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March 18, 2025

Via Email and Hand Delivery

City Council
City of Dixon
Attn: City Clerk
Attn: Raffi Boloyan, Community Development Director
Attn: Brian Millar, Contract Planner
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Re: Agenda Item: 10.1. The Campus/Dixon 257 Project (SCH No. 2023080739)

Dear Councilmembers, Mr. Boloyan, and Mr. Millar:

This letter is submitted on behalf of **Napa-Solano Residents for Responsible Development** ("Residents") to provide comments on Agenda Item: 10.1.,¹ for The Campus/Dixon 257 Project² (SCH No. 2023080739) ("Project"), including the Final Environmental Impact Report ("FEIR") prepared by the City of Dixon ("City") pursuant to the California Environmental Quality Act ("CEQA") and related entitlements.³ The Project is proposed by Dixon Venture, LLC ("Applicant").

¹ City of Dixon, City Council, Agenda Item: 10.1 and Staff Report for the Campus/Dixon 257 Project (hereinafter "Staff Report") (March 18, 2025) available at

https://dixon-ca.granicus.com/GeneratedAgendaViewer.php?view_id=6&event_id=2869

² City of Dixon, Final Environmental Impact Report for The Campus/Dixon 257 Project (SCH No. 2023080739) (hereinafter "FEIR") available at

<https://www.cityofdixonca.gov/departments/CommunityDevelopment/EnvironmentalReviewDocuments>

³ Pub. Resources Code ("PRC") §§ 21000 et seq.; 14 Cal. Code Regs ("CCR") §§ 15000 et seq. 7261-008j

March 18, 2025

Page 2

Additionally, this letter provides a response to the March 12, 2025 letter from the Applicant's attorneys, Somach, Simmons & Dunn, which seeks to respond to additional comments submitted to the City of Dixon regarding the Project and the FEIR.⁴

I. INTRODUCTION AND BACKGROUND

On July 9, 2024, Residents submitted written comments on the Draft Environmental Impact Report ("DEIR") ("DEIR Comments"), including expert comments, which identified significant errors and omissions in the environmental document prepared for the Project. In particular, the DEIR failed to accurately disclose and mitigate the Project's significant impacts regarding the Project's transportation and biological resources impacts.

The FEIR includes written responses to Residents' DEIR Comments but fails to resolve several issues raised by Residents and its experts. Residents have reviewed the FEIR and Staff Report with the assistance of biological resources expert, Scott Cashen⁵ and transportation expert, Daniel Smith.⁶ Based on this review, Residents conclude that the City has not adequately analyzed revisions to the proposed Project and has not resolved many of the issues raised in Residents' DEIR Comments. Although modifications were made to the Project to address concerns raised by the public, the FEIR's impacts analyses remain substantially inaccurate and incomplete. The FEIR also fails to meaningfully respond to many of Resident's experts' technical comments and fails to resolve several legal and evidentiary deficiencies identified in the DEIR.

As a result, the FEIR still fails to adequately disclose, analyze and mitigate the Project's potentially significant impacts related to biological resources and transportation. The FEIR also continues to rely on legally inadequate, ineffective, and unenforceable mitigation measures that fail to reduce the Project's impacts to less than significant levels and fail to meet the basic mitigation requirements of

⁴ Letter to City of Dixon, from Casey Shorrock, Somach Simmons & Dunn, Re: Responses to Additional Comments on The Campus Project FEIR (hereinafter "FEIR Comment Response Letter") (March 12, 2025) available at https://dixon-ca.granicus.com/MetaViewer.php?view_id=6&event_id=2869&meta_id=162743.

⁵ Mr. Cashen's technical comments and curricula vitae are attached hereto as Exhibit A ("Cashen Comments")

⁶ Mr. Smith's technical comments and curricula vitae are attached hereto as Exhibit B ("Smith Comments")

CEQA. As a result, the City lacks substantial evidence to support the FEIR's conclusions that impacts will be mitigated to less than significant levels. The City Council cannot approve the Project in reliance on such a legally inadequate FEIR.

To date, the Residents' comments on the FEIR have not been addressed by the City and Residents' comments stand. Additionally, as discussed below, the Staff Report for the Project fails to provide substantial evidence necessary for the Council to approve the Project. We urge the Council to carefully consider Residents' March 5, 2025, comments, and the supplemental comments herein, and to remand the Project to City Staff to prepare a legally adequate EIR for the Project.

The Project should not be rescheduled for further public hearing until all of the issues raised in these comments, and in the comments of other members of the public, have been fully addressed. We reserve the right to supplement these comments at a later date, and at any later proceedings related to this Project.⁷

II. RESPONSE TO LETTER FROM SOMACH SIMMONS & DUNN

Napa-Solano Residents' community and **union members** live and work in the communities where projects are built. They participate as interested members of the public in the CEQA process. Their participation has led to decades of stronger air quality and toxic material controls at construction sites and housing developments, lowered emissions at industrial sites, increased electrification and renewable gas and fuels, reductions in greenhouse gas ("GHG") emissions, reduced construction noise and traffic in residential areas, improved water quality, water conservation, and protections for natural landscapes and sensitive biological resources. They are often the first in line to be exposed to health and safety impacts during project construction and operation. CEQA gives them a voice in mitigating impacts and worksite exposures. **Union participation** in the CEQA process has resulted in improved analysis and mitigation in agencies' CEQA documents, and, in some cases, successful litigation requiring agencies to comply with CEQA where the issues raised were not resolved during the administrative process. In short,

⁷ Gov. Code § 65009(b); PRC § 21177(a); *Bakersfield Citizens for Local Control v. Bakersfield* ("Bakersfield") (2004) 124 Cal. App. 4th 1184, 1199-1203; see *Galante Vineyards v. Monterey Water Dist.* (1997) 60 Cal. App. 4th 1109, 1121.

Residents' participation in the CEQA process leads to cleaner, safer, and more sustainable development. This is exactly what CEQA is designed to accomplish – protecting people and the environment through active public engagement in the environmental process.

The March 12, 2025, letter written by Applicant's attorney, Casey Shorrock, is a specious attempt to distract the Council from the merits of our comments by making attacks on independent experts in their respective fields and inaccurately characterizing the issues in Residents' comments. The letter seeks to chill Residents' public participation in the Project's administrative process by contending that **union workers** and local residents are not entitled to raise environmental concerns about projects in their community. These claims have no basis in law or fact, and are an abuse of process that should not be condoned.

Ms. Shorrock argues that the Council should ignore Solano County Residents' comments because Residents' experts are "for-hire".⁸ However, Ms. Shorrock appears to misunderstand the legal standard for qualified experts. Under CEQA, an expert's opinion is deemed "credible" if it constitutes "fact-based observations by people apparently qualified to speak to the question [at issue]."⁹ As the courts have explained, "[t]hat testimony constitutes substantial evidence, because it consists of facts, reasonable assumptions, and expert opinion supported by facts."¹⁰ The legal standard addresses whether the expert has the personal knowledge and background to present the opinions given. The courts have upheld even "personal observations of area residents" on nontechnical subjects as substantial expert evidence supporting CEQA challenges.¹¹

Ms. Shorrock contends that the Council should rely on the expert testimony from the City consultants and ignore the comments from Residents because Residents' experts are "for-hire" and provide "no other service, or very limited other services, aside from providing negative comments on CEQA documents". This characterization is deceptive and serves to confuse the issues at hand. Both Residents' expert consultants and the City's expert consultants are "for-hire." Being "for-hire" is baked-in to the definition of consulting wherein one provides expert advice as a profession. However, contrary to Ms. Shorrock's claim, Residents'

⁸ FEIR Comment Response Letter, p. 9.

⁹ *Architectural Heritage v. County of Monterey* (2004) 122 Cal.App.4th 1095, 1117-18; 14 CCR § 15384(b).

¹⁰ *Ibid.*

¹¹ *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 928.
7261-008j

transportation expert Daniel Smith and biological resources expert Scott Cashen have extensive experience and are well regarded in their respective fields as evidenced by the *curricula vitae* attached to their comment letters on the Project's DEIR and FEIR.

For example, Residents' transportation expert Daniel Smith holds a Master of Science degree from UC Berkeley, and has a long career in public service, acting as principal in charge for feasibility studies for Urban Corridor Studies and Alternatives Analyses in various jurisdictions including: Sacramento, San Francisco, and Bay Area Rapid Transit. Additionally, throughout his career he has served as a project manager for public agencies including the FHWA, City and County of San Francisco, City of Berkeley, has pioneered application of traffic restraint techniques in the U.S., and has developed residential traffic plans for Menlo Park, Santa Monica, Santa Cruz, Mill Valley, Oakland, Palo Alto, Piedmont, San Mateo County, Pasadena, Santa Ana and others.

Residents' biological resources expert Scott Cashen holds a Master of Science degree from Pennsylvania State University and has worked in the service of numerous public agencies throughout his career. Mr. Cashen has an extensive background conducting biological resource assessments, habitat evaluations, species inventories, and scientific peer review for the United States Forest Service, California State Parks Service, Pacific Gas and Electric, San Francisco Public Utilities Commission, and for numerous cities and counties throughout California, including: Dixon, Livermore, San Ramon, Rio Vista, Napa, Victorville, Imperial County, San Diego County, Placer County, and others.

There is no reasonable question that Mr. Smith and Mr. Cashen are "apparently qualified to speak to the question at issue" – the adequacy of the City's FEIR – and that their technical opinions constitute substantial evidence.¹² Under the applicable legal standard, it would be an abuse of discretion for the City to disregard these experts' testimony as unsubstantial.¹³

¹² *Architectural Heritage*, 122 Cal.App.4th at 1117-18; 14 CCR § 15384(b).

¹³ *Pocket Protectors*, 124 Cal.App.4th at 936.

III. LEGAL DISCUSSION

Per the Project's revised site plan, the single-family residential area proposed in the DEIR was moved to the southeast corner of the Project site and will be replaced with a 23.03-acre retention basin.¹⁴ This change was made to avoid noise impacts to future residents from agricultural operations, and the Campbell Soup facility located east of the Project site across Pedrick Road.¹⁵ However, in doing so, residents will be exposed to new noise impacts due to their proximity to the railroad crossing located at the southeast corner of the Project site.

According to the Staff Report attached to Agenda Item 10.1:

Analysis was completed by Saxelby Acoustics the City's noise consultant of the site plan modifications, including placement of residential Village 1 at the southeast corner of the site by Pedrick Road. Supplemental noise analysis indicates compliance with City noise standards and the 55 dBA Leq noise standard for outdoor use areas would be achieved.¹⁶

As discussed below, this statement is incorrect. Additionally, according to the letter from the Applicant's attorneys, "noise analysis for the revised Project design shows that outdoor noise levels at the nearest residences to the railroad tracks south of the Project site would not exceed City General Plan noise level standards[...]"¹⁷ In support of this statement, the letter cites to FEIR, Figure 3.12-5, p. 2-37. However, FEIR page 2-37 includes no such figure, and Figure 3.12-5 shows the Project's **non-transportation** noise on the Project site. Based on the Letter's content, Residents believe that Ms. Shorrock meant to refer to page 2-39 and reference Figure 3.12-4 which shows the Transportation Noise on the revised Project Site with sound walls included.¹⁸

Despite the claims in the Staff Report and the March 12 Letter, Figure 3.12-4 shows that the low-density residential lots located in the southeast corner of the Project site will be exposed to transportation noise levels up to 70 dBA Ldn.¹⁹ Furthermore, the Supplemental Noise Assessment prepared by the City's noise

¹⁴ FEIR, p. 2-2.

¹⁵ FEIR, p. 2-1.

¹⁶ Staff Report, p. 36.

¹⁷ FEIR Comment Response Letter, p. 17.

¹⁸ FEIR, pdf. p. 61, Figure 3.12-4.

¹⁹ *Ibid.*

consultant states that a +10 dBA penalty applies to Ldn measurements during nighttime hours (10:00PM – 7:00AM) based upon the assumption that people react to nighttime noise exposures as though they were twice as loud as daytime exposures.²⁰ As a result, the City’s own experts, and the FEIR demonstrate a significant noise impact which, per the Noise Study is “Normally Unacceptable”, and should not proceed without detailed analysis and additional mitigation to reduce the impacts to residents.²¹ By allowing the low-density residential to relocate, the City will be providing housing in an area that is known to be burdened by high noise levels and will result in unlivable conditions for the future residents.

In order to make the findings required to approve the Project’s Planned Development permit, the City must find that the Project “will not have a substantial adverse effect on surrounding land uses and ***will be compatible with the existing and planned land use character of the surrounding area.***”²² Based on Mr. Smith’s comments and the analysis provided by the City’s own consultants, low density residential is not consistent with the existing land uses in the areas adjacent to the southeast corner of the Project site. The City must address this land use inconsistency in a revised and recirculated FEIR for the Project.

V. CONCLUSION

For the reasons stated herein and in Residents’ March 5, 2025 comments to the Planning Commission, Residents urge the City Council to remand the Project to staff to prepare a revised EIR in compliance with CEQA. The City must remedy all defects in the FEIR, and in the Project as a whole, before the Project may be presented to the City Council for certification of the FEIR and approval of the requested entitlements.

²⁰ Saxelby Acoustics, Supplemental Noise Assessment for The Campus Development (hereinafter “Supplemental Noise Study”) (February 28, 2025) p. 2 of 15, available at <https://www.cityofdixonca.gov/media/CommunityDevelopment/Environmental%20Review/The%20Campus/FEIR/The%20Campus%20Non-CEQA%20Noise%20Memo%202-28-25.pdf>

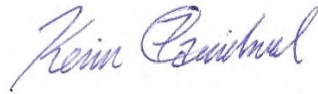
²¹ Supplemental Noise Study, p. 9 of 15.

²² Dixon Municipal Code § 18.32.040 (D).

March 18, 2025
Page 8

Thank you for your consideration of these comments.

Sincerely,

A handwritten signature in blue ink that reads "Kevin Carmichael". The signature is written in a cursive, flowing style.

Kevin Carmichael

KTC:lj1