

CITY OF MONTEREY PARK

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Mr. James Pugh
Sheppard, Mullin, Richter & Hampton LLP
650 Town Center Drive, 10th Floor
Costa Mesa, California 92626-1993

Re: Response to Your February 4, 2026 Letter Regarding Agenda Item 9.A

Dear Mr. Pugh:

Thank you for your letter dated February 4, 2026. Notably, despite the agenda being posted last week, your correspondence arrived at 3:35 p.m. on the date of the Council meeting. This does not provide the City Council a meaningful opportunity to absorb your letter before considering Council Member Ngo's agenda item.

My review of your correspondence shows that there is nothing new in your misplaced arguments. Your client's project is not on tonight's agenda. And, at your client's request, it is unclear when it will be rescheduled for consideration.

Your letter, once again, complains that the City somehow created roadblocks for your client's application. The administrative record, however, shows the contrary is true.

On November 14, 2025, your correspondence requested a continuance:

Importantly, we understand that Councilmember Vinh T. Ngo will be absent from the November 19, 2025 hearing. The Project is in Councilmember Ngo's district. In order to ensure that Councilmember Ngo has an adequate opportunity to consider the Project, the Applicant request that the City continue Item 10.A to the next regularly scheduled City Council hearing date.

In addition, we recognize that other members of the City Council, and the public, may benefit from additional time to consider the staff report and attached materials issued on November 14, 2025. The Applicant encourages and supports full consideration of the administrative record by the councilmembers before deliberating on the Project. Thus, a continuance until December 3, 2025 facilitates further informed decision making.

On December 3, 2025, your correspondence again requested a continuance and committed your client to "informing the community regarding the reality and facts of the Project":

However, we understand that additional community concerns have been raised in the last few days. We have demonstrated in prior correspondence to the City that such concerns are based largely on misinformation. We believe the City Council would benefit from additional time to further dispel misinformation and understand the Project. In addition, the Applicant is committed to further informing the community regarding the reality and facts of the Project. This further facilitates informed decision making.

On December 20, 2025, your correspondence again committed your client to community outreach and voluntarily agreed to prepare an EIR:

The Applicant desires a long-term relationship with the City that can provide value to the community and its residents. In December 2025, certain residents raised concerns about the Project. The Applicant takes that feedback seriously. Accordingly, the Applicant asked the City to pause consideration of the Project so the Applicant could take time to listen, share information, and better understand community concerns. In the coming weeks and months, the Applicant will share more updates, online resources, and invite residents to community meetings. The Applicant looks forward to more meaningful conversations and engagement with the community.

In addition, at this time, the Applicant has decided to voluntarily engage in preparation of an Environmental Impact Report (“EIR”) for the Project. Doing so will provide additional time for community engagement and deeper environmental analysis before decision-making on the Project. We note that there is misinformation swirling in the community based on unvetted positions being pushed by an opposition campaign. The Applicant looks forward to clarifying those positions and providing the City and community with fact- and evidence-based analysis regarding the Project.

Contrary to your client’s commitment to “share information,” “better understand community concerns,” and “share more updates, online resources, and invite residents to community meetings,” your client did nothing. Instead, your client left the City and its residents guessing regarding what – if anything – would happen with your client’s application.

Since your letter characterizes the various threats and misinformation contained therein as “legal,” I remind you that your client’s application is subject to the City Council’s legislative decision-making process. To be approved, your client’s project requires both a development agreement and a zone change. These are legislative decisions made by the City Council. Judicial interference with such decisions is unlikely. Accordingly, if your client chooses to inadvisably take legal action against the City for damages, this office will seek to recover defense costs, including attorney’s fees, pursuant to Code of Civil Procedure § 1038.¹

Your claims of “hostility,” “bias,” or a “flip” in the City’s position are unfounded. The City Council is entitled to evaluate whether additional policy direction is warranted for a citywide land use category, separate and apart from any particular application. Your efforts to chill the valid exercise of the City’s elected officials associated with the very public issue of data centers in general (not your client’s application in particular) interferes with the City’s and public officials’ constitutional rights.²

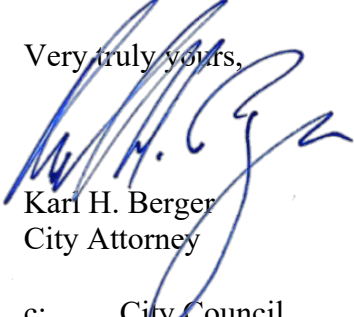
¹ See *Kobzoff v. Los Angeles County Harbor/UCLA Medical Center* (1998) 19 Cal.4th 851.

² *Sipple v. Foundation For Nat. Progress* (1999) 71 Cal.App.4th 226, 235; see Code Civ. Proc. § 425.16

Finally, your repeated assertions that City actions are “targeted” at the 1977 Saturn project are contradicted by the record. As recently as January 21, 2026, I wrote to you that the agenda item applied to data centers generally. Nothing has changed.

The City will proceed with tonight’s agenda in accordance with law. Nothing in your letter alters the Council’s discretion to adopt, modify, or decline any generally applicable policy measure concerning data centers. When and if your client’s project returns for hearing, it will receive a fair process consistent with applicable law and the evidentiary record.

Very truly yours,



Karl H. Berger
City Attorney

c: City Council
City Manager