

STRUMWASSER & WOOCHELLP

ATTORNEYS AT LAW

10940 WILSHIRE BOULEVARD, SUITE 2000
LOS ANGELES, CALIFORNIA 90024

MICHAEL J. STRUMWASSER
BRYCE A. GEE
BEVERLY GROSSMAN PALMER
DALE K. LARSON
CAROLINE C. CHIAPPETTI
JULIA G. MICHEL †
SALVADOR E. PÉREZ

† Also admitted to practice in Washington

TELEPHONE: (310) 576-1233
FACSIMILE: (310) 319-0156
WWW.STRUMWOOCHELLP.COM

FREDRIC D. WOOCHELLP
ANDREA SHERIDAN ORDIN
SENIOR COUNSEL

August 16, 2022

City Manager David White
Planning Director David Martin
City Attorney Douglas Sloan
City Hall
1685 Main Street
Santa Monica, CA 90401

VIA E-MAIL

Re: 2601 Lincoln: Gelson's Project

Dear Mr. White, Mr. Martin, and Mr. Sloan:

This firm writes on behalf of the Santa Monica Coalition for a Livable City (“SMCLC”) regarding the proposed development at 2601 Lincoln Boulevard, often referred to as the Gelson’s Project. On April 6, 2022, this firm wrote to Jing Yeo on behalf of SMCLC regarding this project, identifying numerous deficiencies in the then-incomplete application. Representatives of SMCLC have conferred with the City Manager regarding their concerns about this over-large project and its paltry affordable housing, and SMCLC’s intention to submit substantive comments as to material non-compliance with the City’s development standards once the application was deemed complete. Representatives of the Friends of Sunset Park have continually made concerns about this project known to Planning Director David Martin and sought updates as to the status of the application in order to provide timely comments. Over 500 people attended a community Zoom meeting held by the developer, and more than 2,000 people signed a petition opposing the project. The fact that the broader community is concerned about this proposal is well-known to the City.

In February, City Manager David White lauded the “strong, engaged community and the commitment of the people who live and work here” in his first State of the City address.

Yet, contrary to City practice, good governance, and assurances given, as this letter will set forth: 1) At the same time the Planning Director was telling community leaders the application was flawed and had to be resubmitted, the City was retroactively deeming the application complete, and drastically reducing the 60-day comment response period to less than 2 weeks; 2) and the City then withheld the fact that it had done so despite repeated status inquiries from community leaders until well after the comment period ran. This made it impossible for

any comments from the public to be reviewed or even considered by the City under its self-imposed deadline as part of this critical administrative review.

It is unacceptable that the City obfuscated in its responses to repeated inquiries and failed to provide the public any opportunity to comment on the project's compliance with the zoning code during the very limited window in which the City is required to provide its comments. The City's failure to promptly and honestly answer public inquiries regarding the project status cannot be held to preclude public disclosure and comment on the supposedly-complete application for this historically-large project, and its compliance with City zoning and other standards. SMCLC requests that the City notify the attendees of the community meeting that the application was deemed complete on July 14, 2022, the date it wrote to the developer that its application was complete, and receive responses from the public regarding the project's compliance for 60 days from that date, through September 12, 2022.

Gelson's Project Chronology

From its first public meeting on January 11, 2022, where attendance exceeded the 100-person capacity of the Zoom meeting, residents of Santa Monica have expressed concern and interest in the proposed redevelopment of the Gelson's site. The City – correctly – required the developer to hold another community meeting with sufficient Zoom capacity, which took place on February 17, 2022. Over 500 individuals signed on to the meeting.

The applicant submitted its application after the full community meeting, on March 8, 2022, which the City reports was accepted for processing on March 11, 2022. On April 6, 2022, SMCLC, though counsel, submitted comments on the completeness of the application. On April 7, 2022, the City advised the applicant that its application was not complete.

On March 30th, representatives of SMCLC met by Zoom with City Manager David White. Mr. White brought up the Gelson's project and difficulties posed by the state density bonus law. He was told explicitly that SMCLC intended, through its counsel, to outline inconsistencies with the project under non-waivable City standards as well as possible health and safety issues as soon as the City deemed the application complete. The statutory shortness of time to do this — 60 days — was also discussed. Mr. White told SMCLC he welcomed its help in working together with the City to get a superior project, especially as to the amount and sizes of affordable housing units, as one example discussed. He reiterated what he had said at the State of the City – that he believes strongly in community engagement when these kind of projects come up.

The applicant submitted “updated” information on April 29, 2022, and on May 27, 2022, the City responded that the information provided on April 29 was insufficiently responsive to the City’s April 7 request. On June 2, the applicant responded to the City with additional information and a request that the City deem its application complete.

Meanwhile, community members in affected neighborhoods were making inquiries with City staff on a regular basis about the Gelson's project. This was because they understood that the time to respond to a completed application was quite short. On June 23 at the monthly

meeting that Planning Director David Martin holds with the neighborhood group leaders, he informed the group that the City was waiting for the developer to re-submit the application. On July 5, Zina Josephs of Friends of Sunset Park asked Mr. Martin whether the application had been resubmitted, and on July 7, Mr. Martin replied that he was checking with staff. No additional response was forthcoming.

On July 26, 2022, the project was included on the agenda for the monthly community leader meeting with Mr. Martin, which took place on July 28. At the July 28 meeting, Mr. Martin informed the group that the development application was complete in response to an inquiry, but did not provide a date.

On August 4, 2022, Ms. Josephs followed up with Mr. Martin to learn the date the application was deemed complete. Mr. Martin did not respond. On August 9, Ms. Josephs again emailed Mr. Martin and Mr. Martin assured her that Jing Yeo of the Planning Department would respond the next day. No response came the next day.

On August 11, 2022, Ms. Josephs *yet again* asked Mr. Martin for a response, and Ms. Yeo finally provided one. The response provided revealed that the City had acted in a way to foreclose meaningful public input on this phase of the Gelson's project.

City Retroactively Deems Application Complete

On July 14, 2022, Chief Deputy City Attorney Heidi von Tongeln wrote to the applicant's attorney David Rand. In her letter, Ms. von Tongeln took issue with the applicant's position that the City had improperly demanded additional information. Nevertheless, and for no clear reason, the letter provided that “[t]he City will consider the Application to be determined complete at May 29, 2022, 30 days after the Applicant submitted updated materials on April 29, 2022.” For that reason, the abbreviated 60-day period for the City to provide the applicant with the objective standards that the proposed project is not in compliance with *concluded* just two weeks later, on July 29, 2022, and had ended **before SMCLC, Friends of Sunset Park or any member of the public had been given any notice that the application was complete.**

SMCLC is appalled that, after being given community input assurances by the City Manager, City staff would voluntarily take a position directly at odds with what residents were being told was the status and then withhold the critical deadline to submit comments until it ran out the clock without them. On behalf of all residents concerned about this project, SMCLC demands that the City take all steps to rectify this error.

SMCLC will submit its comment on the project's inconsistency with zoning standards and encourage others to do so, using the reasonable date of July 14 as a deemed complete date. SMCLC urges the City to do the same, to show residents that the City really does, as it claims, value their input on important decisions concerning the development of their communities.

//

//

//

August 16, 2022

Page 4

If the City will not accept SMCLC's or other public members' comments as timely, and potentially raise them where relevant, please advise me immediately.

Very truly yours,



Beverly Grossman Palmer
Strumwasser & Woocher LLP

Cc: Friends of Sunset Park (Zina Josephs)