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SAMUEL D. BACAL-GRAVES

June 16, 2022

Greg Bitter
Planning Manager
City of Roseville
311 Vernon Street
Roseville, CA 95678

Re: NERSP PCL 25 - Sutter Medical Office Building 7 (MOB 7), PL22-0061

Dear Mr. Bitter:

Our firm represents Sutter Health and its affiliated entities, including Sutter Valley Hospitals, dba Sutter Roseville Medical Center (SRMC) concerning the SRMC Office Building 7 (MOB 7) Project, which will come before the Planning Commission on June 23, 2022. On May 12, 2022, the Planning Commission unanimously approved the Sutter Parking Garage Expansion Project (File PL22-0024) and adopted the Negative Declaration analyzing the Sutter Parking Garage Expansion Project. As you are aware, shortly before that Planning Commission hearing, a letter was submitted by Laborers International Union of North America, Local Union 185 ("Union"), challenging the adequacy of the Negative Declaration to support approval of the Sutter Parking Garage Expansion Project. City staff reviewed and responded to the Union's comment letter prior to the Planning Commission hearing on that Sutter Parking Garage Expansion Project.

As authorized by CEQA, the City evaluated both the Sutter Parking Garage Expansion Project and MOB 7 Project in a single Negative Declaration. While the Union's comment letter challenges the City's approval of the Sutter Parking Garage Expansion Project, I have reviewed the Union's comment letter and the City's responses to evaluate the adequacy of the Negative Declaration as it relates to the Planning Commission's consideration of the MOB 7 Project.

The Negative Declaration thoroughly evaluates all potential environmental impacts of the MOB 7 Project and finds that the Project does not have the potential to result in any significant impacts on the environment. City staff's responses to the Union's comment letter on the Sutter Parking Garage Expansion Project demonstrate that the Negative Declaration is adequate to comply with CEQA for both the Sutter Parking Garage Expansion Project and MOB 7. While I agree fully with City staff's responses to the Union's comment letter, as explained further below, there are additional reasons that the Union's comments lack merit.

With respect to the Union's assertion relating to indoor air quality impacts from emissions of formaldehyde, the Union cites to PCAPD's 10-in-1 million cancer risk threshold. City staff correctly determined that no substantial evidence supports the conclusion that the Sutter Parking Garage Expansion Project and/or MOB 7 Project has the potential to exceed this threshold. Additionally, it is important to note that the 10-in-1 million threshold is only applicable to a "new source" project and is not applicable to a "new receptor" project. (PCAPCD CEQA Guidelines, Appendix G¹, p. 93.) A "new source" for purposes of this distinction "is a project that can cause an adverse health impact *on people already living or working nearby.*" (*Id.*, p. 91 [emphasis added].) By contrast, in the Union's comment letter, the Union alleges impacts on future employees of the proposed project. For purposes of the PCAPCD analysis, that means this is a "new receptor" project. (*Ibid.*) The PCAPCD Guide appropriately recognizes that CEQA does not require analysis of impacts on new receptor projects, but only impacts of new sources on the environment. (*Ibid.*) Thus, the threshold relied on by the Union is inapplicable. However, as correctly determined by City staff, no substantial evidence supports the conclusion that the Sutter Parking Garage Expansion Project and/or MOB 7 Project would result in an exceedance of this (inapplicable) threshold.

With respect to the Union's assertion relating to construction and operational noise impacts, the Union's comment letter does not provide any substantial evidence to support the assertion that the Sutter Parking Garage Expansion Project and/or MOB 7 Project have the potential to result in significant noise impacts. Instead, the Union's comment and attached letter by Wilson Ihrig consists of general observations and a recommendation that the City consider the potential for noise impacts further. However, an expert whose comments "consist largely of general observations... and topics allegedly unaddressed or inadequately addressed in the MND and project materials.... cannot, in and of themselves, create a fair argument without some nexus with the project itself." (*Clews Land & Livestock, LLC v. City of San Diego* (2017) 19 Cal.App.5th 161, 194.) "'Substantial evidence' is defined in the CEQA guidelines to include 'expert opinion supported by facts.' It does not include 'argument, speculation, unsubstantiated opinion or narrative.'" (*Apt. Ass'n of Greater L.A. v. City of L.A.* (2001) 90 Cal.App.4th 1162, 1176 [emphasis added].) As such, "an expert's opinion which says nothing more than 'it is reasonable to assume' that something 'potentially . . . may occur' does not constitute substantial evidence." (*Ibid.*) Moreover, as explained by City staff, the City's noise standards ensure that the Sutter Parking Garage Expansion Project and MOB 7 Project do not have the potential to result in significant noise impacts and this conclusion is supported by City staff's conclusions based on existing noise levels associated with ongoing operations on the Sutter Roseville Medical Center that are located closer to adjacent sensitive receptors than the proposed Sutter Parking Garage Expansion Project and MOB 7 Project.

With respect to the Union's assertion relating to GHG emissions, under CEQA Guidelines section 15152(d), the scope of analysis for later projects tiered from an initial EIR is limited to impacts that "(1) Were not examined as significant effects on the environment in the prior EIR;

¹ <https://www.placer.ca.gov/DocumentCenter/View/2044/Appendix-G-Preparing-a-Health-Risk-Assessment-for-Land-Use-Projects-PDF>

or [¶] (2) Are susceptible to substantial reduction or avoidance by the choice of specific revisions in the project, by the imposition of conditions, or other means.” The 2035 General Plan Update includes a detailed evaluation of GHG emissions and concludes that “[t]here are no additional feasible mitigation measures available to address this impact.” Measures identified by the commenter to address GHG emissions are consistent with the measures already included in, and required by, the 2035 General Plan Update. Therefore, City staff is correct that the approach used by the City in the Negative Declaration complies fully with CEQA.

Finally, with respect to the Union’s assertion relating to renewable energy, the Union is incorrect that the Negative Declaration failed to address the topic. The Negative Declaration includes a discussion of the grid’s shift to renewables. (Neg Dec, p. 20.) As City staff correctly notes, the CEQA provisions and case law relied on by the Union concern the requirements applicable to Environmental Impact Reports (EIRs) and not Negative Declarations and are, thus, inapplicable. Moreover, even if these requirements were applicable to Negative Declarations, nothing in CEQA requires either EIRs or Negative Declarations to address on-site renewable generation. As explained in Appendix F of the CEQA Guidelines, an EIR should address energy use in the context of CEQA’s goal of increasing reliance on renewable energy sources. The goal identified in Appendix F can be achieved through either or both onsite and offsite measures. Here, the Sutter Parking Garage Expansion Project and MOB 7 Project are consistent with this goal because, as the Negative Declaration expressly finds, the projects would not impede the City’s attainment of the Renewable Portfolio Standards.

For all of the reasons explained by City staff prior to the Planning Commission’s unanimous approval of the Sutter Parking Garage Expansion Project on May 12 and for the additional reasons addressed above, we believe the Negative Declaration is adequate and should be adopted by the Planning Commission as part of its upcoming consideration of the MOB 7 Project.

Respectfully,
THOMAS LAW GROUP



Christopher J. Butcher
Attorney for Sutter Health