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VIA EMAIL ONLY
publiccomment@roseville.ca.us

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

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

Dear Sir or Madam:

This office represents West Roseville Project Development Company, Inc., the project owner ("Owner"), and Signature Management Company, the project developer ("Developer"), of the above-referenced project. The purpose of this letter is to provide a response to the May 6, 2020 letter from the Law Offices of Robert M. Bone, representing an unincorporated association of Roseville community residents (the "Association"), to the City of Roseville ("City"). Owner and Developer are real parties in interest.

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, Owner and Developer agree with Planning Commission Staff ("Staff") 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. Owner and Developer also assert that all aspects of CEQA with regard to the IS/MND have been fully complied with and that an Environmental Impact Report ("EIR") is not required for the Project.

CEQA requires the preparation of an EIR whenever an agency proposes to approve or implement a project that "may have a significant effect on the environment." (§§ 21100, 21151.) "If there is no substantial evidence of any significant environmental impact, however, the agency may [instead] adopt a negative declaration." (City of Redlands v. County of San Bernardino, (2002) 96 Cal.App.4th 398, 405.) A *mitigated* negative declaration may be utilized by an agency when a project as initially proposed may have a significant effect on the environment but will not have a significant environmental effect because changes have been made or agreed on that mitigate such potential effects. (Cal. Code Regs. tit. 14, § 15071(e)). In evaluating a claim that an agency improperly approved a project by using a negative declaration, rather than preparing an EIR, a trial court applies the "fair argument" test. (Porterville Citizens for Responsible Hillside Development v. City of Porterville, (2007) 157 Cal.App.4th 885, 899.) "Under this test, the agency must prepare an EIR whenever substantial evidence in the record supports a fair

argument that a proposed project may have a significant effect on the environment." (Gentry v. City of Murrieta, (1995) 36 Cal.App.4th 1359, 1399-1400.) A trial court's function is to decide whether substantial evidence supports the agency's conclusion as to whether a fair argument of environmental impact could be made. (Id. at p. 1399.)

Like any petitioner challenging an agency's decision to proceed by negative declaration, the Association bears the burden of proof "'to demonstrate by citation to the record the existence of substantial evidence supporting a fair argument of significant environmental impact.'" Gentry v. City of Murrieta (1995) 36 Cal.App.4th 1359, 1379. The Association cannot meet this burden.

CEQA and its implementing regulations provide that facts, reasonable assumptions predicated on facts, and expert opinions supported by facts may constitute substantial evidence; argument, speculation, unsubstantiated opinion or narrative, clearly inaccurate or erroneous factual statements or evidence of social or economic impacts that do not result in physical impacts on the environment may not. (§§ 21080, subd. (c); 21080. 2, subd (c); 14 Cal. Code Regs., §§ 15064, subd. (f)(5), 15384.) "'[I]n the absence of a specific factual foundation in the record, dire predictions by non-experts regarding the consequences of a project do not constitute substantial evidence.'" (Porterville Citizens for Responsible Hillside Development, *supra*, 157 Cal.App.4th at p. 901.) In its letter, the Association relies on nothing more than argument, speculation, and unsubstantiated opinion and narrative in its attempt to claim that further environmental study is required. Such a dearth of substantiated evidence cannot and will not rise to the level of substantial evidence required to overcome the Planning Commission's discretionary and well-supported decision as set forth in its IS/MND.

The Planning Commission has taken all necessary specific actions to achieve CEQA compliance to date and no further environmental review is required.

Sincerely,

IRONHORSE LAW GROUP PC

Nathan L. Scheg, Esq.

cc: Client (via email only)