

# CITY OF MONTEREY PARK

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**City Council**  
Henry Lo  
Vinh Ngo  
Jose Sanchez  
Thomas Wong  
Elizabeth Yang

**City Clerk**  
Maychelle Yee

**City Treasurer**  
Amy Lee

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.<sup>1</sup>

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.<sup>2</sup>

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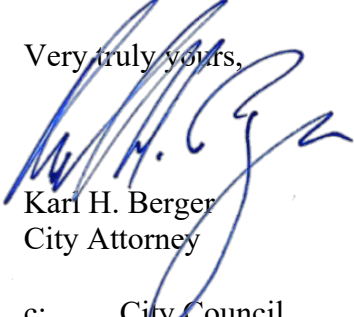
<sup>1</sup> See *Kobzoff v. Los Angeles County Harbor/UCLA Medical Center* (1998) 19 Cal.4th 851.

<sup>2</sup> *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

**From:** [James Pugh](#)  
**To:** [Yang, Elizabeth](#); [Lo, Henry](#); [Sanchez, Jose](#); [Wong, Thomas](#); [Ngo, Vinh T.](#)  
**Cc:** [MPClerk](#); [Alvarez, Inez](#); [Hou, Timothy](#); [Berger, Karl H.](#); [Munoz, Eliana](#); [Bryan Marsh](#); [Chris Flynn](#); [Scott Rynders](#); [Kent Raygor](#); [Rocky Delgadillo](#); [Jeff Snow](#)  
**Subject:** Council Hearing Agenda Item 9.A - 1977 Saturn - Preserving Legal Issues for Record  
**Date:** Wednesday, February 4, 2026 3:34:40 PM  
**Attachments:** [1977 Saturn - Data Center Item 9.A - 2.4.26.pdf](#)  
**Importance:** High

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[EXTERNAL EMAIL]

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

City Councilmembers and City Staff,

As you know, the process around the data center project has devolved. Other members of the applicant team are working with the city and community to advance the project.

Our focus is legal. The applicant prefers not to litigate, but the city's actions are forcing the issue. We oppose a ban on data centers and request the city not take such action, in any manner.

The attached letter is for your consideration and the administrative record.

Regards,

**James E. Pugh** | Partner  
**SheppardMullin** | Costa Mesa  
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+1 949-877-4891 | mobile

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**From:** James Pugh  
**Sent:** Tuesday, December 2, 2025 8:54 AM  
**To:** 'eyang@montereypark.ca.gov' <eyang@montereypark.ca.gov>; 'hlo@montereypark.ca.gov' <hlo@montereypark.ca.gov>; 'josanchez@montereypark.ca.gov' <josanchez@montereypark.ca.gov>; 'twong@montereypark.ca.gov' <twong@montereypark.ca.gov>; 'vngo@montereypark.ca.gov' <vngo@montereypark.ca.gov>  
**Cc:** 'MPClerk' <MPClerk@MontereyPark.ca.gov>; 'ialvarez@montereypark.ca.gov' <ialvarez@montereypark.ca.gov>; 'thou@montereypark.ca.gov' <thou@montereypark.ca.gov>; 'kberger@bwslaw.com' <kberger@bwslaw.com>; 'emunoz@montereypark.ca.gov' <emunoz@montereypark.ca.gov>; 'Bryan Marsh' <bmarsh@stratcap.com>; Chris Flynn <cflynn@stratcap.com>; Scott Rynders <scott@rynderscorp.com>  
**Subject:** 1977 Saturn - Litigation Risk Letter  
**Importance:** High

Dear Honorable Mayor and City Council Members,

Attached is an important letter that summarizes key information about the 1977 Saturn project. We prepared this letter for the City to provide simple answers to recent questions and provide facts about the project. We respectfully ask that you review it before the City Council hearing on December 3, 2025 to facilitate informed decision making.

Thank you,

**James E. Pugh** | Partner  
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February 4, 2026

File Number: 89AF-371175

**VIA E-MAIL**

City Council  
City of Monterey Park  
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Email: c/o City Clerk,  
[MPCLerk@montereypark.ca.gov](mailto:MPCLerk@montereypark.ca.gov)

Re: 1977 Saturn Data Center Project – Agenda Item 9.A on City Council Agenda

Dear Mayor and City Councilmembers,

We represent HMC StratCap 1977 Saturn, LLC (“Applicant”) regarding its data center project (“Project”) located at 1977 Saturn Street (“Project Site”) in the City of Monterey Park (“City”). It is clear to us that the City’s actions against the Project, especially lately, have become hostile. Item 9.A on the agenda for the February 4, 2026 city council meeting is yet another step evidencing the City’s ill will and bias against the Project and/or Applicant. We oppose and object to Item 9.A and request that the City not impose a data center ban in any manner. The City’s actions are subjecting it to potential litigation risks and financial liability as discussed below.

The Applicant’s preferred path for the Project is to work with the City to responsibly permit the Project and engage the community in a reasonable manner. However, since early December 2025, the city council has essentially reversed its position on the Project in a manner that amounts to an abuse of discretion and is contrary to evidence in the record. As we have previously noted, as recently as November 19, 2025, the City issued a staff report for the Project finding that it would not create significant impacts on the environment. That finding was backed by the City’s own environmental review pursuant to the California Environmental Quality Act (“CEQA”). The City hired an independent CEQA consultant to ensure that the City’s Initial Study/Mitigated Negative Declaration (“IS/MND”) adequately analyzed impacts. 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 further environmental review. Nonetheless, the City has now flipped its position (regarding environmental review and a potential ban on data centers) and appears to have crossed the line into advocacy against the Project. The City’s flip was tied directly to, and may be in concert with, certain project opponents, and was not based on credible evidence. Those actions are unlawful and demonstrate that councilmembers are no longer neutral and unbiased.

With nearly every step in the administrative process, the City has established roadblocks, created delay, used administrative tools to undercut the Project, and generally abused its

discretion. Similarly, the councilmembers' statements to the press, coordination with opponents, and public deliberations on the data center matter demonstrate that there is an unacceptable probability of bias, and likely actual bias, on the part of a municipal decisionmaker. The Project contains quasi-adjudicatory and quasi-legislative actions combined, which triggers strict legal protocols. Accordingly, we must preserve issues for the administrative record and intend to further demonstrate the City's unlawful actions. At this time, we merely preserve certain issues for the record as the City considers a data center ban, and a potential ballot measure, to accomplish the same. We see the City's actions as politically-motivated steps, unsupported by evidence or law, intentionally designed to strip the Applicant's legal rights.

The City's effort to enact a city-wide ban of data centers also would result in an unconstitutional taking in violation of the California and United States Constitutions. In addition, the City's use of long-duration moratoriums, that are unsupported by evidence, alone can lead to liability for an unconstitutional taking. The City knows, and a court of law ultimately would understand, that the City's actions here are focused on the Applicant's property and Project. There is no hiding that fact regardless of the City's attempts to cloak the truth by claiming its actions are generally applicable to data center uses. The Applicant's project is the one and only proposed data center in the City – and the City's actions are clearly targeted at just the Applicant and this Project. The City has toggled between moratoriums, permanent bans, and other regulatory constraints that when viewed holistically demonstrate the City's unlawful acts. We reserve all rights to pursue a takings claim against the City.

The City also is violating the Applicant's substantive and procedural due process rights. Land use decisions, like all government actions, are subject to the substantive requirements of the federal and state due process clauses. Substantive due process guards against arbitrary and capricious government action, even when the decision to take that action is made through procedures that are in themselves constitutionally adequate. The City's flip-flopping based purely on public opposition and political pressure is not a basis for the city council to arbitrarily and capriciously implement measures to kill the Project, especially in the face of strong evidentiary support for the Project. Likewise, the law requires procedural due process, including but not limited to, the provision of adequate notice and an opportunity to be heard before a governmental deprivation of an individual's life, liberty, or property. Such procedural due process requires a fair hearing and administrative process. Here, the City has been anything but fair. Instead, the City has, in bad faith, repeatedly coerced and baited the Applicant into certain private decisionmaking while flaunting applicable legal procedures during public decisionmaking. We reserve all rights to pursue due process claims against the City.

The City also is violating equal protection laws. When a land use action is motivated by ill will or subjective action wholly unrelated to any legitimate state objective, an equal protection claim may be sustained as establishing that the government action is irrational. Of course, an equal protection claim can rest on additional legal constructs, which also apply in this matter. The City's actions of late have been reactionary, and based on public pressure, that the councilmembers perceive as politically threatening. As a result, the councilmembers have exhibited vindictive action and illegitimate animus toward the Applicant and the Project, which is not based on fact or evidence. Moreover, it seems clear from council hearings, and independent actions of certain city staff and elected officials, that the City is acting on improper motive and

shirking the duties of legitimate informed decisionmaking. Even if a government action has a rational basis on its face, an equal protection challenge to the action can be based on a claim that the proffered rationale for the action is pretextual. Similarly, the City's actions on their face apply to the Project alone, as evidenced by councilmembers' own deliberations, and because the Applicant's project is the only data center proposed in the City. Examining the record in this matter, especially the recent actions of the City, demonstrates pretext for denial of the Project. All of this is within the context of the City deviating from its own rules wherein the data center is consistent with the general plan land use designation and permitted uses in the municipal code. These issues and other evidence of unlawful acts will be exposed in the disclosure of public records and communications, discovery, and depositions. We reserve all rights to pursue equal protection claims against the City.

In conclusion, the Applicant prefers not to litigate this matter, but the City's actions are forcing the issue. While we believe there are workable solutions to revitalize the chronic vacancy plaguing Saturn Park, we cannot sit idly by while the City tramples the Applicant's legal rights. The City's actions also appear shortsighted, and based primarily on a vocal contingent of people that are lying loudly about the characteristics of the Project. Recall, some of those same people have threatened you with political and physical violence; and are rage-baiting an uninformed mob to pressure your decisionmaking. There is an opportunity here to cut through the noise – and work with the genuinely concerned residents of the City – to find a mutually acceptable solution for the City, Applicant, and interested residents. However, no parties can embrace that opportunity if the City continues its onslaught of unlawful and reactionary actions against the Project. This Project would be an economic engine for the City and can be constructed and operated in an environmentally sensitive manner. The Project would provide the City with recurring revenue to address the City's most pressing social and structural issues, all without stressing the City's tax base or its fire and life safety services. That would be a direct benefit for the City's residents and businesses. Moreover, the Applicant has demonstrated its willingness to prove the environmental soundness of the Project and provide the community with tangible benefits that improve neighborhood connectivity and establish new open space that can be enjoyed by all. The City is on the verge of squandering those opportunities in exchange for litigation risk and economic damages.

Regards,

A handwritten signature in blue ink that reads "James E. Pugh". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

James E. Pugh  
for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

February 4, 2026  
Page 4

cc:

[mpclerk@montereypark.ca.gov](mailto:mpclerk@montereypark.ca.gov)

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Timothy Hou, Director of Community Development, [thou@montereypark.ca.gov](mailto:thou@montereypark.ca.gov)

Karl Berger, City Attorney, [kberger@bwslaw.com](mailto:kberger@bwslaw.com)

Bryan Marsh, StratCap

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