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ELIZABETH YANG

March 5, 2026

VIA E-MAIL & CERTIFIED MAIL

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

Re: Response to Letter dated March 4, 2026

Dear Mr. Pugh:

Thank you for your letter dated March 4, 2026 that was received by the City Clerk at 7:40 p.m. during public comment for Agenda Item No. 12A at the City Council meeting (“March Letter”). Note that your letter was not submitted during the public hearing for Agenda Item No. 11B. While you submitted a request for public comment during the public hearing, you did not respond to the Mayor’s invitation to provide comment. Accordingly, the March Letter is not part of the evidentiary record regarding the moratorium. Written public comments for non-public hearing items are required to be submitted to the City Clerk 24 hours before a meeting (Resolution No. 12226). Since that did not occur, your letter was distributed to the City Council after the meeting concluded.

The March Letter repeats the same misinformation, misstatement of facts, and ignorance of the law as asserted in previous letters. It also conveniently ignores (1) that the City Council has never considered your client’s project; (2) the reason for this is because your client voluntarily suspended its application; and (3) your client does not have any vested property right to build a data center in Saturn Park. I could continue, but you already know the truth. Rather than rehash what I previously wrote, I simply include a copy of my previous responses to refresh your memory.

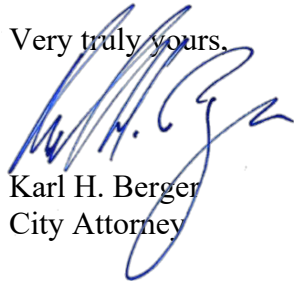
As I announced last night, the City Council unanimously authorized me to initiate litigation against your client to prevent its continued interference with the City Council’s legislative decision-making, i.e., your client’s ongoing threats to file an obvious Strategic Lawsuit Against Public Participation. Relatedly, I am authorized to take all action needed to defend the City against your client’s threatened SLAPP litigation. That will include recouping all defense costs from your client.

PRIDE IN THE PAST • FAITH IN THE FUTURE

Mr. James Pugh
March 5, 2026

Perhaps a more prudent course of action for your client would be to cooperate with the City and seek a new land use for the property in Saturn Park. While I am certain – given the tone of the March Letter – that your client is disappointed that its desired project is unlikely to ever be approved, there are many other business opportunities. Your client could turn the story into a positive.

Very truly yours,



Karl H. Berger
City Attorney

c: Mayor, Mayor pro tem, and City Council
Inez Alvarez, City Manager
Timothy E. Campen, Assistant City Attorney

PRIDE IN THE PAST • FAITH IN THE FUTURE

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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

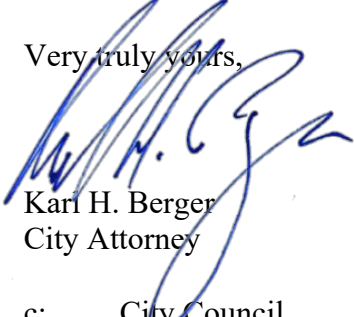
¹ See *Kobzoff v. Los Angeles County Harbor/UCLA Medical Center* (1998) 19 Cal.4th 851.

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

Subject: MP - City Council Special Meeting - Public Comment for Item 5.A - Jan. 21, 2026
Date: Wednesday, January 21, 2026 at 15:14:49 Pacific Standard Time
From: Berger, Karl H.
To: James Pugh, MPClerk@montereypark.ca.gov, Hou, Timothy, ialvarez@montereypark.ca.gov
CC: Bryan Marsh, Chris Flynn, Scott Rynders, Jeff Snow
Attachments: image001.png, 1977 Saturn Data Center - Project Update 1.20.26.pdf, 20241105MP - Saturn Park.pdf, 12-03-2025 Agenda Item No. 10.B. - Addendum Approval to Construct Data Center and Associated Improvements at 1977 Saturn Avenue.pdf, 1977 Saturn Data Center - Continuance Request.pdf

Dear Mr. Pugh –

Thank you for your correspondence. Your email, below, and my response will be made part of the public record.

As you note in your correspondence dated yesterday, your client’s project is not on the agenda. A copy is attached for your reference. Notably, that same letter already commits your client to complete an EIR.

Your protestations, therefore, appear disingenuous and duplicative of the same misunderstandings asserted in 2024. To refresh your memory, I attach my November 5, 2024 correspondence which addresses the exact same complaints you express below. Then, as now, the agenda item tonight applies to data centers generally, not your client’s in particular. You are also reminded that your client’s application seeks legislative approvals – including a development agreement and zone change – that are solely within the City Council’s discretion to consider.

Should the City Council decide to adopt the moratorium, your client will have the time to complete the tasks that it promised in December 2025: community workshops and outreach. Which it would have under all circumstances since your client voluntarily continued public hearings regarding its project to an uncertain date last month. A copy of that letter is also attached for your reference. There certainly appears to be a pattern for requesting delays. It is not, however, by the City.

As you are aware, there is ample opportunity for public comment regarding the agenda item. I encourage your client to send a representative who will be able to provide support for whatever decision the City Council makes.

Very truly yours,

Karl

Karl H. Berger | Partner

Burke, Williams & Sorensen, LLP

444 South Flower Street - 40th Floor, Los Angeles, CA 90071



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From: James Pugh <JPugh@sheppardmullin.com>

Date: Wednesday, January 21, 2026 at 14:33

To: MPClerk <MPCLerk@montereypark.ca.gov>, Karl Berger <KBerger@bwsllaw.com>, "Hou, Timothy" <thou@MontereyPark.ca.gov>, "ialvarez@montereypark.ca.gov" <ialvarez@montereypark.ca.gov>

Cc: Bryan Marsh <bmarsh@stratcap.com>, Chris Flynn <cflynn@stratcap.com>, Scott Rynders <scott@rynderscorp.com>, Jeff Snow <jsnow@ardent.us.com>

Subject: City Council Special Meeting - Public Comment for Item 5.A - Jan. 21, 2026

[EXTERNAL]

Dear City Clerk,

We represent the applicant for the data center proposed at 1977 Saturn. We have worked with the City for two years processing entitlements for the project.

Please add this comment to the administrative record for Item 5.A on the City Council Special Meeting agenda for January 21, 2026, which is another data center moratorium. The City has established a pattern of using moratoriums to delay the only data center proposed in the City. For the record, we oppose and object to Item 5.A and its related materials. As we demonstrated in prior letters, we believe there are not sufficient legal grounds to adopt a moratorium. We incorporate by reference all of our prior correspondence to the City regarding similar urgency ordinances and data center moratoriums. We provide this comment to preserve the applicant's legal standing to challenge the City actions, if needed.

We also note that, as recently as November 19, 2025, the City issued a staff report on the project stating that the City had considered all comments and determined that there was not substantial evidence of a potentially significant impact caused by the 1977 Saturn project. Similarly, the City prepared a draft ordinance (for potential

approval of the project) stating that, based on the evidence presented to the City Council, the City need not prepare an EIR for the project. The City did not ultimately adopt the ordinance or hear the project due to public controversy that arose merely days before the hearing. Our position is that the opposition campaign materials are not new substantial evidence, legally. We point this out because the applicant deserves a neutral and unbiased process for its project; and public controversy alone is not sufficient grounds (under the public resources code) to abandon prior legal positions supported by credible evidence.

Our comment here is procedurally necessary. We recognize and respect the City Council's need to further engage the public. The applicant is a willing partner in that endeavor.

Regards,

James E. Pugh | Partner
SheppardMullin | Costa Mesa
+1 714-424-2854 | ext. 12854
+1 949-877-4891 | mobile

From: James Pugh
Sent: Tuesday, January 20, 2026 4:32 PM
To: MPCLerk@montereypark.ca.gov; Berger, Karl H. <KBerger@bwslaw.com>; Hou, Timothy <thou@MontereyPark.ca.gov>; ialvarez@montereypark.ca.gov
Cc: Bryan Marsh <bmarsh@stratcap.com>; Chris Flynn <cflynn@stratcap.com>; Scott Rynders <scott@rynderscorp.com>; Jeff Snow <jsnow@ardent.us.com>
Subject: 1977 Saturn Data Center

Dear City Staff and City Clerk,

Please see the attached letter regarding the 1977 Saturn project.

Please confirm receipt of this email and the attachment.

Thank you,

James E. Pugh | Partner
SheppardMullin | Costa Mesa
+1 714-424-2854 | ext. 12854
+1 949-877-4891 | mobile

Attention: This message is sent by a law firm and may contain information that is privileged or confidential. If you received this transmission in error, please notify the sender by reply e-mail and delete the message and any attachments.

November 5, 2024

Via Electronic Mail Only

James E. Pugh
Sheppard, Mullin, Richter & Hampton, LLP
333 South Hope Street, 43rd Floor
Los Angeles, CA 90071-1422

Email address: jpugh@sheppardmullin.com

Re: Letter dated November 5, 2024

Dear Mr. Pugh:

As you are aware, I serve as City Attorney for the City of Monterey Park. I write in response to your letter dated November 5, 2024 (the "Letter"). Thank you for your correspondence.

A review of the Letter shows that it is premised on a fallacy: that the draft zoning regulations on the November 6th City Council meeting agenda target your client's data center project (the "Project"). As you well know, they do not. Indeed, the City has expended a tremendous amount of effort to ensure that the Project will be objectively considered when it is legally before the City Council for consideration. By any reasonable standard, the Project will stand on its own merits.

The Letter, however, continues its misleading narrative by asserting that the recommended environmental review is deficient. Contrary to the assertions in the Letter, the zoning regulations do not introduce something "new." Rather, they clarify existing regulations and specifically implement the voter's intent set forth in Measure JJ. As you are very aware, Measure JJ received its own, separate, environmental review which was certified as a Final Environmental Impact Report ("FEIR"; State Clearing House No. 2001-01-1074). That FEIR and the environmental findings set forth in the draft ordinances meet the requirements of the California Environmental Quality Act ("CEQA").

Sheppard Mullin
November 5, 2024
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Similarly disingenuous is the Letter's statement that "[o]n April 12, 2024, the City confirmed in writing to the Applicant that the Project was an expressly permitted use in the O-P voter enacted zone for Saturn Park." The "writing" was an electronic mail transmission from an Assistant Planner. As a preliminary matter, the City Planner – not an Assistant Planner – interprets the land uses identified in the Monterey Park Municipal Code ("MPMC"; MPMC § 21.02.090). Ultimately, however, any such interpretation lies solely with the City Council.¹

While you are aware of the law, the tone of the Letter compels me to remind you: there is a vested right to develop property only when a permittee (1) obtained a valid building permit; (2) completed a substantial amount of work; and (3) incurred substantial liability in good faith reliance on the permit. Generally, the vested rights doctrine is applied only in extraordinary instances "where the injustice is great and the precedent set by the estoppel is narrow." Here, the Project has zero land use approvals and must comply with any change to the law.

In support of the Project's contribution to the City's revenue sources, the Letter provides data from the state of Virginia. It is unclear what relevance that has to the City of Monterey Park. Sources of tax revenue for commercial land uses within the City of Monterey Park generally consist of property tax; sales tax; business license tax; and user utility tax ("UUT"). There are no data supporting the notion that the Project will be a significant source of tax revenue for the City. But, the Project is not on the City Council agenda for November 6, 2024. Rather, the City Council is considering zoning regulations for "data centers"; it is not specific as to the Project. The Letter's protestations regarding the Project's contribution to the economic health of the City, therefore, are misplaced.

The balance of the letter further implies that the November 6th City Council meeting will consider the Project. That is incorrect. As you are aware, the Project contemplates activating the Business Recovery Development Agreement Zone ("BRDZ") at 1977 Saturn as authorized by MPMC Chapter 21.45. It seems that your client's best option would be to propose significant public benefits to the City Council through that process.

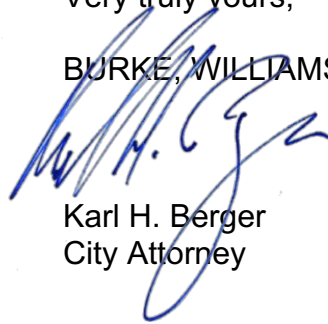
I look forward to working with you to process the Project so that it will be ready for City Council consideration in the near future.

¹ See, e.g., *Yamaha Corp. of Am. v. State Bd. of Equalization* (1998) 19 Cal.4th 1 and *State Farm Mutual Auto Ins. Co. v Quackenbush* (1999) 77 Cal.App.4th 65.

Sheppard Mullin
November 5, 2024
Page 3

Very truly yours,

BURKE, WILLIAMS & SORENSEN, LLP



Karl H. Berger
City Attorney

c: City Council
City Clerk
Inez Alvarez, City Manager
Jessica Serrano, Community Development Director
Justin Tamayo, Deputy City Attorney

June 17, 2024

Via First Class U.S. Mail and Electronic Mail

James E. Pugh
Sheppard, Mullin, Richter & Hampton, LLP
333 South Hope Street, 43rd Floor
Los Angeles, CA 90071-1422

Email address: jpugh@sheppardmullin.com

Re: Letters dated June 14 and June 17, 2024

Dear Mr. Pugh:

As you are aware, I serve as City Attorney for the City of Monterey Park. I write in response to your letters dated June 14th and June 17th (the "Letters"). Thank you for your correspondence.

The June 17th letter states that your client is interested in retaining its good working relationship with the City regarding a pending (since January 2024) land use application. Accordingly, your client seeks a 30-day delay in the City Council's consideration of a moratorium.

As you know, the initial moratorium period is for 45 days; any extension of a moratorium requires notice and a public hearing. It seems that this fulfills your client's desire to discuss the matter? Surely it is more productive for your client's representatives to participate in the SPARC process to consider how to implement the voter's directives in Measure JJ (which adopted the Land Use Element in 2020) rather than to try challenging the proposed moratorium based upon various legal arguments.¹

The City Council is obligated to implement the voters' vision for Saturn Park as expressed in the 2020 Land Use Element. Instead of responding to the legal arguments

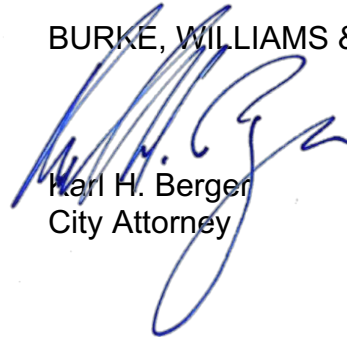
¹ Note that Section 3(A) of Measure JJ specifically authorizes the City Council to implement the LUE on its own authority; that would include making changes to voter enacted zoning regulations from the late 1990s.

Sheppard Mullin
June 17, 2024
Page 2

in the Letters (which the City disagrees with), I encourage your client's representatives to work with the City in shaping and implementing the voters' intent through the SPARC process.

Very truly yours,

BURKE, WILLIAMS & SORENSEN, LLP

A handwritten signature in blue ink, appearing to read 'Karl H. Berger', is written over the typed name and title.

Karl H. Berger
City Attorney

c: City Council
City Clerk
Inez Alvarez, City Manager
Jessica Serrano, Community Development Director
Justin Tamayo, Deputy City Attorney