings, and a flawed site selection process led to the choice of a site beneficial to special political interests. Concerns were also raised about the

impacts on downtown Placerville if the Main Street courthouse and the economic benefit it brings were to be removed.

The courthouse, Kirk Smith of the Placerville Historic Preservation League contends, is essential to the economic health of the downtown business area. Its removal would lead to “absolutely horrendous blight to Placerville’s Main Street, all but turning this historic community into a ghost town.”

Jurors, other court visitors and courthouse staff would no longer contribute to the downtown economy. Court-related county agencies and private legal firms would move to the new courthouse site. Smith proposed leaving some court services at the existing Main Street courthouse and adding an annex.



Opponents of the Placerville Courthouse project lost their appeal. Photo/LTN

The legal battle

In July 2015, Smith’s group filed a lawsuit in San Francisco Superior Court against the Judicial Council’s EIR. El Dorado County and the Board of Supervisors were real parties in interest and respondents in the case as was former state Sen. John Briggs. Briggs swapped 5.2 landlocked acres he owned adjacent to the proposed courthouse site for land the county

owned. This was done, the county said, to allow for the best facility site design. Briggs received \$10,000 for two yearlong option agreements with the county. The transfer of land has already taken place.

The preservation league contended the Judicial Council failed to adequately consider the "urban decay" the removal of the Main Street courthouse would create. Projects by public agencies must comply with the rules of CEQA, the California Environmental Quality Act. It requires them to identify any substantial environmental effects of proposed projects and outline mitigation measures that would reduce such impacts to less than significant. In July 2016, the court denied the league's writ.

The league appealed this decision to the First Appellate District Court of Appeal in San Francisco. On Sept. 15, the appellate court agreed with the earlier trial court decision that the Judicial Council's EIR was not defective and should be upheld. The decision said, "The trial court rejected the argument (of the Placerville Historic Preservation League) and denied the petition in a thorough and well-reasoned written decision that hardly needs elaboration. The decision of the trial court is affirmed."

Money talks

El Dorado County Chief Administrative Officer Don Ashton told *Lake Tahoe News*, "The county is very pleased with the appellate court's decision. It allows the county to move forward with this essential project."

But this does not mean that construction of the new Placerville Courthouse project will be starting anytime soon.

With the legal obstacles removed, it now becomes an issue of money. In 2008, Senate Bill 1407 authorized up to \$5 billion to renovate existing substandard courthouses and build new ones. The Judicial Council reviewed and prioritized the

state's court facilities and created an "Immediate and Critical Need" list of court facilities they termed "the worst of the worst." El Dorado County's courts are on that list with funding first approved in 2009.

A critical needs account was created to pay for the projects. Over the intervening years, state budget problems caused money to be withdrawn by the state from the courthouse construction fund and diverted to other uses. This caused some court projects to be scrapped and others like the Placerville project to be delayed. The Judicial Council plans to ask the state to return the money borrowed in the past, but this will take time. In August 2016, the Judicial Council accepted the recommendation of their Court Facilities Advisory Committee to allow courthouse projects like the one in Placerville, which is still in the "site acquisition" phase, to complete the phase they are in, but then be put indefinitely on hold, awaiting an influx of funding.

The Judicial Council website says the projected completion date for the Placerville Courthouse is spring 2022.

Don Mooney, attorney for the Placerville Historic Preservation League told *Lake Tahoe News*, "We are disappointed in the court's decision and continue to believe that the project will result in significant impacts to the downtown area."

What the court said

In its decision, the First Appellate Court of Appeal noted that the Judicial Council's EIR did address "the possible economic impact of moving judicial activities from the downtown courthouse, it concluded the impact was not likely to be severe enough to cause urban decay."

CEQA does not usually require agencies to address economic and social impacts of their proposed projects, except when these changes will cause a serious physical change in the environment. It describes "urban decay" as "... physical

deterioration of properties or structures that is so prevalent, substantial, and lasting a significant period of time that it impairs the proper utilization of the properties and structures, and the health, safety, and welfare of the surrounding community.” Smith believes this is what will happen. The Judicial Council does not.

The court agreed with the Judicial Council. “Substantial evidence supports the Judicial Council’s conclusion that the type of physical deterioration embodied in the term ‘urban decay’ is not a reasonably foreseeable consequence of withdrawing judicial functions from the Main Street Courthouse and relocating them to a new building outside the downtown district.”

Repurposing the Main Street courthouse

The court concluded that repurposing the building will mitigate economic impacts. Its decision pointed to the creation of a Blue Ribbon Committee to study potential re-uses. The Blue Ribbon Committee was formed in 2015 and consists of members from the city, county and Placerville business owners.

The Judicial Council agreed to provide funding for a consultant to facilitate the committee’s meetings and help identify workable new uses for the courthouse. Although a consultant firm was selected in 2015, the Judicial Council has not finalized their contract due to the current freeze on the courthouse project. The Blue Ribbon Committee has only met sporadically. A survey was created asking residents to prioritize new uses for the Main Street courthouse, with a meeting in April 2017 to go over the results.

Smith told *Lake Tahoe News*, “The Blue Ribbon Committee was created as a ploy to support the baseless argument that serious efforts were made to mitigate blight. The committee held off meeting until before the case was argued before the

trial court, stopped meeting not long after that, resumed as needed when the case was before the appellate court and then they stopped meeting after that. That's irresponsible."

According to Smith, "The stakes are too high to give up." The league will be considering all its options, including appealing the appellate court's decision.