

Caroline Chiappetti
Bryce Gee
Dale Larson
Julia Michel †
Beverly Grossman Palmer
Salvador Pérez
Michael J. Strumwasser

Senior Counsel:
Andrea Sheridan Ordin
Fredric D. Woocher

† Also admitted to practice
in Washington

February 10, 2023

City Council of the City of Sierra Madre
Sierra Madre City Manager Jose Reynoso
Sierra Madre City Attorney Aleks Giragosian
232 West Sierra Madre Boulevard
Sierra Madre, California 91024

Via electronic mail to:

Jose Reynoso (jreynoso@cityofsierramadre.com);
Aleks Giragosian (agiragosian@chwlaw.us);
Mayor Ed Garcia (egarcia@cityofsierramadre.com);
Gene Goss (ggoss@cityofsierramadre.com);
Kelly Kriebs (kkriebs@cityofsierramadre.com);
Robert Parkhurst (rparkhurst@cityofsierramadre.com); and
Kristine Lowe (klowe@cityofsierramadre.com)

Re: Referendum Against Ordinance No. 1461

To the Honorable City Council, City Manager, and City Attorney:

This firm writes on behalf of Protect Sierra Madre and the proponents of the Referendum Against Ordinance No. 1461. As February 10 is the 88th day prior to the scheduled May 9, 2023 Special Election, the proponents wish to inform the Council that they will not withdraw the referendum from the ballot.

As you are aware, 1,223 residents of Sierra Madre signed the petitions, all circulated by volunteers with the Protect Sierra Madre group. There were no paid-signature gatherers, and this was truly a grassroots effort that fully reflected direct democracy in action, as envisioned in the 1911 constitutional amendments reserving this power to the people of every city in California. As the California Supreme Court has explained, “[t]he referendum power . . . allows voters to weigh in on laws that have already been passed by their elected representatives.” This is the voters’ opportunity to directly tell the Council whether they agreed or disagreed with the Council’s decision to adopt the Specific Plan.

The proponents take seriously their power as the representatives of the more than one thousand residents who signed the referendum petitions and expressed their deep dissatisfaction with the Council’s decision to approve the Meadows at Bailey Canyon Specific Plan and other associated ordinances. For this reason, and for the reasons articulated below, the proponents will maintain the referendum’s

position on the ballots and grant voters the exercise of their constitutional right to cast a vote on the Meadows at Bailey Canyon Specific Plan.

The proponents wish to make clear that whatever dilemma the City believes it has been placed in was a problem of the City's own making. The City did not have to approve the Meadows project while Protect Sierra Madre's initiative was about to come for a vote, after numerous residents requested that the Council wait until after the election to take this action. The Council's action undercut the democratic process and sowed confusion among voters as to the subject of the upcoming election. Moreover, the Council was aware that proponents would seek to referend the Meadows project, and was aware that the proponents chose to referend the Specific Plan as this contained the features of the project that proponents and others objected to. Proponents do not object to residential development of the site that is consistent with the zoning code and the General Plan, but strongly object to the oversized mansions proposed to be packed into this hillside site in close proximity to homes that are consistent with the zoning ordinance and in a high fire risk area that is also a known wildlife habitat. Once Council was aware of the referendum, it had options if it wished to avoid an SB330 project application, such as reverting the General Plan designation to institutional in response to the apparent public dissatisfaction, but it chose to maintain its course. Proponents and the public have the right to exercise the referendum power, and to vilify proponents for its exercise is shameful, particularly where the Council did not exercise its own powers to prevent what it views as poor consequences of the exercise of the referendum power.

Indeed, the pressure from the City on the proponents to withdraw the referendum has been persistent and relentless, but the City has offered no proposal that would commensurate with what it asks proponents to trade off: the constitutionally-reserved right of the people to vote on the election. Proponents came in good faith to negotiate with the City, and through the efforts of the City Manager, with New Urban West (NUW). While the City has contended that it agreed with the majority of the concessions that proponents sought, this is a distortion of the truth. The City procured an agreement to limit construction on hours on Saturday and to prohibit it on Sunday, an action it should have taken in the exercise of its police powers when approving the Specific Plan in the first instance. The City agreed to remove a linkage from the project to Bailey Canyon Wilderness Park, which it never should have permitted; agreed to conduct a traffic study, which it should have done before approving the project and which it won't commit to implement; said it would prioritize sidewalks on Lima Street from West Carter to Grandview, which it can and should do regardless of the referendum; and negotiated a paltry \$25,000 payment from the developer of this multi-million dollar development for improvements to Bailey Canyon Wilderness Park. For the City to ask proponents to withdraw the referendum for these "concessions" is laughable. Proponents may have had a list of concessions they requested, but not every item on the list was equal in value and these were the lowest possible rungs on the ladder.

Proponents made reasonable asks of the City which were ignored, including limitations on second story homes adjacent to neighboring residences (and *only* on 10 homes), reduce overall project size, protection for coast live oak trees, and a commitment to no further

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development on the remainder of the Passionist's property. The City (and NUW) agreed to none of these. But most galling (and telling) is the City's refusal to ensure that West Carter Avenue will be widened to the City standard of 30 feet prior to allowing the Meadows project to proceed. West Carter Avenue is currently a substandard street that cannot provide a secondary egress point for the residents of the project in the event of a wildfire. The City Manager wrote in a draft that he ultimately refused to present to the public that "all parties agree that the Carter Avenue Right of Way is a prerequisite to processing the Meadows Project application." The City also would not commit to require a vote on amending the Development Agreement if NUW cannot obtain the Carter Avenue right-of-way. These statements were removed from the City Manager's remarks, making clear that the City may resort to back room modifications to the terms of the Development Agreement and allow the development to proceed without the acquisition of the Carter Avenue Right of Way. Most importantly, the City would not commit to proponents that the Meadows project would not be allowed to proceed if NUW could not obtain the Carter Avenue Right of Way and provide safe secondary egress.

More than anything else, the failure to provide assurances on Carter Avenue illustrates the City's spinelessness when it comes to this project. Proponents' requests on Carter Avenue were entirely consistent with the requirements of safe egress and with the City's purported interests in ensuring the safety of its current and future residents. The City's failure to even agree to commit to requiring the widening of Carter speaks volumes about who the City is prioritizing in making its decisions about NUW's development.

The proponents provide this letter to make sure that the public is aware of the City's distorted narrative around the referendum and the negotiations, and to make clear that the City refused to put public safety concerns first and demand what should be a minimum before significantly increasing the residential density of this high fire risk zone: safe routes for all residents to evacuate the property. The voters should be aware of the decisions of those whom they have entrusted with the decision-making power, and should be permitted to cast votes in the referendum election accordingly.

Yours very truly,

STRUMWASSER & WOOCHELL LLP



Beverly Grossman Palmer