

## MEMORANDUM

**To:** Planning Commission

**From:** Kinarik Shallow, Associate Planner

**Date:** May 13, 2020

**Re:** Comments on the Initial Study/Mitigated Negative Declaration for WRSP PCL F-31 – The Plaza at Blue Oaks (File #PL17-0368)

The purpose of this memorandum is to provide a response to the May 6, 2020 letter from the Law Office of Robert M. Bone, representing an unincorporated association of Roseville community residents (the “Association”), to the City of Roseville (City). The letter is included as Attachment 1.

In the letter, the Association challenges the adequacy of the City’s environmental review, alleging that the Initial Study/Mitigated Negative Declaration (IS/MND) prepared for the Plaza at Blue Oaks project (“Project”) is not in compliance with the California Environmental Quality Act (CEQA). However, as this response will show, the Association has failed to offer any evidence that the initial study analysis is flawed. As clearly stated in CEQA Guidelines Section 15384, “argument, speculation, [and] unsubstantiated opinion or narrative” is not substantial evidence.

The Association’s letter claims that the IS/MND fails to adequately inform the public about environmental impacts, by citing CEQA Guidelines Section 15002(a), which identifies the basic purposes of CEQA. The Association has included a paraphrased portion of this section and inaccurately concludes that the environmental impacts of a project are required to be analyzed in an Environmental Impact Report (EIR). The Association fails to acknowledge the process in determining whether an EIR is the appropriate environmental document. For instance, CEQA Section 15063(a) identifies that an initial study is used to determine if the project may have a significant effect on the environment. An initial study is not required if the lead agency can determine that an EIR will clearly be required for the project, but it may still be desirable. In the case of this Project, the City prepared an initial study that led to a mitigated negative declaration. The Project’s initial study analysis relies upon two certified Specific Plan EIRs (the Amourso Ranch Specific Plan EIR and the West Roseville Specific Plan EIR) and is consistent with the land use designations examined in these documents. In fact, the WRSP anticipated the Project site to be developed with a conventional community/neighborhood retail center, consistent with the proposed Project. Consistent with CEQA Guidelines Section 15183, the Initial Study focuses on effects particular to the specific project site, impacts which were not analyzed within the EIRs, and impacts which may require revisiting due to substantial new information.

The Association asserts the City’s findings in determining a Mitigated Negative Declaration were incorrectly reached, but does not provide substantial evidence to support this claim. The Association further alleges the Project cannot be approved as proposed because there are “feasible mitigation measures available” that were not considered in the IS/MND. Again, the letter does not provide substantial evidence to support this claim nor does it identify what these supposed mitigation measures are.

### Noise

The Association claims that the initial study analysis found noise impacts would occur only during construction and that the analysis “dismissed” the noise impacts caused by operation of the Project. This statement is flawed, as the IS/MND concluded noise impacts would occur during both construction and operation of the Project, and that these impacts would be considered less than significant and less than significant with mitigation, respectively (see Section XIII of the Initial Study). Mitigation measures were

incorporated based on the findings and recommendations made in the Environmental Noise Assessment (ENA) prepared by Bollard Acoustical Consultants, Inc. (see Attachment 6 of the IS/MND). While the ENA recommended mitigation measures specific to the car wash operations, loading dock and on-site truck circulation areas (as these were found to be the Project's "primary stationary noise sources"), the IS/MND also includes noise mitigation measures applicable to all commercial uses within 150 feet of residential uses. These measures are included as Attachment 2 of the IS/MND. The Association claims the noise analysis underestimates the noise levels that would be generated by the Project, but does not provide any data to support this argument. The ENA analysis is based on a combination of on-site noise level measurements, application of accepted noise modeling techniques, and file data for comparable commercial centers, which was then compared against the City's noise level standards.

### Air and Water Quality

The Association argues that air quality issues were not properly considered in the IS/MND. The Association further argues that the proposed 12-pump gas station and car wash would increase poor air quality, ground water quality, and soil contamination during construction and operation. The Association fails to provide substantial evidence to support these claims and instead relies on argument and speculation.

Air quality impacts of the Project were evaluated in Section III (Air Quality) of the Initial Study. The analysis concluded that the Project was under the Placer County Air Pollution Control District (PCAPCD)'s adopted thresholds of significance for both construction and operational emissions for criterial air pollutants. In addition, the PCAPCD governs air quality impacts specifically related to gas stations and requires permits prior to construction and prior to dispensing gasoline to ensure the required local, state, and federal standards are adhered to as it relates to air quality impacts. The air quality analysis is supplemented with a Health Risk Analysis (HRA), prepared by Trinity Consultants, to determine the potential cancer risk that will be generated as a result of the Project (see Attachment 3 of the IS/MND). The HRA was reviewed by PCAPCD and concluded the annual amount of gasoline dispensed from the facility would be below PCAPCD's significance thresholds for cancer and non-cancer health risks.

As stated in Section X (Hydrology & Water Quality) of the Initial Study, the City's CEQA Findings of Implementing Procedures indicate that compliance with the City's Design/Construction Standards (Resolution 07-107), Urban Stormwater Quality Management and Discharge Control Ordinance (RMC Ch. 14.20), and Stormwater Quality Design Manual (Resolution 16-152) will prevent significant impacts related to water quality and erosion. In addition, grading activities are subject to the City's Improvement Standards, which include provision of proper drainage, appropriate dust control, and erosion control measures. The Project is required to prepare and submit a Storm Water Pollution Prevention Plan (SWPP) to the Regional Water Quality Control Board (RWQCB) to prevent the discharge of any unpermitted pollution and to preserve water quality.

### Transportation

The Association claims that "morning, afternoon, and other peak-hour commute times will be permanently greatly increased" from the Project and identified this as a significant impact. The letter fails to provide substantial evidence to support this claim. As cited in Section XVII (Transportation) of the Initial Study, CEQA Guidelines Section 15064.3 indicates that a project's effect on automobile delay cannot be considered a significant impact. However, the project is evaluated for consistency with the General Plan Circulation Element, which includes an analysis of delay as a potential policy impact. The Circulation Element establishes Level of Service (LOS) C or better as an acceptable operating condition at all signalized intersections during a.m. and p.m. peak hours; a minimum of 70% of all signalized intersections must maintain LOS C. The Initial Study is supplemented with a short-term traffic study prepared by Kimley-Horn (Attachment 7 of the IS/MND), which concluded that the signalized intersections surrounding the project would operate at LOS C or better during the Existing (2018) plus Project conditions. In addition, the traffic study included recommendations to ensure sufficient vehicle throat depths, tapers, and storage capacity; the Project incorporated these recommendations into the project design.

### Conclusion

The Association concludes in the same manner it began, by claiming the IS/MND fails to adequately disclose, evaluate, and mitigate the Project's environmental impacts, and requests an "appropriate" environmental review be conducted and circulated for public review. As stated throughout this response letter, the Association does not provide substantial evidence to support its claims. Staff is confident that the Initial Study adequately discloses, evaluates, and mitigates the Project's environmental impacts and a Mitigated Negative Declaration is the appropriate environmental determination for this project; the Initial Study provides substantial evidence to support this finding.

Law Office of  
**ROBERT M. BONE**

May 6, 2020

**VIA EMAIL ONLY**

publiccomment@roseville.ca.us

City of Roseville Planning Commission  
311 Vernon Street  
Roseville, California 95678

RE: Comments on Proposed Mitigated Negative Declaration for  
WRSP PCL F-31 – The Plaza at Blue Oaks; File # PL17-0368

Dear Sir or Madam:

Our firm writes on behalf of an unincorporated association of Roseville community residents (the "Association") to provide comments on the proposed mitigated negative declaration finding prepared by the City of Roseville Planning Commission ("Planning Commission"), and proposed by Joe Zawidski, West Roseville Development Company, Inc., the project owner ("Owner"), and Joe Zawidski, Signature Management Company, the project developer ("Developer") for the Project defined below.

The proposed Project, located at 1950 Blue Oaks Boulevard, in the City of Roseville, Placer County, CA (APN 017-117-093-000) is a proposed retail center consisting of an approximately 35,000 square-foot anchor grocery store, a 12-pump gas station with an approximately 3,500 square-foot convenience store and car wash, and seven additional buildings ranging in size from approximately 3,750 square feet to 9,750 square feet (the "Project"). The Project approvals include a Design Review Permit to review the site design and proposed buildings, a Tree Permit to remove several native oak trees on the westerly portion of the site, and a Tentative Subdivision Map to subdivide the parcel into eight (8) lots (the "Approvals"). No building is being proposed on Lot 2 at this time, which will be located on the northeastern corner of the site and will consist of approximately 1.3 acres.

The Association includes individuals that may be adversely affected by the potential traffic, air quality, ground water quality, soil quality, noise, public health, and other environmental impacts caused by the Project. The Association includes individuals who live and work in Roseville and their families. Because they are local residents, the individual members of the Association would be directly affected by the traffic, air quality, ground water quality, noise, public health and other environmental issues created by the Project. Individual members may also



work on the Project itself. As such, they would be first in line to be exposed to any health and safety hazards that exist on site.

### **The Initial Study/Mitigated Negative Declaration is Not in Compliance With CEQA**

#### The IS/MND Fails to Adequately Inform the Public About Environmental Impacts

Based upon our review of the initial study/mitigated negative declaration (“IS/MND”), we feel the IS/MND fails to comply with California Environmental Quality Act (“CEQA”) requirements in the following ways. CEQA is designed to inform decisionmakers, and the public about the potential significant environmental effects of a project. CEQA Guidelines §15002(a)(1). CEQA requires that an agency analyze potentially significant environmental impacts in an [environmental impact report (“EIR”)]. Pub. Resources Code §21000; CEQA Guidelines §15002. Specifically, that EIR should result from “extensive research and information gathering,” including consultation with state and federal agencies, local officials, *and the interested public*. (emphasis added.) *Berkeley Keep Jets Over the Bay Comm. v. Board of Port Comm.* (2001) 91 Cal.App.4th 1344, 1367 (Berkeley Jets); *Schaeffer Land Trust v. San Jose City Council* (1989) 215 Cal.App.3d 612, 620.

CEQA also directs public agencies to avoid, or reduce, environmental damage when possible by requiring alternatives, or mitigation measures. CEQA Guidelines §15002(a)(2)-(3); *Berkeley Jets*, supra, 91 Cal.App. 4th at 1354. The EIR serves to provide public agencies and the public in general with information about the effect that a proposed project is likely to have on the environment and to “identify ways that environmental damage can be avoided or significantly reduced.” CEQA Guidelines §15002(a)(2). If a project has a significant effect on the environment, the agency may approve the project only upon a finding that it has “eliminated or substantially lessened all significant effects on the environment where feasible,” and that any unavoidable significant effects on the environment are “acceptable due to overriding concerns” specified in CEQA §21081. CEQA Guidelines §15092(b)(2)(A)-(B).

The IS/MND begins with a Declaration, on page 2, that states:

The Planning Manager has determined that the above project will not have significant effects on the environment and therefore does not require preparation of an Environmental Impact Report. The determination is based on the attached initial study and the following findings [“(Findings)”]

A. The project will not have the potential to degrade the quality of the environment, substantially reduce the habitat of fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels,

threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of an endangered, rare or threatened species, reduce the number or restrict the range of rare or endangered plants or animals or eliminate important examples of the major periods of California history or prehistory.

B. The project *will not have the potential to achieve short-term, to the disadvantage of long-term, environmental goals. (emphasis added.)*

C. The project *will not have impacts, which are individually limited, but cumulatively considerable. (emphasis added.)*

D. The project *will not have environmental effects, which will cause substantial adverse effects on human beings, either directly or indirectly. (emphasis added.)*

E. No *substantial evidence exists that the project may have a significant effect on the environment. (emphasis added.)*

F. The project incorporates all applicable mitigation measures identified in the attached initial study.

G. This Mitigated Negative Declaration reflects the independent judgment of the lead agency.

The Association asserts that substantial evidence exists to support their assertion that the Findings, noted above, were incorrectly reached. It defies imagination how the construction of a 12-pump gas station, with its attendant underground gasoline storage tanks, a car wash that will undoubtedly wash chemicals into the soil, and potentially into the ground water, and other commercial uses *will not cause any impact* to the environment such that a fulsome environmental review is unnecessary. The planned uses will have considerable cumulative, long-term, adverse impacts on the environment and nearby residents, either directly, or indirectly. Approving the Project without a full environmental review amounts to achieving a short-term goal to the disadvantage of long-term environmental goals.

The IS/MND incorporates a checklist of potential environmental impacts. Although the analysis considered various impacts as provided in the checklist, and as required by CEQA, the IS/MND found in the vast majority of the analysis that the Project would have “No Impact,” or a “Less Than Significant Impact” on the environment. Thus, mitigation measures were not adequately considered.



Potential impacts were found in only two cases. In one case, the IS/MND found the Project may create significant impacts on the resources of California Native American tribes. Of greater concern to the Association, however, is the fact that the analysis found noise impacts would occur only during construction of the Project, but dismissed the noise impacts caused by operation of the Project after the construction is completed. This effect was considered to be “Less Than Significant With Mitigation” if such mitigation measures were implemented during construction. Little attention was paid to the fact that the Project will flank two existing residential neighborhoods. The permanent noise levels that will be generated by a 12-pump gas station, an automatic car wash and convenience store, and 35,000 a foot grocery store, in addition to other anticipated commercial uses, are certain to increase substantially over current ambient noise levels in the neighborhood. This is hardly a “Less Than Significant” impact. This impact, and potential mitigation measures to lessen the impact, warrants further study.

Other than the two instances noted above, the IS/MND noted no significant impacts to the environment caused by the Project. The Association disagrees. The subdivision of a single parcel into 8 parcels and the construction of more than 48,000 square feet of commercial structures in that footprint absolutely creates significant negative impacts on the surrounding residential community. These impacts to the traffic, air quality, ground water quality, soil quality, noise and other aspects of the community must be properly determined and studied.

Air quality issues were not properly considered in the IS/MND. Many of the residents near the Project are older and/or are otherwise considered to be sensitive receptors. The dust, soot, exhaust, fumes and other particulate matter that will necessarily increase due to large construction vehicles, and further due to permanently increased traffic and idling vehicles in the area, will create negative health impacts on residents, who are sensitive receptors, for an unknown period of time. These sensitive receptors may experience prolonged and significant impacts to their health.

The negative health effects on area residents caused by the Project will be exacerbated by the construction of a 12-pump gas station as the site. Not only will this increase poor air quality, ground water quality, and soil contamination during construction, but nearby residents will be permanently negatively impacted by known carcinogens that will be pumped into underground tanks, as well as exhaust and fumes created by cars idling and using the gas station. Additionally, detergents, waxes and other chemicals used by the car wash will be rinsed away, and may flow into the ground, eventually reaching the water table. This will have deleterious effects on the water table and the health of nearby residents. These issues were found to cause either “No Impact,” or “Less Than Significant Impact” in the IS/MND. These deleterious impacts must be properly studied so that their true impacts on nearby residents can be determined and mitigated.

#### The IS/MND Fails to Consider Feasible Mitigation Measures That Alleviate Negative Environmental Impacts

The Planning Commission cannot approve the Project as proposed because there are feasible mitigation measures available which would substantially lessen one, or more, of the Project’s significant environmental effects. Pub. Resources Code, § 21002. For example, morning,

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afternoon and other peak-hour commute times will be permanently greatly increased throughout the area if the Project is developed as currently proposed. The IS/MND failed to propose mitigation measures to alleviate this significant impact.

The Environmental Noise Assessment, included as Attachment 6 to the IS/MND, states, in pertinent part, on Page 6 that the “Noise Element of the City of Roseville General Plan establishes non-transportation noise exposure limits as summarized...in Table 1 (Table IX-3 of the Noise Element). These limits are applicable to non-transportation noise sources (i.e., on-site truck movements, loading docks, and car wash operations) affecting existing noise-sensitive land uses.” The report suggests that a 6-foot sound barrier be constructed and that construction trucks be limited in their hours of operation. The report dubiously suggested this 6-foot sound barrier is enough to mitigate the significant impact the operation of the gas station, the loading dock, the car wash and the other commercial uses will cause to adjacent neighborhoods after construction.

The noise assessment in the IS/MND dismissed operations noise that will be caused by idling vehicles and traffic at the 12-pump gas station and ignores the Project’s other commercial uses. Instead, although the document recognized the fact that the nearest noise-sensitive land uses to the Project site are existing and future residential developments located north, south, and east of the Project site, significant impacts to these receptors was minimized by the report. It was assumed that each of the evaluated noise sources would only operate during limited, mostly daytime, hours. Based on this assumption, Roseville’s daytime and nighttime noise level standards for noise-sensitive residential land were applied to the Project’s noise sources. This represents a serious underestimation of the noise levels to be generated by the commercial uses in this Project.

Due to the fact that the IS/MND wholly dismissed the vast majority of the potential environmental impacts caused by the Project, mitigation measures were inadequately considered or completely ignored. For this reason, the IS/MND fails to adequately disclose, evaluate, and mitigate the Project’s environmental impacts, resulting in a legally deficient CEQA document. The Planning Commission must conduct an appropriate environmental review that addresses these inadequacies and must circulate the document for public review to consider these critical issues. Thank you for your attention to these comments.

Sincerely,



Robert M. Bone, Esq.