

# MEMORANDUM

**To:** City Council

**From:** Sean Morales, Associate Planner

**Date:** July 19, 2023

**Re:** NRSP PCL WW-40 – Grocery Outlet – Response to Mooney City Council Comment Letter

The purpose of this memorandum is to respond to a letter submitted by Donald B. Mooney, Attorney for Protect Our Roseville Neighborhoods, and Paseo Del Norte Homeowners Association. Typically, staff would provide a response to public comment received within the staff report. Given the letter was received the day before the City Council meeting, staff was not able to include a response in the published staff report. This memo addresses the letter.

## Overall

The letter submitted by the appellant is consistent with the letter the appellant submitted preceding the Planning Commission hearing as well as the letter the appellant attached to the appeal of the Planning Commission decision. Staff has addressed the crux of the comments previously in the commission staff report (CC Attachment 1), the memo provided at the commission hearing (CC Attachment 4), and the City Council staff report. For consistency, staff is providing a response to this most recent letter. The appellant letter is divided into five sections and the response memo follows this same format.

## **A. CEQA REQUIRES WHOLE OF THE ACTION BE REVIEWED**

The appellant alleges that the applicant and City as lead agency are breaking up the project into multiple projects in order to bypass CEQA review. According to the appellant, a drive-through restaurant use on Parcel 3 should have been included in the CEQA review of the project. The appellant claims:

“City staff noted that it is reasonably foreseeable that Parcel 3 would be developed in the future, but elected not to develop that Parcel 3 at this time because the proposed use would require a conditional use permit and thus the remainder of the project would not qualify as an infill exemption. This constitutes a classic example of piecemealing of environmental review.”

This is a mischaracterization of the project review. As noted in the memo response to the appellant’s initial Planning Commission letter (CC Attachment 4), “A drive-thru restaurant was initially proposed on Parcel 3 with project submittal but was removed after the first round of staff review determined that the findings required to approve a Design Review Permit and Conditional Use Permit could not be made.” Thus, it is not reasonably foreseeable that Parcel 3 will be developed with a drive-through restaurant, as staff made clear to the applicant that staff could not support such a proposal.

The application before City Council (and previously, Planning Commission) does not include a specific proposal for development of Parcel 3, and therefore it was not included in the Design Review Permit evaluation. Appropriate discussion of Parcel 3 was included in the Tentative Parcel Map evaluation. This is not an example of piecemealing a project as characterized by the appellant.

It is reasonably foreseeable that Parcel 3 could be developed with other use types allowed in the Community Commercial zone, which is the City's most commonly found commercial zoning designation. Programmatic evaluation of site development consistent with this land use designation was already completed as part of the North Roseville Specific Plan Environmental Impact Report. The project is located on Specific Plan Parcel WW-40 in the North Roseville Specific Plan. The Environmental Impact Report analyzed the impacts of full development of the entirety of Parcel WW-40 with commercial uses, including the project site. The creation of an additional parcel within the same site does not require further CEQA review, as there are no specific or peculiar project-level effects of a commercial parcel map. Furthermore, the EIR assumed Community Commercial parcels would develop at a Floor Area Ratio of 0.30, which for this 3.1-acre project site would be approximately 40,500 square feet of building area. The proposed project includes approximately 20,600 square feet of building area, and thus is significantly less intensive than the assumptions of the programmatic analysis.

Development of commercial parcels commonly happens in phases over time, and often includes remainder parcels. In 2010, as part of the application for the CVS developed on the western portion of parcel WW-40, the CVS project included a parcel map which created an undeveloped eastern parcel. Like the current project, the CEQA review for the CVS project focused on the potential effects of developing the CVS and did not provide further discussion of the remainder parcel because there was no project-level proposal to evaluate. Thirteen years later, the Grocery Outlet is proposed and CEQA review has been completed for the project. Parcel 3 is a remainder parcel with no specific development proposal at this time, and therefore no project specific analysis is possible for Parcel 3; the programmatic CEQA analysis of the EIR is sufficient. It is certainly not prudent to analyze Parcel 3 as a future drive-through restaurant, which staff explicitly told the applicant they could not support.

The appellant notes that Planning Commission condition of approval #4 refers to a quick serve restaurant (QSR). This condition was added by the City's addressing reviewer during the initial project review that included the drive-through proposal. The condition was erroneously not updated to remove reference to the QSR. Staff recommends City Council strike the reference to the QSR from Condition 4 for clarity. The purpose of the condition is to provide a future address for the parcel and the future use is not relevant.

The appellant alleges that implementation of the recommendations in the short-term traffic study, which analyzed circulation on the project site, "will already have been developed to accommodate a QSR for the future." It should be noted that the traffic study was a short-term study examining turning movements and on-site queuing, to ensure site circulation and access would be consistent with City standards, not to evaluate CEQA impacts. A short-term study evaluates project level details, such as driveway locations, drive-aisle designs, on-site vehicle stacking, and the efficiency of turning movements into and out of a site. As explained in the staff response to the initial comment letter (CC Attachment 4) the study was completed prior to application submittal and therefore included the drive-through restaurant use. Rather than require a costly revision to remove all reference to the drive-through use, it was determined the study could continue to be used since it did not underestimate effects, and instead represented a "worst-case scenario" for access. In fact, the study notes that a minor update was completed after staff raised concerns about the drive-through use, and the study includes the following statement: "Since the design review permit does not include the fast-food restaurant, this study does not include any specific recommendations regarding its design shown on the site plan." So in fact, the study does not include all the evaluation necessary in order to accommodate a QSR, contrary to the allegation.

In conclusion, the City reviewed the project as submitted by the applicant. There is no development proposed for Parcel 3 and no development can occur based on approval of the project. If a drive-through restaurant were proposed it would require a Conditional Use Permit. Staff told the applicant they would not be able to make the findings required to support a drive-through on Parcel 3. Thus, it is not reasonably foreseeable to assume such a development would occur.

---

## **B. THE STAFF REPORT SUPPORTING THE NOTICE OF EXEMPTION CONTAINS AN INCONSISTENT PROJECT DESCRIPTION**

The appellant alleges that the project description is unclear in the staff report. As discussed above, the project description clearly includes a parcel map with three lots and two of the lots are proposed for development. The request at the beginning of the staff report states:

“The applicant requests a Design Review Permit to construct a 16,000 square-foot grocery building and a 4,600 square-foot freestanding pad building. The request also includes a Tentative Parcel Map to subdivide the existing parcel into three (3) lots.”

The Design Review Permit Evaluation section of the report states “The proposed project including Grocery Outlet and the shops building on parcels 1 and 2, respectively, will be developed in one phase (Figure 5). Parcel 3 will be developed at a later time.” As the appellant cites, Parcel 3 is part of the Tentative Parcel Map evaluation. The appellant goes on in this section to cite the erroneous addressing condition and the short-term traffic study. These items do not create an “unstable project description.”. The commission staff report, project plans, memo to planning commission, planning commission presentation and city council staff report are clear on the scope of the project.

## **C. THE PROJECT DOES NOT QUALIFY FOR AN INFILL EXEMPTION UNDER CEQA GUIDELINES SECTION 15332**

This section of the appellant’s letter relies on the arguments of sections A and B, where A requires consistency with the General Plan and zoning designation and B requires the parcel be under five acres. The appellant alleges the project includes “the preparation for the eventual development of Parcel 3 as a QSR.” As discussed, the project clearly includes the subdivision of the existing parcel into three lots, and with all three lots is under five acres. The project does not include development of a QSR or any other specific use on Parcel 3, as clearly stated and described in the staff report. The project is consistent with the zoning designation. Any future development of Parcel 3 would require, at minimum, application for a Design Review Permit from the City; approval of the project does not approve any specific use or development on Parcel 3.

## **D. The Project Does Not Qualify for a Categorical Exemption due to Unusual Circumstances**

The appellant states that there is an unusual circumstance in the project that does not allow for a CEQA infill exemption. They allege that “In the present case, the unusual circumstances is the placement of a fast-food restaurant adjacent to an existing neighborhood.” As discussed above, there is clearly no fast-food restaurant proposed or a reasonable possibility that one is proposed, given that there is no Conditional Use Permit associated with the project and no drive-through is shown on any of the project plans. There are no unusual circumstances as described by the appellant associated with this project.

## **E. The Project Will Impact an Easement Held by the Nearby Homeowners Association**

The appellant describes the two scenarios concerning the entrance to Camino Real Way from the project site, whether a speed bump and signage or emergency access bollards, and alleges, “both of these conditions place the burden on the HOA and its members to address Project’s impacts with little or no contribution from the developer other than payment for a couple of bollards.” The appellant then goes on to state, “As proposed by the HOA, the most reasonable and prudent solution is the construction of gate, paid for and maintained by the developer, but controlled by the HOA and its members.” Staff has found no nexus to require the project applicant to construct and maintain a gate. The easement in question is for the benefit of the HOA and is the responsibility of the HOA. The subject conditions of approval are at

the burden of the project applicant to the benefit of the HOA and do not restrict the easement unless desired by the HOA.

Conclusion

As discussed above and in the staff report, the project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15332, which exempts In-Fill Development Projects that meet five criteria. The comment letter claims that the project description is unclear and the project is being approved in piecemeal to avoid CEQA review. However, the original staff report and all other associated documentation create a clear record of the project request to construct a grocery and pad building while creating a third parcel for future development.

Please contact me at [smorales@roseville.ca.us](mailto:smorales@roseville.ca.us) or at 916-774-5282 if you have any concerns.