

February 8, 2016

Doug Haines, La Mirada Avenue Neighborhood Association
P.O. Box 93596
Los Angeles, CA 90093-0596

Planning and Land Use Management Committee,
Los Angeles City Council
c/o Office of the City Clerk
City of Los Angeles, City Hall
200 N. Spring Street, Rm. 395
Los Angeles, CA 90012

Date 2-9-16
Subject PLUM Committee
Case No. 16-0033
Page 3
From Memorandum from Appellant

RE: Council File 16-0033

Case No.: CPC-2015-74-GPA-CUB-SPP-SPR

CEQA No.: ENV-2008-1421-EIR

Project Location: 5500 – 5544 Sunset Blvd., 1417 – 1441 N. Western Ave., 1414 St. Andrews Pl.,
and 5505 – 5545 De Longpre Ave.

Dear Chair Huizar, and Honorable Council members:

Enclosed please note further exhibits regarding the “Target at Sunset and Western” project. The Planning and Land Use Management Committee is scheduled on February 9, 2016 to hear four appeals of the City Planning Commission’s November 12, 2015 re-approval of the proposed 420,000 sq. ft. development. Target seeks to amend the General Plan, the Vermont/Western Transit Oriented Specific Plan, and the Hollywood Community Plan to proceed with its project, which the Courts invalidated in 2014.

Please note the attached exhibits:

- Exhibit 1: 11/12/12 objection letter from Robert Blue to the PLUM Committee.
- Exhibit 2: 11/6/12 Ed Hunt objection letter to the PLUM Committee.
- Exhibit 3: 11/2/12, 2/13/12 and 5/11/09 Hollywood Studio District Neighborhood Council opposition letters to the City Council.
- Exhibit 4: 9/19/12 La Mirada appeal letter to the City Council of the CAPC’s 8/14/12 action.
- Exhibit 5: 8/10/12 La Mirada objection letter to the Central Area Planning Commission.
- Exhibit 6: 3/4/12 La Mirada objection letter in response to the Draft EIR.
- Exhibit 7: 2/20/12 Jon Perica objection letter to the City Council.
- Exhibit 8: 8/25/10 Director of Planning letter to Target accepting the withdrawal of the project.

Thank you,

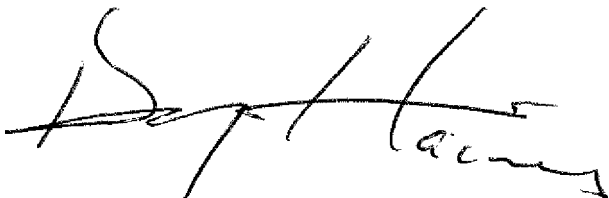


EXHIBIT 1

Robert Blue
1001 N Wilton Pl
Hollywood, CA 90038
(213) 293-5840

Planning & Land Use Management Committee
Los Angeles City Council
Hon. Ed Reyes, Chair
C/O City Clerk
Los Angeles City Hall
200 N. Spring Street
Los Angeles, CA 90012

November 12, 2012

Subject/Project: Target/Sunset & Western, Council File No. 12-1604 - Case No. APCC-2008-2703-SPE-CUB-SPP-SPR; ENV-2008-1421-EIR, Agenda Item 1 of the PLUM Committee Meeting Scheduled for Nov. 13, 2012

Dear Chairman Reyes and Honorable Council Members:

As one of the appellants, I wanted to set the record straight regarding an incorrect statement made by the applicant through their attorney's letter to you dated November 1, 2012.

1. Background and Familiarity with the Proposed Project and its History

The project lies within the boundaries of the Hollywood Studio District Neighborhood Council (HSDNC). I have been involved with the HSDNC since its formation dating back to 2004, as a member of the formation committee, as an interim board member, and as its first Chair after the HSDNC was certified.

I and other members of the HSDNC have been engaged in Development issues since the formation period in 2004 and one of the interim board members was an official representative on a community committee for a project proposed at the intersection of Hollywood Blvd and Western Avenue that consisted of three adjacent neighborhood councils during that time.

Since 2004 and after certification in 2005, I have attended and participate in the HSDNC PLUM Committee meetings and Board meetings where applicants presented projects which were proposed for areas within the NC boundaries.

2. The Applicant Never Presented a Project Conforming with the SNAP Requirements to the Public in any open meeting such as the CD-13 Design Review Committee or Certified NC PLUM or Board Meeting

I have attended public meetings in which Target presented their project to the community including their first presentation to the CD-13 Design Review Committee. At that first Committee meeting Mr. Ed Hunt, Chair of the HSDNC PLUM Committee, introduced himself to the Target representatives and invited them to the HSDNC PLUM Committee.

PLUM Committee, Agenda Item 1, CF No. 12-1604 November 12, 2012

The project's key features have remained substantially the same as it was first presented to members of the public, the local NC, and the CD-13 Design Review Committee.

At a follow-up meeting of the Design Review Committee in 2007, Committee members were not happy with Target's presentation and one of the Committee members stated "you haven't changed a thing" since Target's previous meeting with the Committee even though the Committee asked Target to make changes.

Throughout the entitlement process for Target's Sunset/Western project the applicant has denied that they ever presented a substantially SNAP compliant project when this issue was brought up at public hearings of the City of Los Angeles.

Now with their November 1, 2012 letter to you, the applicant is changing their story and falsely stating that a substantially SNAP compliant project was presented to the community and that the community rejected this plan. - This is patently false. There is no evidence or record of this.

In any case I wanted to set the record straight even if the applicant won't.

Sincerely,

Robert Blue

Robert Blue

EXHIBIT 2

11/7/12

City of Los Angeles Mail - Fwd: Council File #12-1604 Case #APCC-2008-2703 Address: 5500-5544 S...



City of Los Angeles Mail - Fwd: Council File #12-1604 Case #APCC-2008-2703 Address: 5500-5544 S...

**Fwd: Council File #12-1604 Case #APCC-2008-2703 Address: 5500-5544
Sunset Blvd. Proposed Target Project**

Sharon Gin <sharon.gin@lacity.org>
To: Elta Armstrong <etta.armstrong@lacity.org>

Tue, Nov 6, 2012 at 12:52 PM

----- Forwarded message -----

From: **Edward Hunt** <edvhunt@earthlink.net>
Date: Sun, Nov 4, 2012 at 10:19 PM
Subject: RE: Council File #12-1604 Case #APCC-2008-2703 Address: 5500-5544 Sunset Blvd. Proposed Target Project
To: sharon.gin@lacity.org
Cc: David Bell <dlawrencebell@gmail.com>, Eric Garcetti <councilmember.garcetti@lacity.org>, june.lagmay@lacity.org, cityclerk@lacity.org, Steven Whiddon <chair@hsdnc.org>, Alpha Design <alphadesignpartnership@yahoo.com>

The Honorable Ed Reyes
Chair, LA PLUM Committee
C/O Sharon Gin

Regarding Council File #12-1604 Case #APCC-2008-2703 Address: 5500-5544 Sunset Blvd. Proposed Target Store Project

Dear Councilman Reyes,

I read the letter dated 11/1/12 from one of the applicants' lobbyists, Dale Goldsmith, and would like to make a few comments.

First, I am a currently licensed California Architect and Landscape Architect and was the founding chair of the Hollywood Studio District Planning and Land Use Committee serving about 6 years in that capacity before resigning about a year ago to become President of the Melrose Hill Neighborhood Association. I have lived and worked in our NC area for 33 years and am very familiar with developments in Hollywood during that period.

Other members of our Neighborhood Council PLUM included Juri Ripinski, a major developer; Samir Srivastava, a major developer, and Pablo and Jackie Ruiz, retired Architects, and other dedicated members

11/7/12

City of Los Angeles Mail - Fwd: Council File #12-1604 Case #APCC-2008-2703 Address: 5500-5544 S...

of the community. I believe that Mr. Goldsmith is trying to give you a false impression that our Committee or our Neighborhood Council were just a bunch of Bumpkins that knew nothing about costs, construction, development, interest rates, etc., or did not represent the local neighborhood.

I did attend all key meetings regarding this project up to a year ago and a few since. In the earliest meetings, the story we got from the Target development team was they first approached Council Member Garcetti with an entirely code compliant project in a private meeting. According to the project team, CM Garcetti rejected the one story design with the parking underground and made it clear that he would only support a high rise version on top of an above ground parking garage. Our PLUM Committee repeatedly asked to see this early one story version but it was never shown to us.

From the Beginning our Committee and our Neighborhood Council has always been in favor of a code and SNAP-compliant Target Store with underground parking and consistently told the project team, primarily to comply with the SNAP regulations worked out with the Community about 10 years ago and to preserve views to and from the Hollywood Hills. Again, we never received any code compliant alternatives from the development team.

The general impression I have gotten was that the Target project team felt that as long as they had the local Councilman's backing, they could ignore the our PLUM Committee's, our NC's and our Community's requests for a code compliant project and could save a few bucks in the process with a cheaper parking garage. I suspect Mayor Candidate Garcetti's early and continued insistence on and insistence on a high rise solution was to break the back of the SNAP plan, to create a precedent for ignoring views and to please the Chamber Construction Union and the Development Community.

It is my understanding that Target's current annual high profit sales are on the order of \$70 Billion. I believe their now insistence that they cannot afford to place the parking underground simply shows their desperation.

Sincerely,

Edward Villareal Hunt, A.I.A.

4928 West Melrose Hill

Hollywood, CA 90029

323-646-6287

1

EXHIBIT 3

From: **Steven Whiddon** <chair@hsdnc.org>

Date: Fri, Nov 2, 2012 at 6:20 AM

Subject: Council File #12-1604 Case #APCC-2008-2703 Address: 5500-5544 Sunset Blvd. Proposed Target Project

To: sharon.gin@lacity.org

Cc: David Bell <dlawrencebell@gmail.com>, Eric Garcetti <councilmember.garcetti@lacity.org>, Marcel Porras <marcel.porras@lacity.org>, Angela Motta <angela.motta@lacity.org>, Christine Jerian <christine.jerian@lacity.org>, june.lagmay@lacity.org, cityclerk@lacity.org

Dear Sharon,

I understand there is a PLUM hearing at City Hall, Tuesday, November 6, 2012. For the record, please place this letter, along with 3 other official HSDNC letters from the period of 2009-2012 in Council File #12-1604 Case #APCC-2008-2703 Address: 5500-5544 Sunset Blvd. Proposed Target Project.

We, the Hollywood Studio District Neighborhood Council (HSDNC), and our Plan Land Use Management Committee (HSDNC PLUM) worked with Target for many years in hopes of creating a model store for our community and the Target Corporation. I am saddened to say that our main concerns of below grade parking, building height and exterior articulation were never seriously considered by Target. **We are strongly opposed to the current design of this store.**

Over the years, the HSDNC, HSDNC PLUM and community members attended numerous meetings with representatives from Target and Council District 13. From the beginning to present, our concerns have been the same: building height, parking below grade and better articulation on the exterior of building.

We were consistent in our communications regarding these concerns, concerns that are being implemented by almost every other development within the HSDNC boundaries. Even non-profits and affordable housing projects within the HSDNC areas are building below-grade parking! It begs the question, why can these projects afford below grade parking but Target cannot? We find this hard to believe.

We never received any appropriate responses to several suggested alternatives. We offered this analysis to both Target and 13th District Council Member, Eric Garcetti and staff member Marcel Porras, with no appropriate response!

a) Parking above ground costs approximately \$20,000 per space. Parking below grade will cost approximately \$10,000 per space more, for the 1st subterranean level (because you do not hit water at that depth).

b) We do not know exactly how many parking spaces per level Target has planned to provide per above ground level. However, we do know that an average parking space is calculated at 400 sq. Ft per space (this includes 200 sq. Ft for the actual space and another 200 sq. Ft as a pro rata share for drive aisles, drive ways, etc).

We also know that the lot is approx. 160,000 sq. Ft. assuming that the useable area after set backs, etc is 136,000 sq. Ft, this would mean that Target will provide approximately 340 spaces per above ground level (136,000 sq. Ft divided by 400 sq. Ft).

c) If Target would put only 1 level below grade, it would increase their construction costs by approximately \$3,400,000 (340 parking spaces x \$10,000 each).

d) Target's construction costs are estimated to be approx.: \$38,100,000, as follows:

Say: 340 parking spaces per level times 2 above ground levels (at \$20,000 per space) = \$13,600,000

Say: 140,000 sq. Ft Store on the top level at \$175 / sq. Ft = \$24,500,000

e) Therefore, if Target were to make one of the 2 parking levels below grade, it would increase their construction costs by approx. 9%. This is an acceptable variance in construction cost overruns.

f) Additionally, the following observations:

1) 9% is approx. 1 year of carry on the project, and a small price to pay for Target to get permission to get the project started right away — rather than suffer the delays of debating the issue.

2) At a 6% cost of money for Target, the annual cost of the \$3,400,000 would be \$204,000 per year ; and this would have the effect of increasing their occupancy cost or "rent" by \$1.46 per sq. Ft per year of \$.12 Cents per sq. Ft per month — this is not a lot for any tenant.

3) This \$12 Cents per sq. Ft does not seem like a lot to preserve the view corridor for the neighborhood.

We are hopeful that you will see that our 3 requests before Target and the Los Angeles Planning and Land Use Committee are both reasonable and financially feasible. It is likely that this will be Target's highest producing store in the United States. Target understands the value of Hollywood, we hope that you will also recognize its value and insist that our concerns and reasonable input are implemented into this project before final approval.

Target

Steven Whiddon
Chair, Hollywood Studio District Neighborhood Council
1370 N. St. Andrews Place
Los Angeles, CA 90028

O. [323.461.0773](tel:323.461.0773)
C. [323.600.4353](tel:323.600.4353)
chair@hsdnc.org
www.hsdnc.org

"To promote public participation in local government in order to respond to the needs of our community"



HOLLYWOOD

Studio District Neighborhood Council

5500 Hollywood Blvd, Los Angeles, CA 90028

Phone: 323-461-0773 E-Mail: HSDNC@yahoo.com

May 11, 2009
Central Area Planning Commission
200 North Spring Street, Room 272
Los Angeles, CA 90012

RE: APCC-2008-2703-SPE-SUB-SRR-SPR

To Whom It May Concern,

The Hollywood Studio District Neighborhood Council (HSDNC) would like to have a Target store within its community and has great respect for the Target Corporation. The HSDNC Board has devoted much time to consider the particular design and zoning features of this particular project.

As much as the HSDNC Board would like to see the Target Store and the income it would potentially generate within our community, the Board regretfully cannot issue a letter of support because of the height proposed exceeds any limits that we can support. The Board has wrestled with the height proposed and cannot represent the community interest by issuing such a letter at this time.

There are several viable alternatives available to both Target and the City to solve the height issue and no demonstration has been made that any of these solutions have been studied, let alone exhausted.

Moreover, the HSDNC Board is seriously concerned with the long term harm to the community with the precedent which may be set for future developments by granting the departures to this project.

We are almost unanimous in our vote to respectfully request the City agencies to postpone the matter and any decision until solutions can be examined.

We look forward to seeing a Target Store in the near future which will serve our community, as well as Target.

Please copy us on the Hearing Officer's Report.

Maripat Donovan
Hollywood Studio District NC Chair

cc. Eric Garcetti
Kelli Bernard
Noel Hyon

CITY OF LOS ANGELES
HOLLYWOOD STUDIO DISTRICT NEIGHBORHOOD
COUNCIL
CALIFORNIA

OFFICERS:

Steven Whiddon
Chair
Tom Meredith
Vice Chair
TBA
Treasurer
Jenny Weatherholtz
Recording Secretary
MAIL: P.O. Box 85098
Los Angeles, CA 90072
PHONE: 323 461.0773



ANTONIO R. VILLARAIGOSA
MAYOR



BOARD MEMBERS:

Alex Alferov	Kenneth Ostrow
Andy Schwartz	Luke Vincent
Bili Zide	Leila Forouzan
Felipe Corrado	Manny Rodriguez
Efrain Gonzalez	Narine Chobanyan
Frank Valenti	Nathan French
Jennifer Moran	Steven Whiddon
Jenny Weatherholtz	Thomas Meredith
Juri Rupinsky	

February 13, 2012

Kevin Keller
Senior City Planner
Department of City Planning
City of Los Angeles
200 N. Spring Street, #667
Los Angeles, California 90012
kevin.keller@lacity.org

Hadar Plafkin
City Planner/Environmental Review Coordinator
Los Angeles Department of City Planning
200 North Spring Street, Room 750
Los Angeles, CA 90012
Fax: 213.978.1343
hadar.plafkin@lacity.org

Herb J. Wesson, Jr.
City Council President
City of Los Angeles
200 North Spring Street, Room 430
Los Angeles, CA 90012
councilmember.wesson@lacity.org

Eric Garcetti
Council Member, District 13
City of Los Angeles
200 North Spring Street, Room 470
Los Angeles, CA 90012
councilmember.garcetti@lacity.org

RE: Target Store

5220 Sunset Boulevard, Los Angeles, California 90028

Case No: APCC-2008-2703- SPE-CUB-SPP-SPR

Case No.ENV-2008-1421-EIR State Clearinghouse Number: 2010121011

Council District: 13

Dear Mr. Keller and Mr. Plafkin,

The proposed Target project, referenced above, is located within the boundaries of the Hollywood Studio District Neighborhood Council (HSDNC). The HSDNC is a certified City of Los Angeles Neighborhood Council with an elected Board of Governors. On Monday, February 13, 2013, the HSDNC Board of Governors, with a recommended 'vote to approve' from the HSDNC PLUM Committee, voted on a motion to support the Target project as follows:

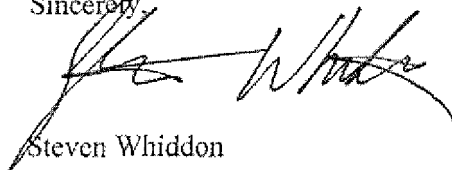
HSDNC supports the proposed Target project application to construct a new Target Store, as described on the attached Exhibit A, **but expressly subject to Target complying with the following conditions:**

1. That Target place all of its parking in an underground parking structure, instead of the above ground structure Target has currently proposed. The underground structure will have the effect of reducing the height profile of the Target Building, and the HSDNC Board feels that this architectural feature will result in an important view corridor, to be maintained for the community. Furthermore, the HSDNC is concerned of the precedent above ground parking will set for future development within the HSDNC boundaries.
2. That Target participate in the Streetscape plan that was recently approved along Western Avenue.

The HSDNC finds that the proposed project will positively affect the surrounding neighborhood and overall Hollywood community as follows:

- The Target project will increase new jobs in the HSDNC district, as well as in the City of Los Angeles.
- The project will result in new construction and project jobs over the development period, and will result in a large number of permanent jobs, once the store is complete and open.
- The Target project will bring a large number of shoppers into the HSDNC district, and those shoppers will also support other businesses located within the HSDNC district.
- The Target project will inject a large amount of capital into the Hollywood Community area.

Sincerely,



Steven Whiddon
Chairman

Hollywood Studio District Neighborhood Council Board

EXHIBIT A TARGET PROJECT DESCRIPTION

Target Retail Center Project

Case No. ENV-2008-
1421-EIR

State Clearinghouse Number: 2010121011

Council District: 13

Community Plan Area: Hollywood

Project Address: 5520 West Sunset Boulevard, Los Angeles, CA 90028

Project Description: The project consists of the demolition of the existing 59,561 square feet of single-story buildings, electrical substation, and surface parking lot for the construction of a proposed retail shopping center of 194,749 gross square feet. The project consists of an approximately 163,862 square foot Target store along with 30,887 square feet of other smaller retail and food uses fronting Sunset Boulevard and Western Avenue, in a three level retail center. The project site encompasses approximately 3.88 acres on a single parcel of land, with a net area of 3.69 acres after street dedications. The first level of the proposed retail center would consist of individual retail spaces fronting on Sunset Boulevard and Western Avenue, along with one level of parking in the interior of the site. Ingress to the parking area would be provided from a right-turn-in only driveway on Western Avenue and a two-way driveway on De Longpre Avenue. Vehicles exiting the facility would use either the De Longpre Avenue driveway or a right-turn-out only driveway on St. Andrews Place. The second level of the center would provide additional parking spaces and would be accessed via a ramp located at the western side of the first level. A total of 458 parking places would be provided in the first and second level parking areas. A loading dock containing up to five truck bays would also be provided on the first level, with access provided from De Longpre Avenue. The third level of the proposed retail center would be primarily occupied by the retail floor of the proposed Target store. Access to the Target store would be through a pedestrian plaza and escalators located at the corner of Sunset Boulevard and Western Avenue or from elevators provided in various locations throughout the retail and parking areas. The retail center building would extend to a height approximately 65 feet above Sunset Boulevard, and approximately 75 feet above De Longpre Avenue, with architectural and/or equipment elements that could extend to a height approximately 78 feet above Sunset Boulevard. The project is located within the Hollywood Community Plan, the Hollywood Redevelopment Project, and the Vermont/Western Station Neighborhood Area Plan (SNAP) Specific Plan. The SNAP restricts all Community Center uses to C4 uses as defined by the LAMC. The Project Applicant is requesting ministerial and discretionary approvals as part of the project, including but not limited to: Specific Plan Project Permit Compliance Review; Specific Plan Exceptions Approval; Site Plan Review Findings pursuant to LAMC Section 16.05-E; Zoning Administrator Approval of Conditional Use Permit for alcohol; demolition, grading, foundation, and building permits; health department and off-site permits; Board of Public Works Approval of Street Tree Removal; and Haul Route Approval, pursuant to LAMC section 91.7006.7.4.

REVIEW LOCATIONS:

The environmental impact report is available for review at the Department of City Planning, 200 North Spring Street, Room 667, Los Angeles, CA 90012 and other locations.

1. Department of City Planning - 200 North Spring Street, Room 750 Los Angeles, CA 90012
2. Central Library - 630 West 5th Street Los Angeles, CA 90071
3. Francis Howard Goldwyn Hollywood - Regional Library -1623 North Ivar Avenue, Hollywood, CA 90028
4. Will & Ariel Durant Library - 7140 West Sunset Boulevard, Los Angeles, CA 90046
5. John C Fremont Library - 6121 Melrose Avenue, Los Angeles, CA 90038

The Draft EIR may be purchased on CD-ROM for \$7.50 per copy. To purchase a copy, contact

Hadar Plafkin
City Planner/Environmental Review Coordinator
Los Angeles Department of City Planning
200 North Spring Street, Room 750
Los Angeles, CA 90012
Fax: 213.978.1343
hadar.plafkin@lacity.org

Circulation Period: January 12, 2012 to March 05, 2012

31 July 2012

Los Angeles City Council Member Eric Garcetti
200 North Spring Street Room 470
Los Angeles, California 90012

RE: TARGET RETAIL SHOPPING CENTER
5520 West Sunset Blvd. (@ Western Avenue)
Hollywood, CA 900
CASE NO.: ENV-2008-1421-EIR APCC-2008-2703-SPE-CUB-SPP-SPR

Dear Sirs:

This letter is written on behalf of the Hollywood Studio District Neighborhood Council PLUM Committee. As stated in our prior letter referenced in Targets Final EIR, the HSDNC is in favor of a Target store in this location. It would be a welcome addition to the neighborhood and provide much needed employment. However that said, **we emphatically want Underground Parking and SNAP to be enforced**. This project as it is now, is setting a precedent for future development that we believe to be a detriment to the community.

Underground Parking can be achieved on the block site with out lowering street retail six feet. The parking facilities alone could be leased during non-business hours to residents who are much in need of parking. This could be a potential benefit to both residents and Target.

It is the design and scale of this project that needs to be adjusted. Please see attached articles regarding urban scaled Targets recently opened in Westwood, Seattle and soon to open in China Town, here in Los Angeles.

SNAP defines and requires development to foster "proper relationship to adjacent uses." Articulation of facades horizontally, vertically and with materials as well as building mass are required. All roof lines above 40 feet must be broken. Landscape Plans require 24" box trees every 4 Parking Spaces. The intent was to foster proper building scale relationships for the pedestrian and uphold the context of the neighborhood. We urge you not to discard these principles and in the process set a precedent, that over time, we believe, will be hard to overcome.

In addition: The drawings show beyond the Sunset Parapet behind the 80' Tower – a dimension of elevation (EL – 156'-3") We would like that clarified.

The project blade signs appear too large and pole signs are not allowed under SNAP. Clearly this is a part of Target's identity - and as such - could be granted an exception – with clear understanding as to scale.

Hollywood is one of the largest economic centers of Los Angeles and a foot hill community. Scale is a basic and an integral part of this neighborhood. We have repeatedly asked Target who has been Intransigent with the neighborhood with refusal to address repeated requests about these issues. Hollywood deserves responsive architecture to its surroundings.

Please support our requests and consider the long term consequences of the exceptions you grant.
Thank you for your consideration.

HSHNC PLUM Committee

Cc: Central Planning Commission – Public Works Board Room, City Hall – Room 350
200 North Spring Street, Los Angeles, CA 90012

EXHIBIT 4

MASTER APPEAL FORM

APCC-08-2703Rescan-000125

City of Los Angeles – Department of City Planning

APPEAL TO THE: Los Angeles City Council

(DIRECTOR, AREA PLANNING COMMISSION, CITY PLANNING COMMISSION, CITY COUNCIL)

REGARDING CASE #: APCC-2008-2703-SPE-CUB-SPP-SPRPROJECT ADDRESS: 5500 - 5544 Sunset Blvd; 1417 - 1441 Western Ave.FINAL DATE TO APPEAL: Sept. 19, 2012

- TYPE OF APPEAL:
1. ☐ Appeal by Applicant
 2. ☒ Appeal by a person, other than the applicant, claiming to be aggrieved
 3. ☐ Appeal by applicant or aggrieved person from a determination made by the Department of Building and Safety

APPELLANT INFORMATION – Please print clearly

Name: Doug Haines on behalf of La Mirada, Robert Blue for Citizen's Coalition, LA

- Are you filing for yourself or on behalf of another party, organization or company?

☐ Self☒ Other: La Mirada Ave. Neighborhood Assn. and theCitizen's Coalition, Los AngelesAddress: Doug Haines, P.O. Box 93596, Los Angeles, CA 90093-0596Bob Blue 1001 N. Wilton Pl. Apt. 1, LA Zip: 90038Telephone: (310) 281-7625

E-mail: _____

- Are you filing to support the original applicant's position?

☐ Yes☒ No

REPRESENTATIVE INFORMATION

Name: Robert Silverstein, the Silverstein Law FirmAddress: 215 N. Marengo Ave., 3rd FloorPasadena, CAZip: 91101-1504Telephone: 626 449-4200

E-mail: _____

This application is to be used for any appeals authorized by the Los Angeles Municipal Code for discretionary actions administered by the Department of City Planning.

JUSTIFICATION/REASON FOR APPEALING -- Please provide on separate sheet.

Are you appealing the entire decision or parts of it?

☒ Entire☐ Part

Your justification/reason must state:

- The reasons for the appeal
- How you are aggrieved by the decision
- Specifically the points at issue
- Why you believe the decision-maker erred or abused their discretion

ADDITIONAL INFORMATION/REQUIREMENTS

- Eight (8) copies of the following documents are required (1 original and 7 duplicates):
 - Master Appeal Form
 - Justification/Reason for Appealing document
 - Original Determination Letter
- Original applicants must provide the original receipt required to calculate 85% filing fee.
- Original applicants must pay mailing fees to BTC and submit copy of receipt.
- Applicants filing per 12.26 K "Appeals from Building Department Determinations" are considered original applicants and must provide notice per 12.26 K 7.
- Appeals to the City Council from a determination on a Tentative Tract (TT or VTT) by the City (Area) Planning Commission must be filed within 10 days of the written determination of the Commission.
- A CEQA document can only be appealed if a non-elected decision-making body (i.e. ZA, APC, CPC, etc...) makes a determination for a project that is not further appealable.

"If a nonelected decision-making body of a local lead agency certifies an environmental impact report, approves a negative declaration or mitigated negative declaration, or determines that a project is not subject to this division, that certification, approval, or determination may be appealed to the agency's elected decision-making body, if any."

--CA Public Resources Code § 21151 (c)

I certify that the statements contained in this application are complete and true:

Appellant Signature: _____

Date: _____

Planning Staff Use Only

Amount	Reviewed and Accepted by	Date
Receipt No.	Deemed Complete by	Date



Determination Authority Notified



Original Receipt and BTC Receipt (if original applicant)

September 15, 2012

Doug Haines
La Mirada Avenue Neighborhood Association of Hollywood
P.O. Box 93596
Los Angeles, CA 90093-0596

Robert Blue
Citizen's Coalition, Los Angeles
1001 N. Wilton Place, #1
Los Angeles, CA 90038

Los Angeles City Council
c/o City of Los Angeles Planning Department
Department's Public Offices, Figueroa Plaza
201 N. Figueroa St., 4th Floor
Los Angeles, CA 90012

RE: Case No.: APCC-2008-2703-SPE-CUB-SPP-SPR;
CEQA No.: ENV-2008-1421-EIR
Project Location: 5520 Sunset Blvd., Hollywood.

Appeal of the Central Area Planning Commission's August 14, 2012 approval of the following from the Vermont/Western Transit Oriented District Specific Plan ("SNAP") (Ordinance 173,749):

- An **Exception** from **Section 9.B (1)** to allow a commercial building height of 74 feet, four inches above grade in lieu of the maximum permitted building height of 35 feet;
- An **Exception** from **Section 9.I**, allowing the applicant to be exempt from the requirement that all roof lines in excess of 40 feet be broken up through the use of gables, dormers, cut-outs or other means;
- An **Exception** from **Section 9.I** to allow relief from the requirement that the second floor of the development be set back a minimum of ten feet from the first floor frontage;
- An **Exception** from **Section 9.I** to allow entrance canopies and balconies within 15 feet of the property line to exceed the maximum permitted height of 30 feet;
- An **Exception** from **Section 6.N** requiring that projects containing 40,000 square feet or more of retail commercial floor area provide free delivery of purchases made at the site to residents living in the SNAP area;
- An **Exception** from **Section 9.E (3)** to permit 458 parking spaces in lieu of the maximum permitted 390 spaces;
- An **Exception** from **Section 9.I** from the requirement that transparent building elements occupy a minimum 50% of the ground floor facade;

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- **An Exception from Section 9.I** to allow store deliveries between the hours of 5 AM and 12 AM Monday – Sunday, in lieu of the requirement that deliveries shall occur no earlier than 7AM and no later than 8PM, Monday through Friday, and no earlier than 10AM and no later than 4PM on Saturdays and Sundays.
- **Project Permit Compliance** with the Vermont/Western Transit Oriented District Specific Plan;
- **A Site Plan Review** for a project resulting in a net increase of over 1,000 average daily trips and an increase of 50,000 gross square feet or more of nonresidential floor area;
- **Certification** of ENV-2008-1421-EIR, **Adoption** of the attached Findings, and **Adoption** of a Statement of Overriding Consideration.
- **A Conditional Use Beverage Permit** to allow the sale of beer and wine for off-site consumption.

I. INTRODUCTION

The La Mirada Avenue Neighborhood Association of Hollywood, and the Citizen's Coalition, Los Angeles, jointly appeal all approvals, conditional use permit approvals, project permit compliance approvals, site plan review, and certification/adoptions made, including CEQA approvals for ENV-2008-1421-EIR, by the Los Angeles Central Area Planning Commission at its August 14, 2012 public hearing of Case Number APCC-2008-2703-SPE-CUB-SPP-SPR.

The La Mirada Avenue Neighborhood Association includes residents, business owners, and property owners who live and work within the vicinity of the proposed "Target" project at 5520 Sunset Blvd. in Hollywood. The Citizen's Coalition of Los Angeles ("CCLA") represents residents and property owners who advocate on behalf of enforcing our City's zoning laws. The members of our neighborhood associations will be directly impacted by development and operation of the project, and by the extensive and significant zoning precedents established by the project.

If constructed as described on page I-3 of the Draft *Environmental Impact Report* ("DEIR"), "Proposed Project," and slightly modified by the Commission's action, the Target development would consist of a structure 74 feet, 4 inches in height, with 194,749 sq. ft. of retail development and 225,286 sq. ft. of above-grade parking spaces in two levels totaling 458 stalls. Total site development is 420,035 sq. ft. The net lot area is 160,678 sq. ft. The primary component of the project would be a 163,862 sq. ft. Target retail store on the third level, with 30,887 sq. ft. of unidentified retail at ground level (hereinafter the "Project"). The applicant is Target Corporation ("Applicant").

The Applicant's significant discretionary requests are extensive, precedent setting, and striking not only for the changes they would wrought for this historic area of Hollywood, but also for the developer's complete and utter lack of legal justification for any of the entitlements he is demanding. The proposed Project is also significant for the opposition it has generated from the community, including from the Hollywood Design Review Committee and the applicable neighborhood council.

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Furthermore, the Project as proposed is inconsistent with the requirements and guidelines of the Vermont/Western Transit Oriented District Area Specific Plan. The Project will cause adverse environmental impacts to the surrounding neighborhood that are significant, permanent and without mitigation, and which have not been properly analyzed as required by the California Environmental Quality Act ("CEQA").

The Project as proposed would further set a dangerous precedent in changes to this area's established SNAP limitations, which would set in motion a domino effect where other property owners seek similar entitlements to copy its vastly increased height, massing, and boxy, unarticulated design. Future development along this low-scale area of east Hollywood would therefore follow the entitlement trail blazed by the proposed Project, a scenario strongly advocated by representatives of Council District 13 during public testimony.

As a result, the skyline of this historic Hollywood commercial and residential district will permanently change as others seek excessive height and overwhelming massing. Please note that our neighborhood organizations are not opposed to proper development of the Project site. We firmly believe, however, that the Project as approved would set untenable precedents, and negatively impact the health and welfare of those of us who have lived in this community for generations. With due respect, the La Mirada Avenue Neighborhood Association and CCLA therefore oppose the currently proposed project.

II. OBJECTIONS

Our appeal of the Specific Plan Exceptions, Project Permit Compliance approval, Site Plan Review findings, Conditional Use Permit approval, and CEQA approval/certification includes but is not limited to the following objections:

- The Applicant has not in any manner satisfied the rigorous findings required to receive any exception from the Specific Plan, and the Central Area Planning Commission explicitly abused its discretion by knowingly ignoring this fact;
- The Applicant has presented no records, evidence or testimony showing that the proposed development cannot be a viable, code-compliant project without the approved exceptions;
- The significant deficiencies in the Project's Environmental Impact Report ("EIR") and Staff Recommendation Report precluded informed decisionmaking and proper public participation, and the Central Area Planning Commission abused its discretion under CEQA by adopting the Project's inadequate EIR, Findings and Statement of Overriding Consideration without reviewing the documents;
- The Applicant has provided no legal justification for omitting the Hollywood Central Park from the EIR's List of Related Projects.

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A. THE APPLICANT HAS NOT IN ANY MANNER SATISFIED THE RIGOROUS FINDINGS REQUIRED TO RECEIVE ANY EXCEPTION FROM THE SPECIFIC PLAN

California law requires that an exception from a zoning ordinance must show that the applicant would suffer practical difficulties and unnecessary hardships in the absence of the variance, that these hardships result from special circumstances relating to the property that are not shared by other properties in the area, and that the exception is necessary to bring the applicant into parity with other property owners in the same zone and vicinity.

Specific findings for granting a variation from the Zoning Code are required under Section 65906 of the California Government Code, which states:

“Variances from the terms of the zoning ordinances shall be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classifications.

“Any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.”

Section 11.5.7.F.1(a) of the LA Municipal Code further defines this rigid standard:

“An exception from a specific plan shall not be used to grant a special privilege, nor to grant relief from self-imposed hardships.”

All of Target’s exceptions from the specific plan are in fact based entirely on seeking special privileges or applying self-imposed hardships. None of the Findings in the Determination Letter have merit or meet the strict requirements for an exception as defined in Section 11.5.7.F.2 of the Los Angeles Municipal Code and §65906 of the California Government Code.

Crucially, the City’s approvals disregard the core values underpinning our zoning system. As the California Supreme Court held in Topanga Assn. for a Scenic Community v. County of Los Angeles (1974) 11 Cal.3d 506, a zoning scheme is a contract in which “each party foregoes rights to use its land as it wishes in return for the assurance that the use of neighboring property will be similarly restricted, the rationale being that such mutual restriction can enhance total community welfare.” (Id. at 517).

These principles led the Supreme Court to hold that “self-imposed burdens cannot legally justify the granting of a variance.” Broadway, Laguna, Vallejo Assn. v. Board of Permit Appeals of City and County of San Francisco (1967) 66 Cal.2d at 774, 778.

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As stated in McQuillin: The Law of Municipal Corporations, a leading treatise cited for a related point by the Supreme Court in Broadway, Laguna, supra, 66 Cal.2d at 775:

“The concept might be better understood, however, by examining what ‘practical difficulty’ or ‘unnecessary hardship’ is not. It is not mere hardship, inconvenience, interference with convenience or economic advantage, disappointment in learning that land is not available for business uses, financial or pecuniary hardship or disadvantage, loss of prospective profits, prevention of an increase of profits, or prohibition of the most profitable use of property...

“In order for a landowner to be entitled to a hardship variance, the hardship must originate from circumstances beyond the control of the landowner and be of a type that does not generally affect other properties in the district. If the landowner can control the circumstances causing the hardship, then the granting of a variance is improper. No undue hardship is shown where the landowner could accomplish the same objective without a variance by changing his or her plans so that they conform to the existing zoning requirements.” (8 McQuillin Mun.Corp. § 25:179.37, 3rd ed. 2010). (Emphasis added).

Section 11.5.7.F.2 of the Los Angeles Municipal Code defines these standards, requiring that a Specific Plan exception be supported by written findings of all of the following:

- a) That strict application of the regulations of the specific plan would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the specific plan;
- b) That there are exceptional circumstances or conditions applicable to the subject property involved or to the intended use or development of the subject property that do not apply generally to other property in the specific plan area;
- c) That an exception from the specific plan is necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other property within the specific plan area in the same zone and vicinity but which, because of special circumstances and practical difficulties or unnecessary hardships is denied to the property in question;
- d) That the granting of an exception will not be materially detrimental to the public welfare or injurious to the property or improvements adjacent to or in the vicinity of the subject property;
- e) That the granting of an exception will be consistent with the principles, intent and goals of the specific plan and any applicable element of the general plan.

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Here, neither the Applicant nor the City even remotely approached the required showings. Therefore, on this foundational question the application should have been denied, and the Commission's approvals are clearly illegal. See, e.g., Moss v Board of Zoning Adjustment (1968) 262 Cal.App.2d 1, 3, holding that a determination of the existence of all of the facts essential to making the necessary findings must precede any grant of a variance. Case law and the Los Angeles Municipal Code act as a limitation upon the power to grant exceptions. Accordingly, each of the numerous requests should have been denied on this ground.

An exception to the Specific Plan is not intended to be used for the purposes of convenience or to increase the value of a property. If a property can be put to effective use consistent with its existing zoning, the fact that an exception would make the property more valuable or increase the income of the owner is immaterial.

The first required finding for an exception from the requirements of the Specific Plan, that the strict application of the regulations of the Specific Plan would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the Specific Plan, is evaluated based on whether the property can be put to effective use without the exception.

The subject site is a rectangular-shaped lot covering an entire city block totaling approximately 3.69 net acres after dedications. The subject site is located in Subarea C of the Specific Plan, which limits the building height of commercial-only projects to a maximum 35 feet. The underlying zoning is C2-1. The site was first developed in 1916 as the original location of the Fox movie studios, later known as 20th Century Fox. The Fox studio left Hollywood for its Westside studio location in the late 1960s, and the existing single-story commercial buildings on the site were developed in the early 1970s.



Photo foreground: Looking south along Western Ave. at Sunset Blvd., circa 1917.

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Immediately west of the subject site across St. Andrews Place is a 30-foot, 8-inch tall, single-story Home Depot with surface and rooftop parking. Across from the subject site at the NW intersection of Sunset Blvd. and Western Ave. is a one-story OSH hardware store with surface parking. At the SE corner of this intersection is a single-story Food-4-Less grocery store with both below-grade and surface parking.



Immediately West of the Target site: The 31-foot tall, one-story Home Depot



Immediately north of the Target site: A one-story OSH Hardware store.

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Immediately east of the Target site at the southeast corner of the intersection of Sunset Blvd. and Western Ave., a single-story Food-4-Less, ICDC College, and McDonald's.

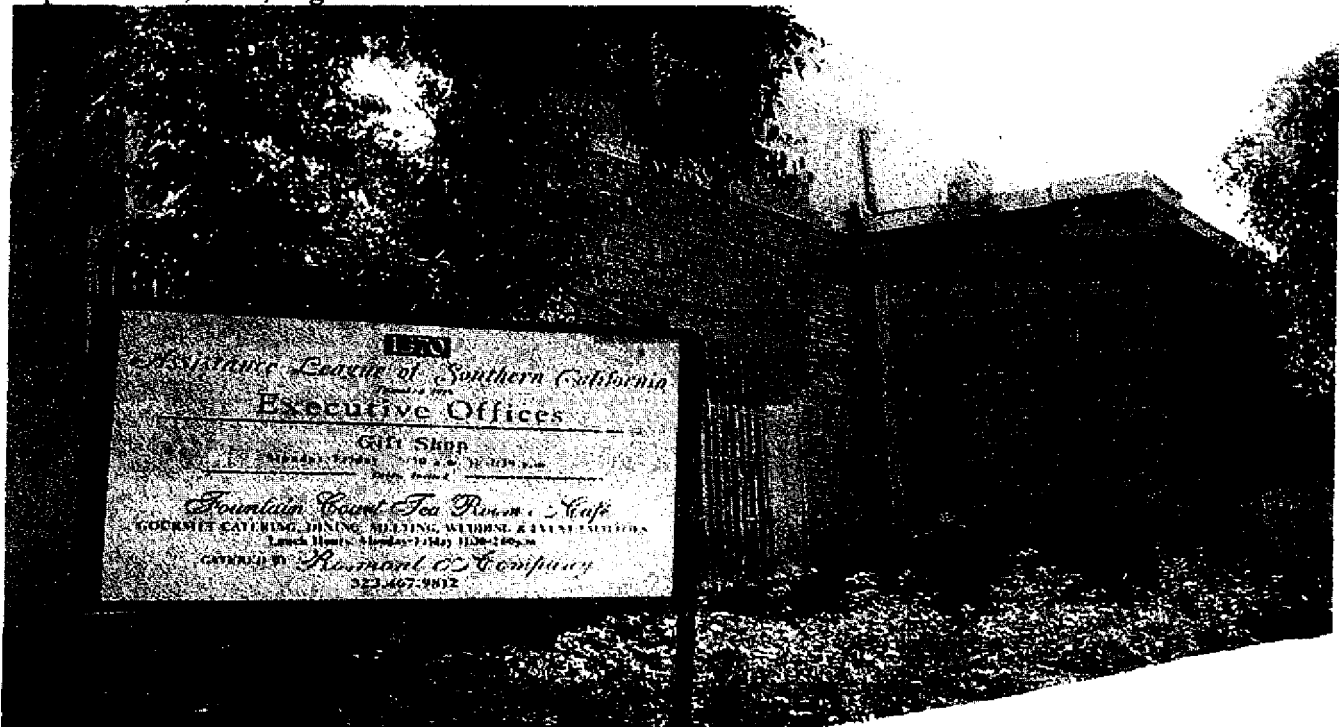
Immediately south of the parcel is a single-story, historic U.S. Post Office building, and the one- and two-story headquarters of the non-profit Assistance League of Southern California.



Single-level post office south of Target site at Western and De Longpre Avenues.

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Immediately south of Target site: Two-story office of non-profit Assistance League of Southern California at De Longpre Avenue and St. Andrews Place.



Rear view of the non-profit Assistance League of Southern California, located directly south of Target site, showing its surface and subterranean parking. (Photo looking south from Target site on De Longpre Ave.)

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Single-story commercial development at northern corner of Sunset Blvd. and St. Andrews Pl.,



Dunes Inn on Sunset Blvd. near St. Andrews Place, a half block west of Target site.



Sunset Blvd. at Wilton, with Home Depot store at photo right. Project site is at upper right

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On October 9, 2007, Target secured a 75-year Ground Lease with property owner Jordan Man See Chin of Hong Kong for the proposed Target site at \$1,895,000 annually. Following execution of its lease, Target assumed full control of the site and began proceedings to evict the tenants that included: a Carl's Jr. restaurant; a CVS (formerly Savon) pharmacy; a Farm Fresh Ranch Market; and a clothing store.



Subject site as it appeared shortly after Target took complete control in late 2007.



Target site today, after complete control by Target Corp. for almost 5 years.

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In the appellate decision of Stolman v. City of Los Angeles (2003) 114 Cal. App. 4th, 916, a resident who lived near a gasoline station petitioned for a writ of mandate challenging the City of Los Angeles' granting of a variance that permitted the station owner to expand operations to include an automobile detailing service. The trial court denied the petition, and the resident appealed. The Court of Appeal reversed, holding that:

- Substantial evidence did not support the City's critical required finding that strict application of the zoning ordinance would result in practical difficulties or that the property owner would "face dire financial hardship" without the variance.

As in Stolman, we are aware of no records, evidence, or testimony showing that the proposed Project cannot be a viable development without the benefits provided by the requested SNAP exceptions. As stated in Stolman at 926:

The key question is whether the detailing operation enhances the continued viability of the gasoline station to the extent that Clark would face dire financial hardship without the variance, **or whether Clark merely wants the variance in order to increase his existing profits from the sale of gasoline.** (Emphasis added.)

The Stolman court rejected the City's claim in that case because it had failed to provide sufficient evidence of any such "dire financial hardship" if the gas station there did not obtain a variance to allow the adding of a detailing service. Such evidence would have had to take the form of precise figures regarding "how many gallons [of gas] were sold" or whether the profit of eight cents a gallon the owner reported "was net or gross." In other words, the Stolman court would not accept the claim that economic viability was threatened without a precise accounting of facts and figures to back it up. (Stolman, supra, 114 Cal.App.4th at 926).

It is respectfully submitted that there is zero evidence in the record to support a finding of financial hardship on the part of the Applicant – a multi-billion dollar, worldwide retail juggernaut with 2011 gross sales exceeding \$69 billion (or 10 times the gross revenue of the City of Los Angeles). Nor has the Applicant provided any financial information to prove that the Project will suffer an "unnecessary hardship" if the exceptions are not granted. Nor is there anything unique to the subject site in relation to surrounding properties that would create special circumstances restricting its development in parity with the other parcels.

The Applicant entered into a lease agreement on the property fully aware of the existing Specific Plan restrictions, and therefore any hardship is entirely self-imposed. Granting any exception to the Specific Plan is therefore completely unwarranted.

"In the absence of an affirmative showing that a particular parcel in a certain zone differed substantially and in relevant aspects from other parcels therein, a variance granted with respect to that parcel amounted to the kind of 'special privilege' explicitly prohibited by Government Code §65906, establishing criteria for granting variances." Topanga Association for a Scenic Community v. County of Los Angeles, (1974) 11 Cal. 3d 506, 509.

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The Determination Letter's Mandatory Findings justifying approval of the Project's numerous exceptions to the Specific Plan carry no merit or offer any evidence of necessity, and in fact amount to the type of "special privilege" explicitly prohibited by California law. The findings are instead merely a superficial justification for the decision, as noted in our analysis below.

Free delivery. Section 6.N of the Vermont/Western Transit Oriented Specific Plan states:

Free delivery. An Applicant for any Project containing 40,000 square feet or more of retail commercial floor area shall submit to the Director of Planning as part of the application for a Project Permit Compliance, a program for retail use designed to provide free delivery of purchases made at the site by residents living within the Specific Plan area.

In justifying the exception to the Specific Plan requirement that Target provide free delivery to residents living within SNAP, the Determination Letter states that the strict application of policies, standards and regulations of the Specific Plan would create unnecessary hardships for the following reasons:

- **"The proposed Project is unique in nature to the Specific Plan area as it is the first such national retail use since the Specific Plan was adopted;"**
- **"No other retail use recently developed in the Specific Plan area offers the diverse amount of goods and services that Target would offer;"**
- **"There are other retail uses in the immediate area that are larger than 40,000 square feet that do not require free delivery;"**
- **"The anticipated high volume of purchases made by residents living in close proximity to the store would...have the unintended consequence of making local neighborhoods less safe with numerous daily trucks coming from Target..."**

Mandatory Findings:

- a). **The strict application of the policies, standards and regulations of the specific plan to the subject property will result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the zoning regulations.**

The Determination Letter's findings completely ignore whether or not the subject property can be put to effective use without the exception. Instead, the first finding makes the somewhat dubious claim that a free delivery program would conflict with the goal of SNAP "to create more livable residential neighborhoods," arguing that the *"anticipated high volume of purchases...would result in large trucks traveling numerous times a day through residential neighborhoods."* Such deliveries, , *"would have the unintended consequence of making local neighborhoods less safe."*

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The Determination Letter's argument -- that SNAP area residents will be imperiled by Target's fleet of reckless delivery trucks -- is irrelevant to the question of whether or not the Code requirement creates a hardship for the Applicant.

"In order for a landowner to be entitled to a hardship variance, the hardship must originate from circumstances beyond the control of the landowner and be of a type that does not generally affect other properties in the district. If the landowner can control the circumstances causing the hardship, then the granting of a variance is improper." (8 McQuillin Mun.Corp. § 25:179.37, 3rd ed. 2010). (Emphasis added).

The findings supporting approval of the exception from providing free delivery state that Target *"typically carries products that do not require deliveries because the products for sale are generally small in size."* This argument mirrors the statements previously made by Target in the *Initial Study* and *Draft EIR*. If true, and Target's products are small in size and do not require deliveries, how then can the City claim that requiring the service *"would result in large trucks traveling numerous times a day through residential neighborhoods"*?

Mandatory Findings:

b). That there are exceptional circumstances or conditions applicable to the subject property involved or to the intended use or development of the subject property that do not apply generally to other property in the specific plan area.

The "exceptional circumstances" finding required for an exception to the Specific Plan involves distinguishing the property from other properties in the same zone and vicinity. In order to qualify as a special circumstance, there must be a logical relationship between the condition identified and the exception requested, meaning that the unusual condition must cause the hardship.

The Determination Letter's findings assert that the exceptional circumstances justifying the exception from free delivery are: Target *"is a discount department store;"* that *"most of the properties in the Specific Plan area are smaller lots...that would likely be developed with smaller retail uses"* not requiring free delivery; and that *"no other retail use...offers the diverse amount of goods and services that Target would offer."*

Offering a wide range of goods and services is not a hardship. Claiming that Target is a discount department store is also not a hardship; nor is there validity to the claim that other properties in SNAP are on smaller lots, and therefore a large retailer opening a large store suffers a hardship. All such claims are nonsense and have no relevancy to the requirements to justify the finding. A Specific Plan is designed to be exactly that, *specific* to the neighborhood it serves. A national business model is irrelevant to a local zoning ordinance. As stated in Stolman v. City of Los Angeles, *supra*

"A zoning scheme, after all, is similar in some respects to a contract; each party forgoes rights to use its land as it wishes in return for the assurance that the use of neighboring property will be similarly restricted, the rationale being that such mutual restriction can enhance total community welfare." (emphasis added)

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Mandatory Findings:

c). That an exception from the specific plan is necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other property within the specific plan area in the same zone and vicinity but which, because of special circumstances and practical difficulties or unnecessary hardships is denied to the property in question.

This finding establishes that the exception is necessary to bring the property owner into parity with other properties in the same zone and vicinity. The Determination Letter's findings cite the Home Depot store to the west of the subject lot as not required to provide free delivery and the Food 4 Less store to the east as operating *"without providing free delivery of groceries to residents in the SNAP Area."*

The Determination Letter also states that *"it would be an unnecessary economic hardship to require the proposed Target store to provide free delivery of goods to residents within the Specific Plan area while the other larger retail uses in the immediate vicinity of the project site do not provide free delivery."*

The Determination Letter now identifies the "larger" Home Depot store as having a square footage of 143,000 sq. ft., as opposed to the proposed 163,862 sq. ft. Super Target store. The developer previously identified this Home Depot store in the city's 2010 findings as being 276,000 sq. ft. (Neither figure, however, is correct).

Home Depot and Food 4 Less are not required to abide by the SNAP free delivery requirement because they opened years before the ordinance was enacted, and are therefore grandfathered uses. Target, however, is bound to abide by the ordinance, as would be any other large retailer that is planning to open a store within the SNAP. Yet Food 4 Less for years offered free transportation for shoppers in order to remain competitive with the Farm Fresh Ranch Market formerly on the subject lot, which also offered free transportation. Also, Home Depot offers shoppers a large truck for self-delivery at a nominal, hourly rate.

The Determination Letter does not give any example of "other property" in the same zone and vicinity that has been developed since 2001 that is exempt from the requirement to provide free delivery. If Food 4 Less or Home Depot leave their current locations, any large retailer taking control of those properties will be forced to conform to SNAP.

Mandatory Findings:

d). The granting of the exception will not be detrimental to the public welfare and injurious to property or improvements adjacent to or in the vicinity of the subject property.

The Determination Letter states: *"residents living within the SNAP would have the option to either drive to the store for convenience to purchase larger merchandise..."* or *"patrons could also use the Target website to purchase items and have them delivered at a low cost. Moreover, granting the exception would have the benefit of not generating unnecessary additional truck trips..."*

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Forcing residents of SNAP to order their merchandise on-line and pay for the postage raises the question of why a Target store is even needed in the area in the first place, particularly since Target's corporate management is so apparently indifferent to the needs of our community.

The residential composition of East Hollywood is primarily low-income renters, with an unusually large number of affordable housing developments located within 1,000 feet of the subject site. Many of these residents, who include a large concentration of HIV patients and elderly immigrants, do not have ready access to automotive transportation or the financial resources to pay excessive shipping charges. Denying immediate free delivery to this community will be detrimental to the public welfare, essentially shutting out a large segment of society from deriving any benefit from a Target store in their neighborhood.

Mandatory Findings:

- e). **That the granting of an exception will be consistent with the principles, intent and goals of the specific plan and any applicable element of the general plan.**

The Determination Letter claims that Target's requested exception from the requirement to provide free delivery to SNAP residents is consistent with the Specific Plan because it "*would lessen potential impacts of traffic truck trips, noise, air quality, and safety from a large number of trucks delivering goods daily throughout the residential neighborhoods in the SNAP area.*"

The Applicant, however, has provided no estimate of how many rumbling, diesel-spewing trucks driven by reckless Target employees would be necessary for the deliveries to be made, or how those deliveries contrast with the system recommended by Target, which is for people to order the items on-line from Target's warehouses, pay a significant postage fee, and have the merchandise shipped by rumbling, diesel-spewing trucks to their homes. The requested exception is therefore completely unjustified, and must be denied.

Building Height. Section 9.B (1) of the Vermont/Western Transit Oriented Specific Plan states:

Commercial Only Project. Projects comprised exclusively of commercial uses (not Hospital and Medical Uses) shall not exceed a maximum building height of 35 feet and a maximum FAR of 1.5, provided, however, that roofs and roof structures for the purposes specified in Section 12.21.1 B 3 of the Code, may be erected up to ten feet above the height limit established in this section, if the structures and features are set back a minimum of ten feet from the roof perimeter and screened from view at street level by a parapet or a sloping roof.

Mandatory Findings:

- a). **The strict application of the policies, standards and regulations of the specific plan to the subject property will result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the zoning regulations.**

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The Determination Letter findings regarding the Project's requested exception from the maximum 35-foot building height does not address whether or not the subject property can be put to effective use without the exception. Instead, the Determination Letter's central argument in the first finding is that *"one of the main goals of the Specific Plan (Section 2, Purposes) is to promote flexibility in the regulation of height and massing in order to achieve a balanced mix of uses within the Plan area."* This statement distorts the Specific Plan's basis for flexibility as actually detailed by Purpose H:

"Promote increased flexibility in the regulation of the height and bulk of buildings as well as the design of sites and public streets in order to ensure a well-planned combination of commercial and residential uses with adequate open space."

Target not only has no residential component, the Project is requesting four additional exceptions from the Specific Plan restrictions regulating height, bulk and massing. The proposed development in no manner whatsoever can therefore be considered a *"well-planned combination of commercial and residential uses."*

Furthermore, the Determination Letter's findings repeat the conceit that the height exception is justified because the Project *"would provide a pedestrian oriented environment and bring quality businesses to the existing community"* (without identifying what these quality businesses are and why they won't come to a community with a 35-foot height limitation); and that *"from the Sunset Boulevard street level view, the impact of the additional building height would be minimized"* (ignoring the reality that historic views are to the north, and would be completely blocked for those south of the site by the unprecedented height and massing of the structure).

Mandatory Findings:

b). That there are exceptional circumstances or conditions applicable to the subject property involved or to the intended use or development of the subject property that do not apply generally to other property in the specific plan area.

The Determination Letter's exceptional circumstances finding for a Project building height of 74 feet fails to distinguish the property from other properties in the same zone and vicinity. No mention is made in the finding of unusual physical characteristics of the property, such as size, shape, topography, location, or surroundings that restrict its development.

Instead, the finding for exceptional circumstances to allow more than double the allowed building height completely ignores this standard, instead repeating prior claims that the Project *"reduces additional environmental effects"* from subterranean parking, or that *"the unique nature of this project (large national commercial retailer) makes it infeasible to add a residential component."* Neither statement is relevant to the required showing.

The Determination Letter further states: *"newer developments in the area have been constructed with varying heights, some of which exceed the proposed height of the project."* The finding, however, fails to identify a single example of these "newer developments" for comparison with the proposed Target development (note also that the Project as designed does not vary in height).

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The Determination Letter further claims that *“even if the entire parking structure would underground, an exception would still be required,”* reasoning that the parking component is 30 feet above grade while the height of the 3rd floor and mezzanine stock room is 44 feet – thereby a building height of 44 feet is required. This reasoning not only defies logic, it also conflicts with Project Alternatives “B” and “D” in the *Draft EIR*, which offer building heights of 35 feet and 28 feet, respectively.

It’s important to also note that the *Draft EIR* considered a cartoonish choice of alternatives to the Project. Alternative B, the “SNAP-Compliant Commercial Alternative,” has one level of subterranean parking and one level of ground-level parking, and inexplicitly places the first-floor of retail six feet below grade. The Applicant ignores sensible options to resolve this jimmied design, such as rooftop parking, or a reduced scale Project, and instead dismisses the Alternative as unworkable.

Alternative D, “Reduced Project Alternative,” would be a 149,400 sq. ft. Target with subterranean parking and no perimeter retail. The height of this design would be 28.5 feet. This option, however, is also rejected by the EIR, which states that subterranean parking would create significant environmental impacts, and that the loss of perimeter retail would not meet the project goal of a *“commercial mixed-use project of shopping and dining opportunities...”* The environmental issue of excavation for subterranean parking, if it is truly an issue rather than merely an excuse to avoid the expense of excavation, can be partially addressed by rooftop parking, and the size of the Target store can be reduced to accommodate other retail operations.

Alternatives that would truly reduce the scale of the Project and provide subterranean parking were likewise rejected in the EIR without analysis. Alternative sites were not analyzed *“because the project applicant does not own or control other property within the Hollywood community ...”* (DEIR P. VI-4). Yet the Food 4 Less site has been for sale for years (note exhibits previously submitted to Council File 09-2092), and the former Sears site on Santa Monica Blvd. is vacant and available for occupancy.

It is not the responsibility of the City to approve exceptions to our Zoning laws in order to accommodate a developer’s building design. Instead, it is the responsibility of the developer to conform to the restrictions of the underlying zoning by designing his building to do so.

“One who purchases property in anticipation of procuring a variance to enable him to use it for a purpose forbidden at the time of sale cannot complain of hardship ensuing from a denial of the desired variance.” City of San Marino v. Roman Catholic Archbishop of Los Angeles (1960) 180 Cal.App.2d at 673. (emphasis added).

In 2010, when the City first used the developer’s supplemental findings as its own, the exceptional circumstances finding also provided financial data in an attempt to support the exception to more than double the allowed building height. At that time, a cost estimate for subterranean parking was employed as justification to provide the exception, stating:

“[T]he applicant has provided substantial evidence that underground parking would be prohibitively expensive. The cost of below grade parking cost is approximately \$11.9 million – which represents an approximate 20 percent cost increase on an approximate \$54 million project.”

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The Stolman Court held that economic viability may be a potential factor in the grant of a variance, but the court rejected the City's claim in that case because it had failed to provide sufficient evidence of any such "dire financial hardship" if the gas station there did not obtain a variance to allow the adding of a detailing service. Such evidence would have had to take the form of precise figures regarding "how many gallons [of gas] were sold" or whether the profit of eight cents a gallon the owner reported "was net or gross." In other words, the Stolman Court would not accept the claim that economic viability was threatened without a precise accounting of facts and figures to back it up. (Stolman, supra, 114 Cal.App.4th at 926.)

However, the developer's prior claim of an \$11.9 million Project cost increase for subterranean parking is just that, a claim unsubstantiated by any detailed financial analysis in the administrative record. Second, the City does not determine if a 20% higher cost for a subterranean parking structure – if accurate – is an unusual expense constituting a hardship, especially considering that the non-profit Assistance League of Southern California is located immediately south of the subject lot and has subterranean parking, as does the Food-4-Less site east of the subject lot, as well as the Walgreen's Pharmacy/Affordable Housing development at the NE corner of Sunset Blvd. and Western Ave. Also, the Home Depot store immediately west of the Target site features plentiful rooftop parking.

Subterranean parking at the subject lot would therefore be considered consistent with development in the same zone and vicinity, and an accepted expense for businesses (and even non-profits) in the area. This is particularly relevant since the Applicant has wasted 59 months pursuing the height exception, during which Target has expended \$9,317,083 for rent on the site. Target has also not provided any analysis showing the savings in cost between subterranean parking and the proposed parking podium. The Determination Letter also acknowledges at page F-69 that boring samples taken at the site on behalf of the Applicant didn't strike groundwater until a depth of 44 feet.

The Applicant has also identified its West Hollywood Target store – located 2.5 miles west of the subject lot – as a prized outlet, ranking "in the top five" nationally, "so it is a \$100 million-plus facility for us." (see transcript of 6/9/2010 Target shareholders submitted in our letter of 6/29/10). That Target store, located in the West Hollywood Gateway project, is completely served by subterranean parking.

Furthermore, the Applicant is requesting approval for excessive parking beyond the restrictions of the Specific Plan, creating his own hardship of how to accommodate the additional parking within the development. The City cannot then justify an additional exception to more than double the allowed building height merely to accommodate its other exception for additional parking, especially since the City has also admitted during public testimony that the Applicant previously came in with a one-level, suburban-style store.

The Determination Letter also states: ***"technical issues render underground parking infeasible. Subterranean parking requires loud and expensive ventilation system requirements that may cause greater noise impacts than the proposed project."*** No evidence is presented by the City to support this claim of excessive noise generated by parking ventilation systems, or why such systems cannot be adequately muffled. This statement also conflicts with the obvious noise of squealing tires and engine echo generated by vehicles circulating in above-ground parking structures, and the existence of numerous (and quiet) subterranean parking structures in the area.

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Finally, the City claims “*subterranean parking would also eliminate the ability for any green space to meet landscape requirements by removing the community gathering area.*” No details are presented to substantiate this statement, nor are alternative parking proposals (such as rooftop parking with a landscaped, green roof) reviewed as options. Nor has the Applicant explained why a reduced scale alternative that would not only comply with the Zoning regulations but would also conform with Target’s new policy of building smaller stores in urban markets is not feasible. Nor has the Applicant explored building his development in a larger location, such as the Food-4-Less site across Western Ave.

Mandatory Findings:

c). **That an exception from the specific plan is necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other property within the specific plan area in the same zone and vicinity but which, because of special circumstances and practical difficulties or unnecessary hardships is denied to the property in question.**

This finding establishes that the exception is necessary to bring the property owner into parity with other properties in the same zone and vicinity. The finding states: “*there are several properties within the Specific Plan area developed with similar heights as the proposed Project, including taller hospital facilities along Sunset and the community college along Western Avenue that are located in the C2 zone.*”

The finding does not identify any properties “within the Specific Plan area” that match the Project’s proposed height. The City mentions “*taller hospital facilities along Sunset*” but fails to reveal that SNAP specifically permits increased height for hospital uses to “*support the hospital core near the corner of Sunset Boulevard and Vermont Avenue such that this industry will generate jobs and medical services for local residents.*” (Purpose O). Target is not known to be proposing a hospital on the subject site.

There is also no known community college on or near Western Avenue.

The finding also states: “*For a Target or similar type national retail use to be developed within the Specific Plan without a height exception would require a larger lot and would not provide a mix of retail types and uses envisioned in the Specific Plan.*” No evidence is presented to support this statement, which ignores the availability of the Food-4-Less 7-acre lot across from the subject site.

A mixed-use development located a quarter of a mile north of the Target site at the northeast intersection of Hollywood Blvd. and Western Ave. shows how all of Target’s programmatic needs can be properly embodied without the necessity for any exceptions. Commonly referred to as the Ralph’s Shopping Center for its primary tenant, this development features 215,927 square feet of retail space and 100 units of affordable senior housing on a 3.05-acre site. The project also offers extensive free subterranean and surface parking totaling 460 spaces.

Per the requirements of the Specific Plan, the retail component is confined to two stories and the retail structure does not exceed 35-feet in height.

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Mixed-use development at Hollywood Blvd. and Western Ave. across from Red Line subway stop.

By comparison, Target's proposed project would place 194,749 sq. ft. of retail on a 3.9-acre site with no housing and no subterranean parking. Target's approved building would exceed 74 feet in height.



Free subterranean and surface parking is available for use by patrons and neighbors.

The mixed-use Ralph's Shopping Center is located immediately across from a Red Line subway stop, and features neighborhood serving multi-tenant retail with a Ralph's supermarket, Ross Dress for Less, Aaron Brothers frame shop, and 16 smaller retailers. The development also includes a large, grade-level plaza, proudly advertises on the side of the building that it features "lots of lower level parking", and has façade articulation throughout the structure. All of this is offered on a site almost an acre smaller than the Target site.

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Inner plaza at mixed-use development offers various neighborhood-serving retailers.

	Proposed Target Store	Ralph's Shopping Center
Lot size	3.9 gross acres	3.05 gross acres
Retail square footage/ Number of retail outlets	194,749 square feet retail/ (unknown; 30,887 sq. ft. "other")	215,927 square feet retail/ 18 storefronts
Height of retail component	74 feet, 4 inches in height	Retail: less than 35 feet
Housing component	NONE	100 units affordable senior
Distance to subway stop	1/4 mile to Red Line	Across street from Red Line
Parking spaces	458: two levels at above grade	460: surface and subterranean

If the mixed-use development at the intersection of Hollywood Blvd. and Western Ave. can offer more square footage of retail space than the proposed Target project, on a smaller lot, and also include 100 units of affordable housing while keeping the height of the retail structures below 35 feet, how then can Target justify its requested exceptions to the Specific Plan?

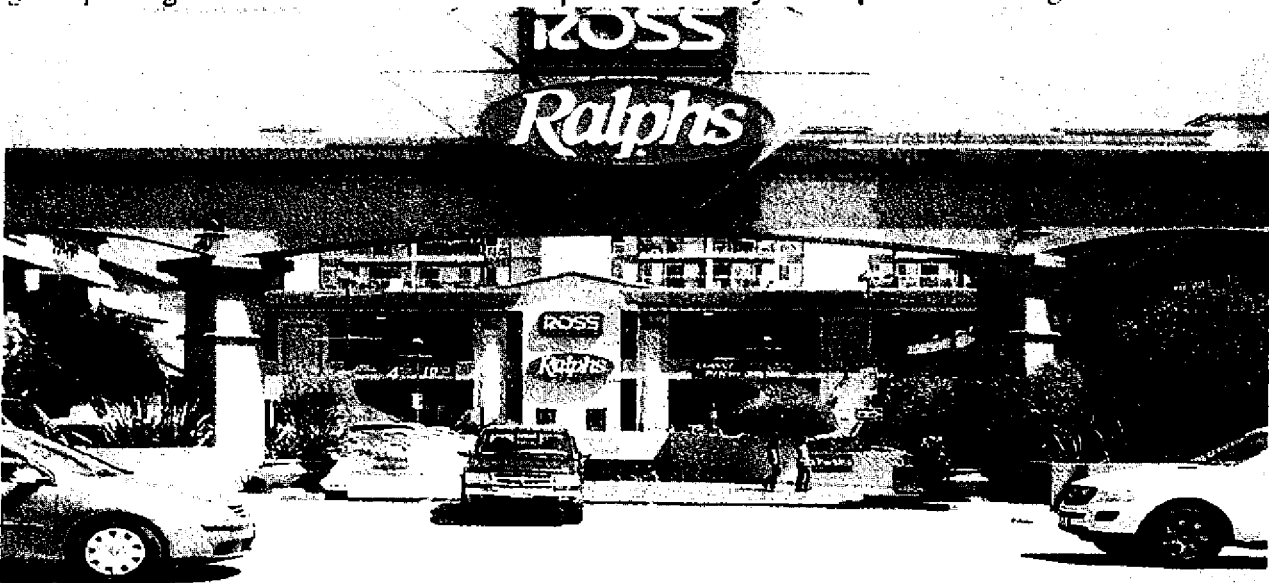
Finally, the finding claims "*Target possesses a substantial property right to develop a viable project that is competitive with other large retailers in the area.*" Previous findings, however, stated "*Target would be unique to the area in that it would be a larger store*" (for the exception from free delivery). The City fails to identify a single similar use in the same zone and vicinity that exceeds the 35-foot height restriction for commercial-only projects. The exception is therefore explicitly unjustified.

The language of the Zoning Ordinance and Government Code Section 65906 "emphasizes *disparities* between properties, not treatment of the subject property's characteristics in the abstract. It also contemplates that at best, only a small fraction of any one zone can qualify for a variance." Topanga Assn. for a Scenic Community v. County of Los Angeles, supra, 11 Cal.3d at p. 520 (emphasis in original).

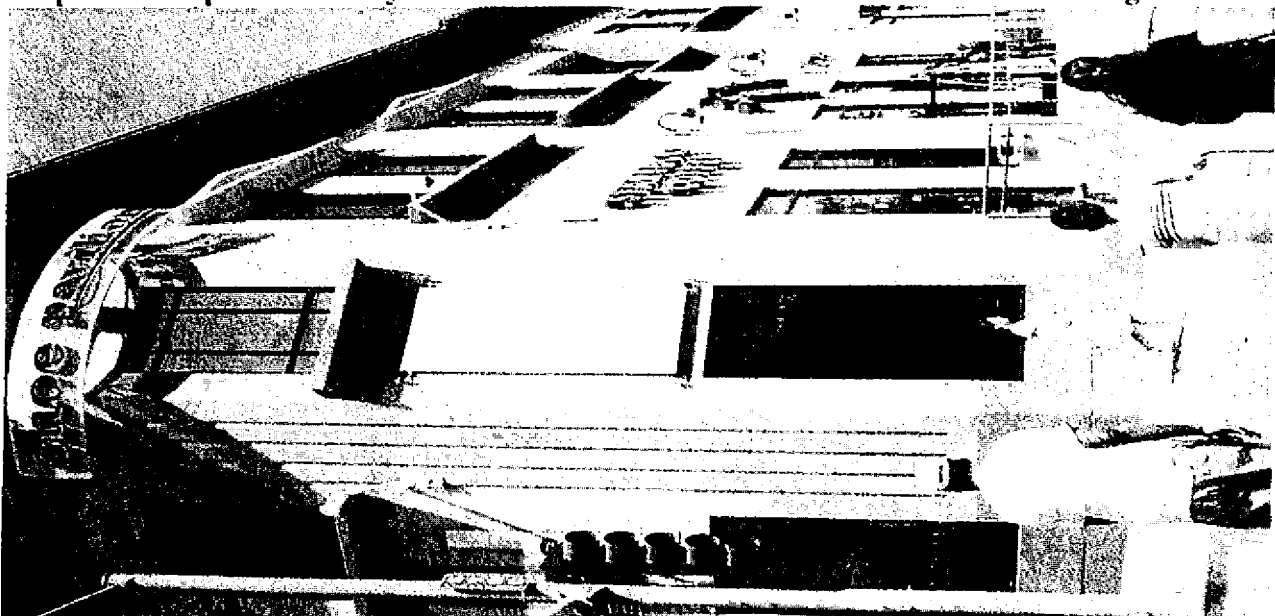
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The Determination Letter concludes this finding by stating: “A subterranean parking area would not eliminate the need for the exception, is infeasible, would cause impacts the proposed project does not cause, and would still require exceptions from the SNAP.” No evidence has been presented to support the Applicant’s claim that subterranean parking creates practical difficulties or unnecessary hardships, that excavation would cause permanent impacts like the height exception would if it is granted, or that below-grade parking is somehow infeasible. Note photos of nearby developments showing otherwise:

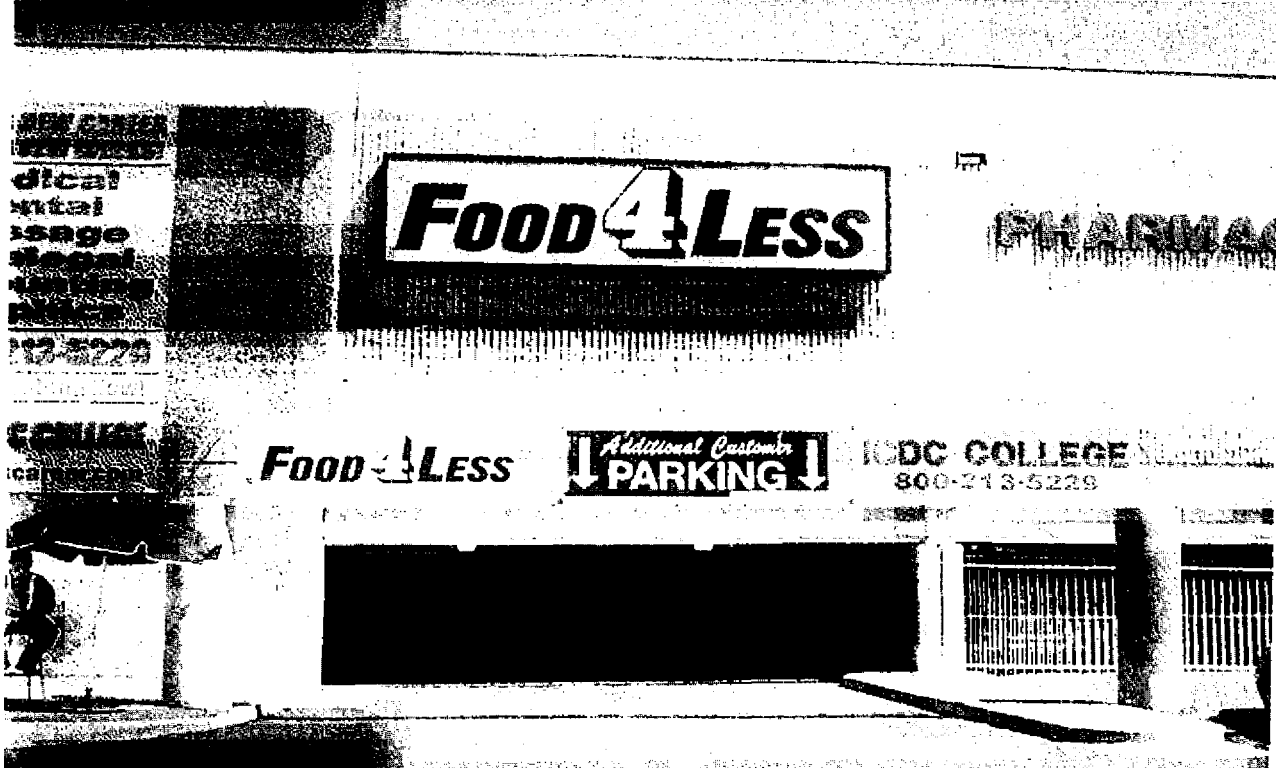


Ralph's development at Hollywood/Western advertises "Lots of Lower Level Parking."



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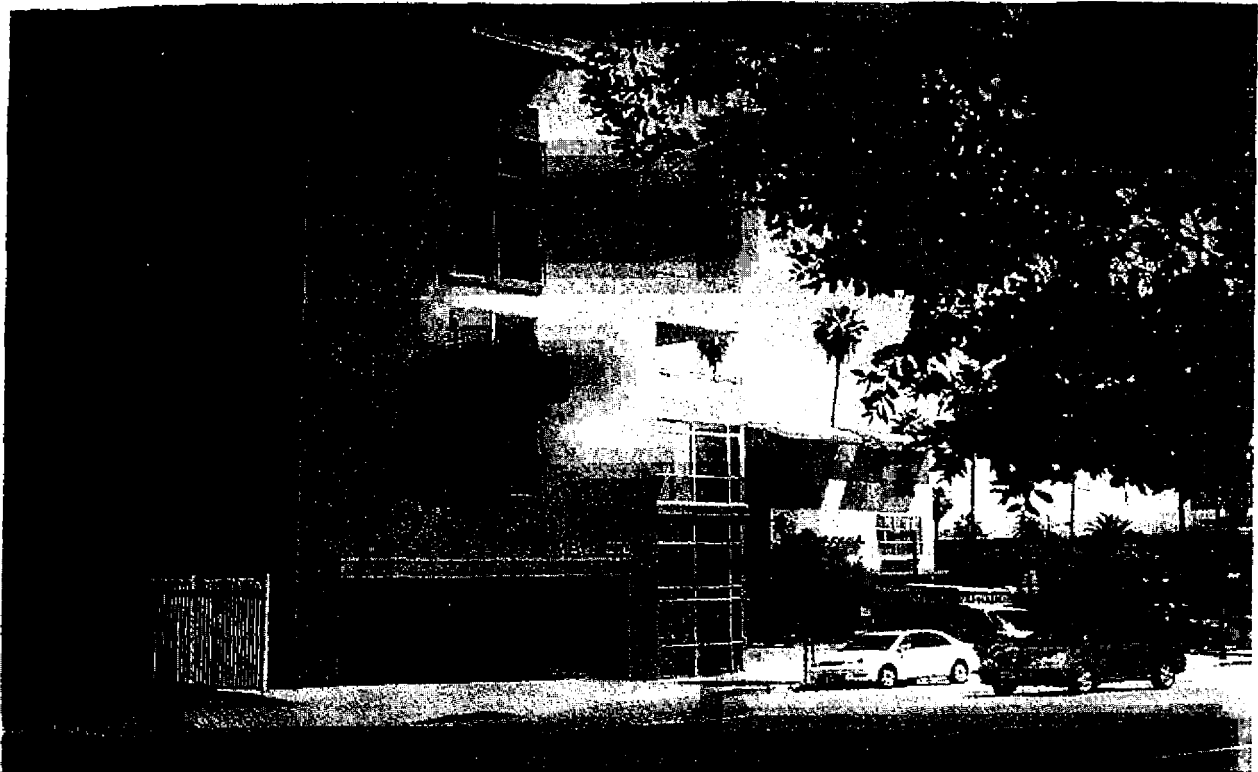


Food 4 Less at SE corner of Sunset Blvd./Western Ave. has multi-acre below-grade parking.



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Walgreen's mixed-use project has extensive subterranean parking.



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Mixed-use development at Hollywood/Western is served by subterranean parking.



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Mandatory Findings:

d). The granting of the exception will not be detrimental to the public welfare and injurious to property or improvements adjacent to or in the vicinity of the subject property.

The Determination Letter states that an exception from the 35-foot height limitation would not be detrimental to the public welfare because *"the proposed project would be buffered from low-rise commercial land uses by the intervening streets. The setbacks created by the intervening streets and the transitional heights created by the project's design would reduce the effects of the contrasting building heights..."* This comment ignores the *Draft EIR's* acknowledgement that the Project would have a substantial adverse effect on historic scenic vistas that would be significant and permanent.

Panoramic views are vistas that provide visual access to a large geographic area, for which the field of view can be wide and extend into the distance. The determination of significance is based on whether or not view blockages of visual resources would occur.

View blockages from public places are considered significant under the *City of LA CEQA Thresholds Guide* (2006). In addition, conservative analysis considers private views from residential buildings as significant since a resident's expectations concerning views may be similar to public expectations of view access from public places. Specifically, due to the proximity of the Project to the Hollywood Hills, this conservative approach properly addresses private view impacts relative to distant and panoramic views of the historic landscape.

Based on the factors set forth in the City's Thresholds Guide, the Project would have a significant impact on views if its development would substantially obstruct an existing view of a visually prominent resource from a public street, sidewalk, park, community cultural center, trail, or public vantage point. By this standard, the Project would significantly impact views from public streets and sidewalks south of the subject site, the Covenant House facility, and the Assistance League of Southern California.



Spectacular views as currently seen from the second floor public area at Covenant House building.

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Existing view of Hollywood Hills and Griffith Park Observatory taken from sidewalk in front of 5528 Fernwood Ave., 1-block south of Target site.

As acknowledged in the *Draft EIR*, the Project would permanently block scenic vistas if granted an exception to exceed the 35-foot maximum building height limitation. The exception would therefore be materially detrimental to the public welfare and injurious to property in the vicinity of the subject site.

Mandatory Findings:

e). That the granting of an exception will be consistent with the principles, intent and goals of the specific plan and any applicable element of the general plan.

The Determination Letter states that SNAP “*aims to promote flexibility in the regulation of height and bulk of buildings and the design of signs,*” but disregards the fact that such flexibility only applies with residential developments. Claiming that Target offers “*a mix of uses*” does not make it a mixed-use project, which is described in the Los Angeles Municipal Code as “Developments Combining Residential and Commercial Uses.” (See LAMC Sections 12.24.V.2; 12.22.A.18).

One of the key elements of SNAP is its intent to “*guide all development, including uses, location, height and density, to assure compatibility of uses and to provide for the consideration of transportation and public facilities, aesthetics, landscaping, open space and the economic and social well-being of area residents.*” (Purpose E).

The proposed Project would be incompatible with the surrounding low-level streetscape, would have a significant, permanent impact on aesthetics, offers token landscaping and open space, and would provide primarily part-time, minimum wage jobs. It is therefore completely at odds with the principles, intent and goals of the Specific Plan, and would in fact set major precedents that would gut SNAP.

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At the June 23, 2009 Central Area Planning Commission public hearing on the Target project, Ms. Kelli Bernard, Council District 13's then Planning Deputy and Consultant for Economic Development, stated that Target first came to their council office more than three years earlier and proposed a store featuring Target's traditional low-level "suburban model." *"We don't want a suburban model"* stated Ms. Bernard for CD13. *"We went from having a large parking field out in front of it that you would see, for example, there's a Target on Rodeo and La Cienega. They (CD 13's Design Review Committee) did not want that sort of thing and neither did the council office."* The Hollywood Design Review Committee, however, was never presented with the low-level store originally conceived for the site by Target and proposed to CD13. Instead, CD13 apparently rejected the Code-compliant project out of hand.

Council District 13's position demanding a taller Target project was reiterated on June 29, 2010 during Ms. Bernard's further testimony before the Los Angeles City Council's Planning and Land Use Management Committee: *"We challenged Target to create a more urban store"* stated Ms. Bernard. *"We're encouraging height and density on Sunset Blvd."*



Single-level Target store at Rodeo Rd. and La Cienega Blvd., that was cited by CD13 representative Kelli Bernard as what Target originally proposed for Hollywood.

The efforts of CD13 to gut our zoning laws is irrelevant when considering an exception to SNAP, a plan designed to: *"Guide all development, including use, location, height and density, to assure compatibility of uses and to provide for the consideration of transportation and public facilities, aesthetics, landscaping, open space and the economic and social well-being of area residents."*

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Parking. Section 9.E (3) of the Vermont/Western Transit Oriented Specific Plan states:

Commercial Only Project. Notwithstanding the contrary provisions of Section 12.21 A.4 of the Code and regardless of the underlying zone, the following parking standards shall apply to Projects with commercial uses, other than Hospital and Medical uses: (i) the maximum number of off-street parking spaces which may be provided shall be limited to two parking spaces for each 1,000 square feet of combined floor area of commercial uses contained within all buildings on a lot; (ii) a maximum of 50% of the required non-residential parking spaces may be provided off-site, but within 1,500 feet of the lot for which they are provided.

Mandatory Findings:

a). The strict application of the policies, standards and regulations of the specific plan to the subject property will result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the zoning regulations.

In justifying the exception to permit 458 parking spaces in lieu of the maximum permitted 390 spaces, the Determination Letter states that the strict application of policies, standards and regulations of the Specific Plan would create unnecessary hardships for the following reasons:

- *“The major tenant of this project would be a Target store, which typically requires a higher parking percentage to meet demand compared to smaller retailers;”*
- *“A typical Target project elsewhere would provide a higher parking ratio;”*
- The increase is necessary *“to provide convenience for patrons using the site;”*

No evidence accompanies the finding to support the developer's claims that a Target store requires a higher parking percentage than a “smaller” retailer, or that other Target stores “elsewhere” typically offer a higher parking ratio, or that the increase is necessary to provide convenience for patrons using the site. Such claims of hardship are therefore completely unsubstantiated.

The subject site lies within the boundaries of the former Hollywood Community Redevelopment Area, which retains the same retail parking requirement as that of the Specific Plan, or two spaces per thousand square feet of commercial area.

How then is the strict application of the parking regulation an unnecessary hardship inconsistent with the intent of the Specific Plan, when all other retailers within both the Specific Plan area and the Hollywood Community Plan area are subject to the same standard?

Mandatory Findings:

b). That there are exceptional circumstances or conditions applicable to the subject property involved or to the intended use or development of the subject property that do not apply generally to other property in the specific plan area.

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The “exceptional circumstances” finding required for an exception to the Specific Plan involves distinguishing the property from other properties in the same zone and vicinity. Per California case law, special circumstances are typically limited to unusual physical characteristics of the property, such as size, shape, topography, location, or surroundings that restrict its development. In order to qualify as a special circumstance, there must be a logical relationship between the condition identified and the exception requested.

The finding for exceptional circumstances for an exception to allow additional parking for the Project completely ignores this standard, instead repeating prior claims used for the finding that strict application of the SNAP parking restrictions would result in practical difficulties or unnecessary hardships, i.e. that *“the intended use of the property with a Target store is not typical in the Specific Plan area,”* that Target *“differs from other specialty smaller retail uses in the SNAP that customers typically do not patronize”* daily due to its variety of goods and services, and that Target will attract customers from *“the broader community.”* Again, no examples are provided of “specialty smaller retail uses in the Specific Plan” area for comparison. No evidence or example is offered to support these claims.

“In the absence of comparative information about surrounding properties, (the) data lack legal significance.” Topanga Assn. for a Scenic Community v. County of Los Angeles (1974) 11 Cal.3rd at 520.

A quarter of a mile north of the Target site at the northeast intersection of Hollywood Blvd. and Western Ave. is the Ralph’s Shopping Center. This development, constructed in 2001 under the Interim Control Ordinance pre-dating SNAP features 215,927 square feet of retail space and 100 units of affordable senior housing on a 3.05 acre site. The project also offers extensive subterranean and surface parking totaling 460 spaces, in conformance with both SNAP restrictions and the Community Redevelopment Plan.

Also, northeast of the Target site is an outlet of the national pharmacy chain Walgreen’s. Designed and constructed within the confines of SNAP, this mixed-use development has both surface and subterranean parking conforming to the Code restrictions.

The City neglects to identify a single physical limitation on the subject property that would warrant an exceptional circumstance, nor does the City adequately cite why a national retailer requires more parking than a local retail operation, or what difference there is between the products offered for sale.

Mandatory Findings:

c). That an exception from the specific plan is necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other property within the specific plan area in the same zone and vicinity but which, because of special circumstances and practical difficulties or unnecessary hardships is denied to the property in question.

This finding establishes that the exception is necessary to bring the property owner into parity with other properties in the same zone and vicinity. Conversely, California Government Code §65906 specifies that the exception cannot grant a special privilege:

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“Any variance granted shall be subject to such conditions as will assume that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.”

This finding identifies both the Hollywood Home Depot store immediately west of the subject site and the Food 4 Less grocery store east of the Project site as examples of national retailers with more on-site parking than currently allowed under the Specific Plan [Note: the City does not quantify the number of parking spaces at either Home Depot or Food 4 Less, thereby rendering the claim irrelevant]. Yet the finding also admits that both retail operations were constructed before enactment of SNAP. Both stores also were constructed prior to the opening of the Metro Red Line subway.

The Specific Plan, enacted in 2001, changed the zoning laws for both the subject site and the underlying property for Home Depot and Food 4 Less. To state that a project developed under old zoning laws possesses a right not shared by the subject site distorts the intent of the mandatory finding, i.e. that an exception is necessary for the preservation of a right denied “because of special circumstances and practical difficulties or unnecessary hardships...to the property in question.” If in the future a new development were constructed at the Home Depot site, the new parking restriction would then apply. Target, therefore, has no basis for comparison, since SNAP specifically was enacted to place a brake on uncontrolled development such as Home Depot.

The findings also do not quantify whether all of the provided parking at the Home Depot and Food 4 Less is actually needed, or if the parking is excessive. In fact, a third of the Food 4 Less surface parking lot currently is restricted to employees of Deluxe Film Laboratories while that adjacent 24-hour operation completes a multi-year expansion, confirming the site’s surplus of parking.



Food 4 Less parking lot section restricted to Deluxe Film Laboratories employees (lab seen in background)

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Photo showing Food 4 Less site and Deluxe parking area at left (lab seen at lower edge of photo).

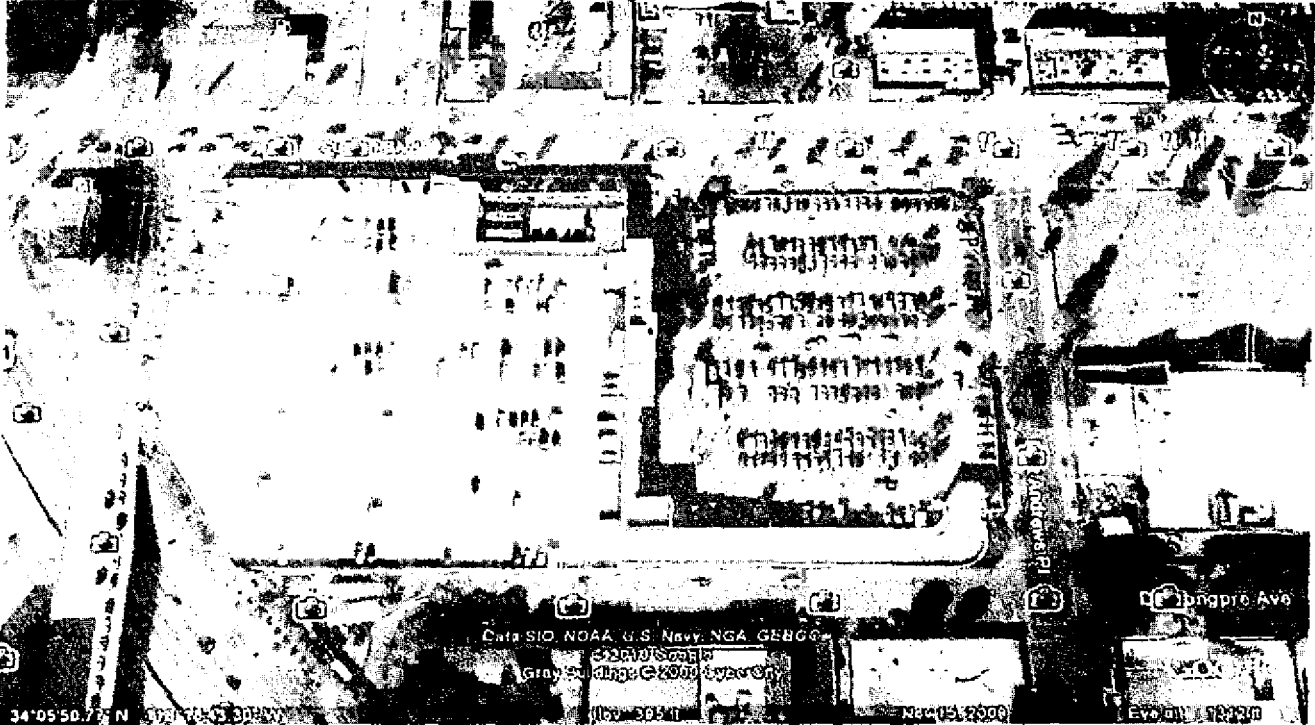


Parking area at Food 4 Less site restricted exclusively for Deluxe Lab employees.

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It should also be reiterated that national retailer Home Depot has roof top parking at its Hollywood site, while national retailer Food 4 Less has subterranean parking on its Hollywood lot -- two parking options deemed "not feasible" by Target.



Aerial view of Home Depot store located immediately west of the subject site. Note that extensive rooftop parking (at left) is largely unused while smaller, grade-level parking lot is full.



Note spectacular scenic vistas of the Hollywood Hills from rooftop parking lot of Home Depot, located at a height only 30 feet 8 inches above grade.

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Mandatory Findings:

d). The granting of the exception will not be detrimental to the public welfare and injurious to property or improvements adjacent to or in the vicinity of the subject property.

For this finding, the Determination Letter omits a line from the City's 2010 findings that argued that many of the Project's customers will not use public transportation and would drive to the store. The finding in 2010 previously stated: *"As such it can be expected that the use will attract customers from a wide area, many of whom do not have access to, or use public transportation options as found in the Specific Plan Area."* The finding now has a typo where this comment was deleted. The finding now states that many people *"do not have access to convenient transportation...As a result, some Target customers would drive to the store and require parking."* The finding then claims that additional parking will *"result in patrons not parking off-site on...adjacent residential neighborhoods."*

Encouraging increased vehicle trips and decreased public transit use will endanger the public welfare by increasing car and truck traffic within a wide radius of the project site. Since Target is refusing to mitigate (or even acknowledge) this additional traffic, neighborhood impacts will be significant. The granting of an exception for increased parking will therefore create dangerous traffic conditions for area residents.

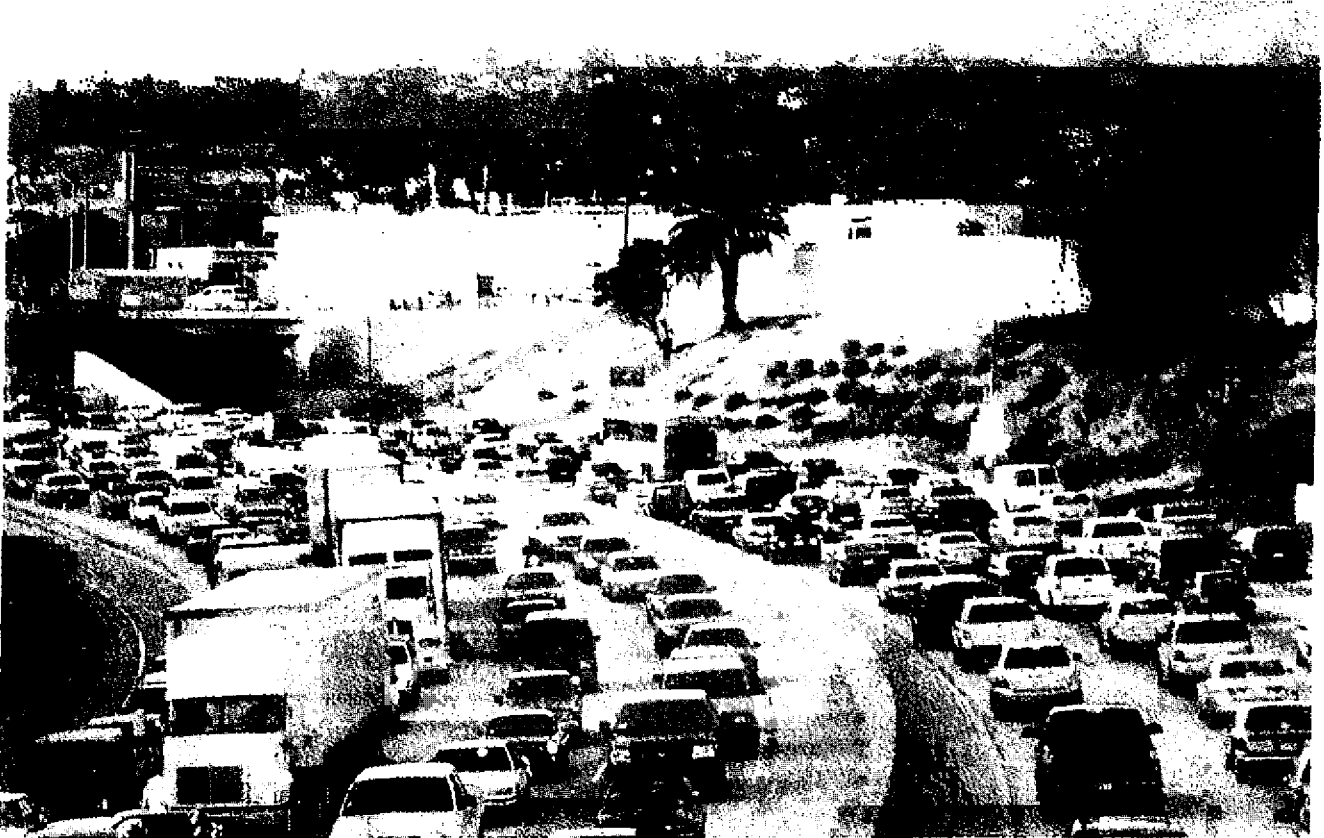
This issue is particularly relevant since the subject lot is located in close proximity to the 101 Freeway, and our community is a cut-through route frequently used to avoid the heavy traffic congestion on Western Ave. and Santa Monica Blvd. The *Draft EIR* identified two intersections that would be significantly impacted by the Project: Western Ave. and Fountain Ave., and Western Ave. and Santa Monica Blvd. These intersections define the northern and southern boundaries of our community. No mitigation is proposed by Target to lessen impacts at these intersections, or to the residential streets connected to them.



Southbound traffic on Western Ave. at NB 101 Freeway on-ramp

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101 Freeway at Western Ave., showing existing vehicle congestion. La Mirada Avenue is at upper right.



Northbound traffic on Western Ave. at NB 101 Freeway on-ramp, showing block-long line of idling cars waiting to turn left onto on-ramp.

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Note Nu-Metrics Traffic Analyzer Studies conducted by the Los Angeles Department of Transportation on March 20, 2008 for six blocks east of Western Ave. that connect to Fountain Ave., and three blocks running parallel to Fountain Ave:

Street	Between	Traffic Volumes	#s Vehicles by direction
Serrano Ave., 1100 block	Virginia Ave. and Santa Monica Blvd.	3,528	1,950 Northbound; 1,578 Southbound
Hobart Blvd., 1400 block	Sunset Blvd. and De Longpre Ave.	3,352	1,586 NB 1,766 SB
Hobart Blvd., 1100 block	Lexington Ave. and Virginia Ave.	2,922	1,356 NB 1,566 SB
Hobart Blvd., 1200 block	La Mirada Ave. and Fountain Ave.	2,526	1,317 NB 1,209 SB
Kingsley Dr., 1100 block	Virginia Ave. and Lexington Ave.	1,510	620 NB 890 SB
Kingsley Dr., 1200 block	Lexington Ave. and Fountain Ave.	1,368	647 NB 721 SB
La Mirada Ave., 5400 block	Western Ave. and Serrano Ave.	1,623	1,117 Westbound; 506 Eastbound
La Mirada Ave., 5300 block	Serrano Ave. and Hobart Blvd.	774	357 WB 417 EB
Lexington Ave, 5300 block	Serrano Ave. and Hobart Blvd.	385	169 WB 216 EB

Note from the chart that vehicle counts steadily increase in relation to the street's proximity to Western Ave. Note also that northbound traffic counts for Hobart Blvd. at Virginia Ave. near Santa Monica Blvd. are almost the same as the number of cars counted traveling north on Hobart Blvd. at Fountain Ave. -- 1,356 cars counted at Virginia Ave. vs. 1,317 cars at Fountain Ave. This similarity in northbound vehicle totals is repeated on Kingsley Dr., where 620 cars were counted traveling north at Virginia Ave., and 647 cars were counted traveling northbound at Fountain Ave.

Such data clearly indicates that these streets are prime cut-through routes, especially since the concurrent perpendicular street counts are extremely low (almost one-tenth in the case of Lexington Ave. at Serrano Ave.) -- with the exception of the 5400 block of La Mirada Ave., which is used as a diversion route to avoid the congestion of Western Ave. and to access the North Bound 101 Freeway on-ramp. The evidence clearly shows that Serrano Ave., Hobart Blvd., Kingsley Dr. and La Mirada Ave. are cut-through routes. Detrimental traffic impacts to this neighborhood as a result of Target providing extra parking for "*customers from a wide area*" will be significant.

Mandatory Findings:

- e). That the granting of an exception will be consistent with the principles, intent and goals of the specific plan and any applicable element of the general plan.

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The name of the Specific Plan is the "Vermont/Western Transit Oriented District." The Plan explicitly states that it was created to "achieve maximum benefit from the subway stations," and that its purpose is to "create a transit friendly area." Nowhere does the Specific Plan state, as claimed by the Determination Letter, that one of its major goals is to "*provide for a viable and successful commercial core*," and that increased parking is somehow "*necessary to provide convenience*" for shoppers.

The Determination Letter also states in this finding that: "*A similar project outside the Specific Plan area would require 1 parking space per 250 square feet for a total of 780 spaces.*" The City does not identify what area they are referencing as outside the confines of the Specific Plan, since the Hollywood Redevelopment Plan matches the parking requirements for SNAP, and Enterprise Zones in all of Hollywood. Additionally, many dense, urban areas within the City of Los Angeles also have greatly reduced parking standards.

Therefore, per California State Law and the Los Angeles Municipal Code, there is no merit to the findings for increased parking

Exceptions from Section 9.1 of the Specific Plan and Section V of Development Standards.

Target has requested approval of five exceptions from the Specific Plan Development Standards and Design Guidelines (hereinafter "Development Standards"), requiring 25 separate findings. Yet the City groups together four of the five exceptions under the common heading "Building Design."

There is no provision in the Code allowing the City to make such generalized group findings, and the public should not have to guess how to piece together this jigsaw puzzle. The City instead has the burden of showing that it has satisfied all of the elements required for the approval of an exception to the Specific Plan. Tustin Heights Assoc. v. Orange County (1959) 170 Cal.App.2d 619. Failure to prove any of the matters required by the zoning ordinance must result in a denial of the exception applications. Minney v Azusa (1958) 164 Cal.App.2d 12.

Here, neither the Applicant nor the City even remotely approached the required showings. Therefore, on this foundational question the application must be denied. See, e.g., Moss v Board of Zoning Adjustment (1968) 262 Cal.App.2d 1, 3, holding that a determination of the existence of all of the facts essential to making the necessary findings must precede any grant of a variance.

Case law and the Los Angeles Municipal Code act as a limitation upon the power to grant exceptions absent proper findings. Accordingly, each of the numerous requests must be denied on this ground.

The five requested exceptions from the Development Standards are:

- An Exception allowing the applicant to be exempt from the requirement that all roof lines in excess of 40 feet be broken up through the use of gables, dormers, cut-outs or other means;
- An Exception to allow relief from the requirement that the second floor of the development be set back a minimum of ten feet from the first floor frontage;

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- An Exception to allow entrance canopies and balconies within 15 feet of the property line to exceed the maximum permitted height of 30 feet;
- An Exception from the requirement that transparent building elements occupy a minimum 50% of the ground floor facade;
- An Exception to allow store deliveries between the hours of 5 AM and 12 AM Monday – Sunday, in lieu of the requirement that deliveries shall occur no earlier than 7AM and no later than 8PM, Monday through Friday, and no earlier than 10AM and no later than 4PM Saturdays and Sundays.

The Determination Letter's jumbled findings, for what there is, largely repeat the arguments stated previously, claiming that the Project will *"provide new pedestrian and transit friendly uses"* that will *"promote an attractive streetscape;"* that *"newer developments consist of contemporary materials and colors similar to those proposed by the project"* (without identifying where these newer developments are and what the color scheme has to do with the exception); that the *"project's design incorporates roof lines that highlight its modern, contemporary form"* (presumably for the exception from the requirement to break up all roof lines, without detailing why contemporary roofs can't vary in form); that *"an exception is necessary to address changing design vernaculars that were not anticipated at the time the SNAP was adopted"* (without explaining what the word "vernacular" is supposed to convey, since it is most commonly used to describe ordinary homes as opposed to large commercial buildings); to *"provide a clean and safe shopping environment for the residents within the SNAP area"* (without stating why lower canopies or a more transparent building would be less clean and unsafe); that *"the project would provide new employment opportunities...that will benefit residents"* (implying that conforming to the Code will create unemployment); and *"the project incorporates facade treatments ...and the use of colors and materials to provide a pleasing design".*

Seeking *"to provide a pleasing design"* is a subjective determination and cannot be construed a hardship. Yet the Applicant and City have focused on this hardship claim, stating that requirements of the Specific Plan, if enforced, *"would counteract the project's design statement,"* would prevent a *"unique and well designed project,"* and would result in practical difficulties that may end up *"substantially reducing the size of the project."* No evidence or example has ever been offered to support these claims, and all such "hardships" are limitations knowingly self-imposed by the Applicant in his design of the Project. The Applicant's requested exceptions are therefore without merit.

As stated by the Court of Appeal in Orinda Association v. Board of Supervisors of Contra Costa:

"[D]ata focusing on the qualities of the property and Project for which the variance is sought, the desirability of the proposed development, the attractiveness of its design, the benefits to the community, or the economic difficulties of developing the property in conformance with the zoning regulations, **lack legal significance** and are simply irrelevant to the controlling issue of whether strict application of zoning rules would prevent the would-be developer from utilizing his or her property to the same extent as other property owners in the same zoning district." Orinda Association v. Board of Supervisors of Contra Costa (1986) 182 Cal.App.3d 1145, 1166. (emphasis added)

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The procedure for allowing an Exception from the Development Standards has six required findings in addition to the findings required under LAMC Section 11.5.7.F.2. Key among them, and most relevant to the subject requests, are findings #2 and #4, requiring that *“the Project, as a consequence of the modification or Exception, will not result in any additional vehicle trip generation, parking, density, building mass, height or bulk,”* and *“the Project as modified will be in proper relation to adjacent uses or to the development of the community.”* Clearly, reducing and eliminating stepback requirements, as requested by the Applicant, will increase the building’s mass and bulk, as will an exemption from the requirement to break up roof lines and reduce transparent building elements.

Constructing a project over twice the allowed height obviously also runs directly counter to the required findings, and its approval would create a building in stark contrast to adjacent uses and the development of East Hollywood.

The Determination Letter’s inadequate findings regarding building design also make a series of false claims, including: *“Existing sidewalks would be modified and widened to provide a lively streetscape that includes...street trees”* The existing Sunset Blvd. sidewalk width is 15 feet. While this width would remain the same under the Project, Western Avenue’s 20-foot-wide sidewalks would be reduced in width to 15 feet. The historic Canary Date Palm trees lining Sunset Blvd. would also be removed. These trees, which date to approximately 1915, are an integral part of Sunset Boulevard’s aesthetic, and there is no reason to destroy them.

The Determination Letter also inaccurately states: *“The access ramp was designed along St. Andrews Place because this street is minimally traveled by pedestrian (sic) and vehicles...”* This claim conflicts with the fact that the main entrance to the Hollywood Home Depot is on St. Andrews Pl., and that hundreds of day laborers congregate there daily seeking work. In comments submitted to the *Draft EIR*, counsel for Home Depot stated in written objections that Target failed to properly analyze the Project’s construction and operational traffic/circulation impacts, concluding: *“there is no doubt that significant congestion will occur at the intersection of St. Andrews Place and Sunset Blvd.”*

The Determination Letter also erroneously states: *“SNAP offers flexible application and interpretation of the Guidelines through the evaluation to each project and the Exception process.”* This comment reflects a fundamental misunderstanding of what is required under State law, established case law, and the Los Angeles Municipal Code for an exception to be granted. As stated under Section 11.5.7.F.1(a) of the LA Municipal Code:

“An exception from a specific plan shall not be used to grant a special privilege, nor to grant relief from self-imposed hardships.”

LAMC Section 18.01 defines the word “shall” as “mandatory,” reflecting the dictate of our courts. “The terms ‘shall,’ ‘must,’ and ‘all’ are ordinarily used in ‘laws, regulations or directives to express what is mandatory.’ This is particularly so where to construe it otherwise would render it ineffective and meaningless.” *Rosenfield v. Superior Court* (1983) 143 Cal.App.3d 198, 202. The “Legislature knew the difference between the discretionary ‘may’ and the mandatory ‘shall,’ and intended them to have such different meanings.” *Decker v. U.D. Registry, Inc.* (2003) 105 Cal.App.4th 1382, 1389.

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Hours of Operation. Subarea C, Guideline 19 of the Vermont/Western Transit Oriented Specific Plan states:

Commercial Only Project. Parking lot cleaning and sweeping, trash collections and deliveries to or from a building shall occur no earlier than 7AM and no later than 8PM, Monday through Friday, and no earlier than 10AM and no later than 4 PM on Saturdays and Sundays.

Mandatory Findings:

a). The strict application of the policies, standards and regulations of the specific plan to the subject property will result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the zoning regulations.

In justifying an exception from the Development Standards to allow Target to receive deliveries between 5AM and Midnight 7 days a week, the Determination Letter states that the relief is necessary "*due to site constraints.*" However, the finding doesn't describe what the constraints are, and instead makes general comments about making "*products available to serve the community's needs,*" and that "*such deliveries would not necessarily pose an immediate impact to adjacent properties...*" Nowhere does the finding describe how the strict application of SNAP's restricted hours of operation would result in practical difficulties or unnecessary hardships.

Mandatory Findings:

b). That there are exceptional circumstances or conditions applicable to the subject property involved or to the intended use or development of the subject property that do not apply generally to other property in the specific plan area.

The Determination Letter's justification for this finding is actually the Letter's previous finding for the exception from the SNAP requirement to provide free delivery, stating "*Most of the properties in the SNAP are smaller lots owned individually and would likely be developed with smaller retail uses that would not require free delivery.*" Apparently, no one bothered to check the Applicant's submitted findings for mistakes, either for the Recommendation Report or Determination Letter, even though this was previously noted in our 8/10/12 letter. This finding is therefore irrelevant, and the requested exception must be denied.

Mandatory Findings:

c). That an exception from the specific plan is necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other property within the specific plan area in the same zone and vicinity but which, because of special circumstances and practical difficulties or unnecessary hardships is denied to the property in question.

This finding makes a general statement about "*other businesses in the immediate area that likely have earlier and later delivery hours than prescribed by the SNAP.*" The finding states that the Food 4 Less store operates 24-hours a day, and that "*grocery stores typically have early morning deliveries...*"

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Again, no evidence is provided to support this statement, although the comment is irrelevant since the Food-4-Less site was developed 41 years ago, or 30 years before the passage of the SNAP in 2001. A similar comment is made in the finding about the Home Depot store, which likewise doesn't conform to SNAP because it opened 5 years prior to passage of the ordinance. The finding also refers to *"large hospital facilities in the area (that) likely have early and late deliveries similar to that requested by Target."*

As previously noted, Hospitals and Medical Centers are regulated under their own Development Standards within SNAP and do not have any restrictions on their hours of operation. To our knowledge, Target is not proposing to include a hospital in the Project.

Mandatory Findings:

d). The granting of the exception will not be detrimental to the public welfare and injurious to property or improvements adjacent to or in the vicinity of the subject property.

The Determination Letter states for this finding that: *"The expansion of delivery hours is reflective of the business operations anticipated for this project and would not apply to other projects in the area."* The finding provides no explanation, however, why expanded delivery hours wouldn't be sought by other commercial projects if the exception were granted to Target. The finding also states: *"In addition, restaurant or food uses may require the flexibility of deliveries...to occur after business hours."* The implication from this statement is that a food establishment will occupy the perimeter retail space located on the ground floor of the Project, but Target has never provided a list of such future tenants or possible tenants, so such speculation is irrelevant to the immediate request.

The finding concludes by claiming *"the project is located along two major commercial corridors and is not immediately adjacent to uses that might be sensitive to noise commonly associated with truck deliveries, trash collections or parking lot clearing."* This statement is patently false.

Target proposes to locate its loading docks at its parking entrance on De Longpre Ave., across the street from the Assistance League's Children's Learning Center and Theatre for Children, and directly across from the Assistance League's parking facilities. Although the *Draft EIR* describes the loading docks as "off street and internal to the project site," the configuration will require large container delivery trucks to use the public street to maneuver and back into the parking structure. In addition, the *Draft EIR* states that the delivery trucks will exit the Project by heading west on De Longpre Avenue, and then turn north along St. Andrews Pl. to Sunset Blvd. This route would create the highest opportunity for a collision involving a pedestrian or passenger vehicle. The same potential for accidental impacts applies to off-hours trash collection.

Mandatory Findings:

e). That the granting of an exception will be consistent with the principles, intent and goals of the specific plan and any applicable element of the general plan.

This finding states that "allowing some deliveries to occur outside the permitted hours" will "create a safer environment." As noted above, deliveries made outside normal business hours, especially at night, can be lethal to residents and visitors to the community. Target has shown no justification for the request other than to seek a special privilege inconsistent with the SNAP.

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B. THE SITE PLAN REVIEW DOES NOT SATISFY THE REQUIREMENTS OF LAMC SECTION 16.05.F.

As defined by LAMC Section 16.05.A, the purpose of a Site Plan Review is to “*promote orderly development, evaluate and mitigate significant environmental impacts, and promote public safety by ensuring that development projects are properly related to their sites (and) surrounding properties...*”

There are six findings required for the Project under its Site Plan Review. They are:

1. That the project complies with all applicable provisions of this Code and any applicable Specific Plan;
2. That the Project is consistent with the General Plan;
3. That the Project is consistent with any applicable Redevelopment Plan;
4. That the project consists of an arrangement of buildings and structures (including height, bulk and setbacks), off-street parking facilities, loading areas, lighting, landscaping, trash collection, and other such pertinent improvements, which is or will be compatible with existing and future development on neighboring properties;
5. That the project incorporates feasible mitigation measures, monitoring measures when necessary, or alternatives identified in the environmental review which would substantially lessen the significant environmental effects of the project, and/or any additional findings as may be required by CEQA;
6. That any project containing residential uses provides its residents with appropriate type and placement of recreational facilities and service amenities in order to improve habitability for the residents and minimize impacts on neighboring properties where appropriate.

This analysis will focus on Determination Letter’s findings numbers 1, 4 and 5.

Site Plan Review Findings:

- 1). That the project complies with all applicable provisions of this Code and any applicable Specific Plan.**

The Determination Letter states that the Project “*complies with many development standards of the SNAP, but requests exceptions,*” and then lists the deviations requested by the Applicant. The Letter then states: “*With approval of these exceptions, the project would comply with the applicable provisions of the LAMC and the SNAP.*”

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As noted previously, the purpose of a Site Plan Review is to ensure *“that development projects are properly related to their sites (and) surrounding properties.”* Approving an exception to the Code does not make a project properly related to its site and neighboring properties. The first Site Plan Review finding instead requires that the project comply with *“all”* provisions of the Code, not merely those cherry-picked by the Applicant to sugarcoat impacts related to its development.

The Determination Letter finding further claims *“The goals of the SNAP seek to create a higher density of land uses...”* This comment is sheer nonsense. Nowhere in the Vermont/Western Transit Oriented District Specific Plan ordinance is there a statement that its goals include the densification of land uses. Instead, the primary purpose of SNAP, as expressed by Section 2.(E), is to *“guide all development, including use, location, height and density, to assure compatibility of uses...”*

The text of the Determination Letter’s finding ignores this purpose, instead quoting Specific Plan Section 2.(B), which encourages sufficient schools, parks, pools, libraries and police stations, and Section 2.(C), which seeks to establish a clean and safe pedestrian environment for residents.

The finding claims that approval of the Project *“will result in the payment of fees for schools, childcare facilities and other public services...”* This is incorrect. School funds are derived from residential development fees in order to mitigate housing impacts on school age population growth; commercial projects like Target’s do not pay any school fees. Regarding the SNAP fee for childcare facilities, Target originally attempted to weasel out of this obligation by seeking an exemption from the requirement (see *Draft EIR* p. IV.G-70), and the Determination Letter at Condition 133 (p. C-20) still doesn’t declare whether or not Target is paying this fee. No other fees are conditioned in the Report.

The Project does not provide financing for any parks, pools, libraries or police stations, nor are any such amenities included within the development. Funding for parks comes from Quimby fees, which are assessed on residential developments, not commercial projects. Whether or not additional sales tax revenue generated by development of the proposed Target store would be redirected back within SNAP’s boundaries for public amenities like pools and police stations is speculative at best and a pipe dream in reality. Based on the fact that the entire 2.2 square mile area of SNAP contains just 1 park (Barnsdale Park, which is on top of a very tall hill and has no recreational facilities) and 1 library for its 50,000 residents, with no public pools or police stations, and that this statistic hasn’t changed since SNAP was approved in 2001, it is highly unlikely that approval of numerous Code exceptions for a Target store will alter that equation.

The Determination Letter also claims in the first finding that the Project will provide a clean and safe shopping environment by widening sidewalks *“to provide a lively streetscape...”* Yet, as noted previously, the Project will maintain the current 15-foot width of the Sunset Blvd. sidewalk but will significantly reduce the width of the sidewalk along Western Avenue from its current 20 feet to 15 feet. The Project will also remove the historic Canary Date Palm trees that have lined Sunset Blvd. for a century.

The finding continues, stating: *“Through sensitive design, the project would be compatible with its surrounding uses.”* This statement defies any logical analysis or factual support, since the Project is in fact nothing more than a massive, unarticulated box, and has been repeatedly derided as such by the architects who comprise the Hollywood Design Review Committee. Target has in fact shown no sensitivity to surrounding uses, the Specific Plan, or members of this community.

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The finding further claims a Floor Area Ratio ("FAR") of 1.15:1 as evidence of the Project's compatibility with surrounding uses, but this distorted figure is merely due to the LAMC not counting parking podiums in FAR calculations. If the 2-level, 225,286 sq. ft. parking structure were included, the 420,035 sq. ft. development's true FAR would be 2.5:1, or well in excess of the permitted FAR of 1.5:1 for the site.

The Determination Letter further states that the Project complies with all Code provisions because it will: *"provide many pedestrian oriented amenities such as wide sidewalks, benches and new street trees that seek to make the neighborhood more livable and walkable"* (without explaining how reducing the width of the sidewalk makes it more walkable, or why cutting down mature trees and replacing them with saplings makes the community more livable); that *"the project would incorporate landscaping and architectural design that will promote an attractive streetscape and transit friendly development"* (without detailing how the Project's minimalist architecture and transit "friendliness" make the proposed development compliant with the strict provisions of the LAMC); and that *"these features would promote a lively retail center"* that would *"break up the massing and scale of the project"* (admitting that the Project is massive and out of scale, without explaining how a massive box makes a retail center "lively").

All such comments are superfluous, incidental to the required finding, and insulting to commonsense. The Project does not comply with the LAMC, and the finding cannot be made.

Site Plan Review Findings:

4). That the project consists of an arrangement of buildings and structures (including height, bulk and setbacks), off-street parking facilities, loading areas, lighting, landscaping, trash collection, and other such pertinent improvements, which is or will be compatible with existing and future development on neighboring properties.

The Determination letter repeats the same cheerful commentary in this finding employed elsewhere to avoid the Project's lack of compliance with SNAP, i.e. that the development will provide *"new wider sidewalks"* (when it will not), and that the Project will *"provide raised planters, landscaping, benches and other such amenities intended to ... facilitate the break-up of the massing and scale of the project."* There is no explanation, however, of how a street bench or raised planter can mask the Project's overwhelming massing that the numerous exceptions sought by the Applicant would create.

More importantly, the finding acknowledges that *"mixed-use projects in the SNAP are limited to locating commercial uses on the ground floor. Therefore, while mixed-use buildings may reach a height of 75 feet, the upper stories would be 100% residential..."* Target is not building a mixed-use project. Under SNAP, it must therefore locate its retail on the ground floor, not in the clouds above two levels of parking. The finding reasons that since SNAP allows a 75-foot height for mixed-use projects in Subarea C, *"the scale and massing of the project would be compatible with the scale and amassing allowed for future development that could occur along this corridor. As such, the height and bulk proposed has already been contemplated by the SNAP for this area."*

The height and massing of the proposed Project was in fact anticipated by the writers of the Vermont/Western Transit Oriented District Specific Plan when they put in specific provisions to prevent developments like Target from occurring in SNAP. What Target is seeking instead is an abject rejection of SNAP merely for its own financial benefit.

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Site Plan Review Findings:

5). That the project incorporates feasible mitigation measures, monitoring measures when necessary, or alternatives identified in the environmental review which would substantially lessen the significant environmental effects of the project, and/or any additional findings as may be required by CEQA.

The *Draft EIR* acknowledges permanent and significant impacts resulting from the Project to Traffic, Aesthetics, Air Quality and Noise. Traffic impacts include impacts to neighborhood street segments that are inadequately assessed for mitigation by the EIR. Other potential impacts are glossed over in the *Draft EIR*, which omits relevant related projects in order to skew the analysis.

The Project's *Draft EIR* characterizes many environmental effects that will be caused by the Project as "insignificant," "less than significant impact," or "no impact," such that few or no serious mitigation measures are allegedly necessary. Many such determinations in the *Draft EIR* are unsupported by facts, or premised on incorrect facts, or utterly lacking of any true analysis of the facts, or consisting of a superficial "analysis" which for the most part simply assumes its conclusion.

Our community will be significantly and permanently impacted by approval and implementation of the Project, and therefore this finding for the Site Plan Review should be rejected.

C. THE APPLICANT HAS OFFERED NO EVIDENCE FOR PUBLIC CONVENIENCE AND NECESSITY TO JUSTIFY ITS REQUEST FOR BEER AND WINE SALES.

The Project site is located in Census Tract 1909.01. The California Department of Alcoholic Beverage Control ("ABC") permits three licenses for the sale of beer and wine for off-site consumption in this Census Tract and three licenses already exist: Tom's Market, 1114 St. Andrews Place, ABC Type 20 license; Tony's Liquor, 5707 Santa Monica Blvd., Type 21 license; Four Acres Market, 1111 N. Western Ave., Type 20. This Census Tract therefore would have an undue concentration if any more alcohol licenses were permitted.

Across Sunset Blvd. from the Project site is Census Tract 1905.1, which also is permitted to have three licenses for the sale of beer and wine for off-site consumption. This Census Tract is also full, with Walgreen's at 5451 Sunset Blvd., Type 20; CVS Pharmacy at 5500 Hollywood Blvd., Type 21; and a liquor store at 5566 Hollywood Blvd., Type 21.

Across Western Ave. from the Project site is Census Tract 1911.1. This Census Tract is also full in regards to its permitted number of alcohol licenses, with Food 4 Less at 5420 Sunset Blvd., Type 21; Fountain Market at 5203 Fountain Ave., Type 21; and Bill's Liquor at 5332 Sunset Blvd., Type 21.

The area surrounding the proposed Project is therefore saturated with venues selling alcohol. The ABC and City Planning Dept. recently denied a request for a Type 20 license for a 7/11 store at Sunset Blvd. and St. Andrews Pl., across from the Target site, due to the existing concentration of alcohol licenses.



FOR IMMEDIATE RELEASE
August 15, 2012

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ABOUT THE AILEEN GETTY FOUNDATION

The Aileen Getty Foundation is a non-profit organization committed to alleviating poverty, improving quality of life, and enhancing community in Los Angeles and around the world. The Foundation is led by philanthropist Aileen Getty, who has worked tirelessly for more than a decade to provide supportive housing to the homeless in Hollywood. The Foundation supports a number of local and national causes related to urban poverty, homelessness, and community development, and continues to explore opportunities that assist the most vulnerable in our communities.

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The Target site is located in LAPD Crime Reporting District 668. RD 668 had a total of 475 Part I and Part II crimes and arrests in the year 2010, with a high level of narcotics arrests and public drunkenness, and the highest number of gambling arrests. Los Angeles' 1,135 Reporting Districts reported 266,457 offenses and arrests for 2010, an average of 235 crimes and arrests per Reporting District. The Project's Reporting District therefore had a 2010 crime rate over 200% above the citywide average.

The Target site is also immediately across from both the Children's Learning Center and the Theatre for Children, both operated by the Assistance League of Southern California. A Federal parole facility located in the 5500 block of Harold Way near St. Andrews Pl. is within 500 feet of the Target site; the Covenant House, a facility for at-risk youths, is also within 500 feet at the corner of Western Ave. and Fernwood Ave., as is a homeless shelter operated by People Assisting the Homeless on Fernwood Ave. near De Longpre Ave. The proposed Project is also within 1,000 feet of other sensitive uses, including Grant Elementary School and Helen Bernstein High School.

State law regulates the issuance of alcohol licenses. Under the California Business and Professions Code, the ABC shall deny an application for an alcohol license for the following reasons, unless a determination is made that the license is necessary for public convenience and necessity:

- The premises are located within 1,000 feet of schools and playgrounds, or located in the immediate vicinity of churches and hospitals;
- The premises are located in a crime-reporting district that has a 20 percent greater number of reported crimes than the citywide average;
- The granting of the license would exceed the number of permitted alcohol licenses for the area, resulting in an undue concentration of alcohol permits;
- The premises are located within 100 feet of a residence, as measured by airline at the parking lot.

The Applicant has shown no justification for its CUB request for beer and wine sales. The Applicant has instead provided irrelevant information in the Conditional Use findings, stating "***the proposed project will provide a needed improvement to the community by replacing a deteriorated shopping center with a high quality commercial center containing a variety of retail uses.***" This statement is not only meaningless (especially since Target is responsible for the "deteriorated shopping center"), but it purposely ignores the fact that both Walgreen's and Food 4 Less are located immediately across Western Ave. from the Project site, satisfying any local need for public convenience and necessity.

The findings also avoid admitting that Target's request, if granted, would result in an undue concentration of existing permits.

Target's CUB findings provide no justification whatsoever for creating an undue concentration of alcohol licenses in the Census Tract, within an area with a crime rate significantly exceeding the citywide average, and located adjacent to numerous extremely sensitive uses. This is especially relevant since Target has taken a clean, quality commercial center and purposely turned it into a deteriorated mess.

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In addition, the number of conditions imposed upon the Applicant for beer and wine sales are significantly less than those imposed on other CUB requests. Conditions 89 to 100 relate to the approval of the Applicant's Conditional Use Beverage ("CUB") permit to allow the sale and dispensing of beer and wine for off-site consumption. Unlike the Determination Letter's 12 conditions, a standard approval for a beer and wine CUB will often require up to 40 conditions. These may include:

- A five-year period of approval (the Project received 15 years);
- No exterior advertising of any kind or type, including advertising directly to the exterior from within, promoting or indicating the availability of alcoholic beverages, with all windows maintained free of signs and other materials which inhibit views into the building;
- No single can sales of beer or malt beverages, nor shall beer and malt beverages products be sold in less than six-pack quantities;
- No fortified beer or malt beverages shall be sold;
- No caffeinated alcoholic beverage products shall be sold;
- Wine shall not be sold in bottles containing less than 750ml, and wine shall not be sold in bottles which do not require a corkscrew to be opened;
- No beer and wine shall be displayed within 5 feet of the cash register;
- No self-illuminated advertising of beer and wine shall be located on buildings or windows;

There is no excuse for the City to impose stringent conditions on the approval of other CUB requests, while refusing to make the same requirements on Target.

D. THE PROJECT'S ENVIRONMENTAL IMPACT REPORT IS AN INADEQUATE ENVIRONMENTAL DOCUMENT AND SHOULD NOT BE CERTIFIED.

1. The Applicant has provided no legal justification for omitting the Hollywood Central Park from the EIR's List of Related Projects.

Under the California Environmental Quality Act, an environmental review must discuss significant cumulative impacts to which a project contributes an incremental amount. (Guidelines, § 15130, subd. (a).) "As defined in Section 15355, a cumulative impact consists of an impact which is created as a result of the combination of the project evaluated in the EIR together with other projects causing related impacts." (*ibid.*) "The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time." (*Id.*, § 15355, subd. (b).)

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As noted in the *Draft EIR*, all proposed, recently approved, under construction, or reasonably foreseeable projects that could produce a related or cumulative impact on the local environment when considered in conjunction with the proposed project are required under CEQA to be included in this EIR. However, two key projects are notably absent from the List of Related Projects, despite being described in our comments to the Notice of Preparation. These are: the Hollywood Cap Park; and the NBC Universal Evolution Plan.

1) **Hollywood Cap Park**

Project Description: Hollywood's Central Park is proposed over the 101 Freeway from North Bronson Avenue and Hollywood Boulevard to Santa Monica Boulevard. A mile in length, it will provide 44 acres of park space.

According to the Community Redevelopment Agency's ("CRA/LA") July 15, 2009 staff report, the "Cap Park" will include at the southeast corner of Fountain Avenue and St. Andrews Place a large plaza and baseball field, playgrounds, plaza spaces, viewing platforms, water features, picnic areas, open fields and community gardens. The CRA report also states that the project seeks to "transform a freeway corridor into a destination." The park is anticipated to generate 3,785 construction jobs. Cumulative impacts from the Target project and the adjacent Cap Park development are likely substantial. On Nov. 2, 2006, the CRA approved \$100,000 for a feasibility study (later increased to \$120,205), which was made public in November of 2008. On December 15, 2011, the CRA approved a Memorandum of Understanding with the Los Angeles Bureau of Engineering to transfer \$2 million to fund the EIR. On July 3, 2012, the Los Angeles City Council approved \$825,000 in funding for the Park. On August 22, 2012, the Aileen Getty Foundation donated an additional \$1.2 million for the Park (see **Exhibit 1**).

2) **The NBC Universal Evolution Plan, Case No. ENV-2007-0254-EIR**
 100 Universal Plaza.

Project Description: 2.01 million sq. ft. of commercial development. The Draft EIR was released in 2011.

The failure of the *Draft EIR* to accurately account for the cumulative impacts associated with the Hollywood Cap Park and the NBC Universal Evolution Plan is particularly glaring in light of the significant environmental impacts stemming from the concurrent introduction of so many other massive projects in the Hollywood area. "Proper cumulative impacts analysis is absolutely critical to meaningful environmental review..." Bakersfield Citizens for Local Control v. City of Bakersfield. (2004) 124 Cal.App.4th 1184, 1203, 1217.

Cumulative impacts analysis is particularly important in the urban setting. King County Farm Bureau v. City of Hanford, supra, 221 Cal.App.3d at 720 ("absent meaningful cumulative analysis, there would never be any awareness or control over the speed and manner of downtown development. Without that control, 'piecemeal development would inevitably cause havoc in virtually every aspect of the urban environment'") citing San Franciscans for Reasonable Growth v. City and County of San Francisco (1984) 151 Cal.App3d 61. See also Los Angeles Unified School Dist. v. City of Los Angeles (1997) 58 Cal.App.4th 1019, 1025 (a project's impacts can assume "threatening dimensions...when considered in light of the other sources with which they interact").

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“The requirement for a cumulative impact analysis must be interpreted so as to afford the fullest protection of the environment within the reasonable scope of the statutory and regulatory language.” Citizens to Preserve the Ojai v. County of Ventura (1985) 176 Cal.App.3d 421, 431-432.

If it is “reasonable and practical” to include other projects in a project’s cumulative impacts analysis, then the lead agency is required to do so.” San Franciscans For Reasonable Growth v. City and County of San Francisco, *supra*, 151.App.3d at 77. “The Guidelines explain that a discussion of cumulative effects should encompass ‘past, present, and *reasonably anticipated future projects*.’” Laurel Heights Improvement Assn. v. Regents of University of California (1988) 47 Cal.3d 376, 394; citing Guidelines § 15130 (b)(1)(A); italics in original.

For example, Citizens Assn., *supra*, 172 Cal.App.3d 151, explicitly states that while projects “currently under environmental review unequivocally qualify as probable future projects to be considered in a cumulative analysis...even projects anticipated beyond the near future should be analyzed for their cumulative effect.” *Id.* at 168.

A project that is under environmental review is a “reasonably foreseeable probable future project” within the meaning of the Guidelines. (Guidelines, § 15355, subd. (b).). This is because once review is begun, a significant investment of time, money and planning has probably occurred. Thus, once environmental review commences, the project is probable rather than merely possible. Friends of the Eel River v. Sonoma County Water Agency, 108 Cal.App.4th at p. 870; San Franciscans for Reasonable Growth v. City and County of San Francisco, *supra*, 151 Cal.App3d at pp. 74-75

It is an abuse of discretion to fail to include projects under environmental review if the omission will cause the severity and significance of the impacts to be gravely understated. San Franciscans for Reasonable Growth v. City and County of San Francisco, *supra*, 151 Cal.App3d at pp. 77-78

“*Proper cumulative impacts analysis is absolutely critical to meaningful environmental review...*” Bakersfield Citizens for Local Control v. City of Bakersfield (2004) 124 Cal.App.4th 1217. “[Q]uestions concerning...cumulative impacts constitute important issues of broad public interest that are likely to reoccur.” (*Id.* at 1184, 1203).

Therefore, the Project EIR must include proper analysis of all related projects.

At the Project’s July 9, 2012 Hearing Officer hearing, comments were made on behalf of our neighborhood association regarding the developer’s unjustified exclusion of the Hollywood Central Park in the *Draft EIR*’s List of Related Projects. The Hollywood Central Park, also referred to as the “Cap Park,” would cover a 44-acre segment of the 101 Freeway located within one block of the Target site. The park is anticipated to generate 3,785 construction jobs, and cumulative impacts from the Target project and the adjacent Cap Park development are likely substantial.

Speaking in response for the Applicant, counsel from the firm Armbruster, Goldsmith & Delvac LLP dismissed the feasibility of the proposed Cap Park, characterizing it as “unreasonable,” and “speculation.” Such comments, however, have no basis under the California Environmental Quality Act (“CEQA”).

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On July 3, 2012 the Los Angeles City Council approved \$825,000 in funding for the Hollywood Central Park. This follows \$2 million in funding approved on December 15, 2011 by the Board of the Los Angeles Community Redevelopment Agency ("CRA"). Funding by the CRA for feasibility studies of the 44-acre park first began in 2006. In August, the Aileen Getty Foundation donated an additional \$1.2 million.

Political support for the proposed Hollywood Central Park is extensive, as is its list of corporate sponsors. Of particular note is the support of attorney William Delvac, pictured at the 2012 "For Love of Hollywood" Park fundraiser. Mr. Delvac is a principal partner in Armbruster, Goldsmith & Delvac LLP, which represents the Applicant (photos submitted in a July 19, 2012 letter to Hearing Officer Blake Lamb).

If it is "reasonable and practical" to include other projects in a project's cumulative impacts analysis, then the lead agency is required to do so." San Franciscans For Reasonable Growth v. City and County of San Francisco, *supra*, 151.App.3d at 77. "The Guidelines explain that a discussion of cumulative effects should encompass 'past, present, and *reasonably anticipated future projects*.'" Laurel Heights Improvement Assn. v. Regents of University of California (1988) 47 Cal.3d 376, 394; citing Guidelines § 15130 (b)(1)(A); italics in original.

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"Proper cumulative impacts analysis is absolutely critical to meaningful environmental review..." Bakersfield Citizens for Local Control v. City of Bakersfield (2004) 124 Cal.App.4th 1217. "[Q]uestions concerning...cumulative impacts constitute important issues of broad public interest that are likely to reoccur." (*Id.* at 1184, 1203).

There is no legal justification for the Applicant to omit the cumulative impacts associated with construction of the Hollywood Central Park, and the EIR must be recirculated.

2. The Project's Final EIR refuses to acknowledge obvious mistakes in the DEIR.

Responses to comments to a Draft EIR are not allowed to be evasive, conclusory or mere excuses. Cleary v. County of Stanislaus (1981) 118 Cal.App.3d 348, 355-360. Comments from responsible experts that disclose new or conflicting data, or opinions that the agency may not have fully evaluated the project and its alternatives, may not be ignored and there must be a good faith, reasoned analysis in response. Berkeley Keep Jets over the Bay Committee v. Board of Port Commissioners of the City of Oakland (2001) 91 Cal.App.4th 1344, citing Cleary v. County of Stanislaus, *supra*.

The Project's Final EIR, however, is unfortunately often dismissive of legitimate comments, including those detailing obvious errors in the Draft EIR. As but one example, the DEIR at page III-4 references a "three-story ICDC College" east of the Project site. The ICDC facility, part of the Food 4 Less building, is not three stories. It is one story in height with below-grade parking. This information was pointed out in comments to the Draft EIR. The Final EIR, however, refused to even acknowledge this obvious fact, in an attempt to provide some sort of credence for the unjustified height exception sought by the Applicant.

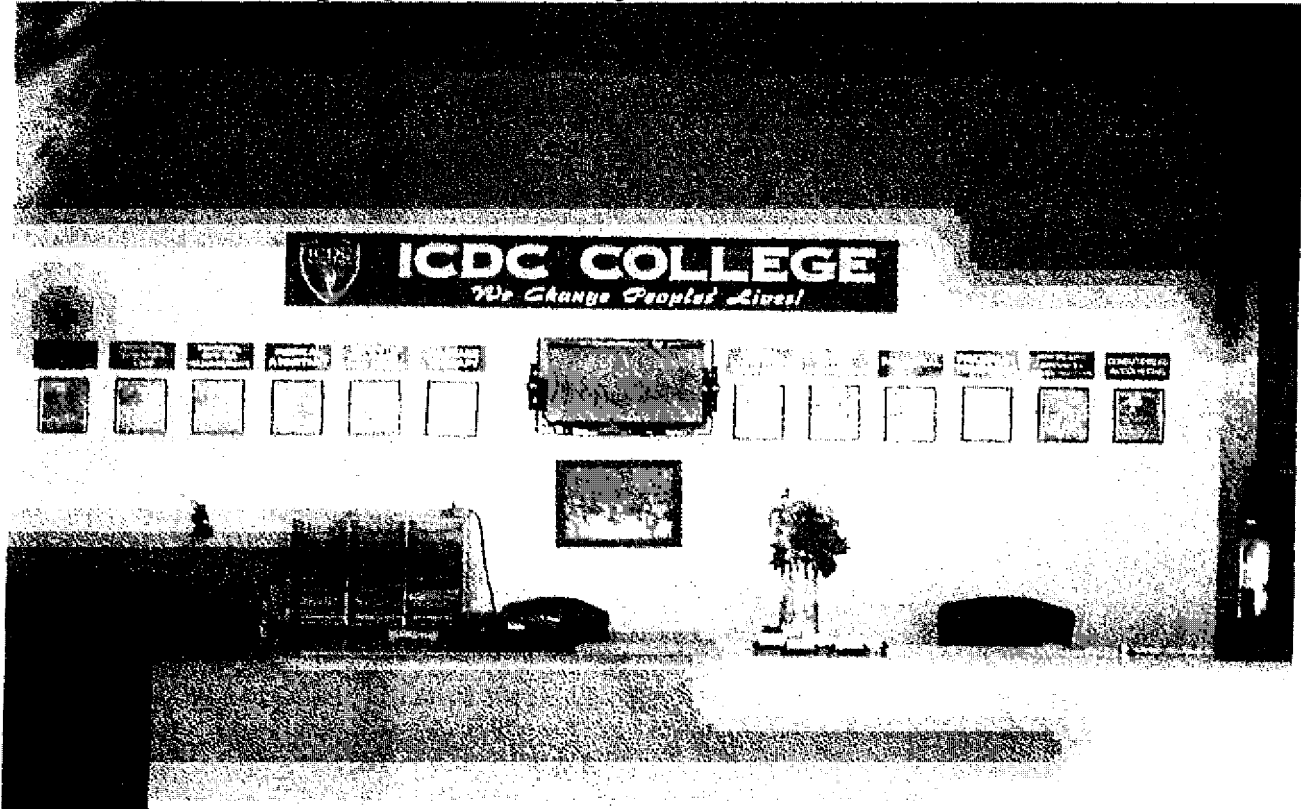
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Yet the Final EIR admits in other comments that the taller Home Depot store is a "one-story" building.



One-Story ICDC College adjacent to one-story Food 4 Less Market.



Front reception area of one-story ICDC College building.

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3. The Applicant and EIR offer inconsistent figures regarding the number of people to be employed by the proposed 163,862 sq. ft. Target store.

The Project *Draft EIR* on page II-10 states that the proposed Target “*would employ approximately 250 full and part-time employees.*” This statistic was reiterated by the Applicant’s representative at the July 9, 2012 Planning Department Hearing Officer hearing for the Project.

However, the Applicant’s November, 2010 “Application for Master Land Use Permit Application” that was submitted to the City Planning Department states on page 8 that the Project “*would employ approximately 400 full and part-time employees.*” In comments to the *Draft EIR*, our neighborhood association questioned the Applicant’s estimates for the total number of employees at this Super Target store. Instead of addressing our question, however, the Applicant distorted our analysis in an attempt to justify their request for a SNAP Exception for increased parking, which is without merit.

Spikes in parking demand during holiday shopping periods are typically resolved by establishing off-site parking locations for employees, with shuttle buses providing temporary transportation. The Glendale Galleria shopping mall uses the Los Angeles Zoo’s parking lot in Griffith Park as overflow parking for its employees during the holiday season from Thanksgiving through Christmas.

The Applicant must therefore devise similar plans and present them in a re-circulated EIR, rather than fabricate a false justification for their increased parking request. If Target believes that the square footage of their proposed store necessitates more parking spaces than is permitted under SNAP, then the proper solution is for Target to reduce the scale of their Project, rather than to request a special privilege.

4. The DEIR Alternatives Analysis omits relevant comparative information.

Alternative B, the “SNAP-Compliant Commercial Alternative,” has one level of subterranean parking and one level of ground-level parking, and inexplicitly places the first-floor of retail six feet below grade. The Applicant ignores sensible options to resolve this jimmied design, such as rooftop parking, or a reduced scale Project, and instead dismisses the Alternative as unworkable.

An EIR must focus on feasible alternatives to a proposed project. An EIR need not discuss alternatives that are “remote and speculative” and unlikely as a practical matter to be capable of implementation. Bowman v. City of Petaluma (1986) 185 Cal.App.3d 1065, 1083-1084; Save Our Residential Environment v. City of West Hollywood (1992) 9 Cal.App.4th 1745. The EIR therefore cannot purposely introduce an alternative that will only be dismissed as impractical.

Alternative D, “Reduced Project Alternative,” would be a 149,400 sq. ft. Target with subterranean parking and no perimeter retail. The height of this design would be 28.5 feet. This option, however, is also rejected by the EIR, which states that subterranean parking would create significant environmental impacts, and that the loss of perimeter retail would not meet the project goal of a “*commercial mixed-use project of shopping and dining opportunities...*” As noted earlier, the environmental issue of subterranean parking can be partially addressed by rooftop parking, and the size of the Target store can be reduced to accommodate other retail operations if it is the Applicant’s insistence on including them in the Project.

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Alternatives that would reduce the scale of the Project and provide subterranean parking were likewise rejected in the EIR without analysis. Alternative sites were not analyzed *"because the project applicant does not own or control other property within the Hollywood community ..."* (DEIR P. VI-4). Yet the 7-acre Food 4 Less site has been for sale for years (note exhibits previously submitted to the Council File), and the 4-acre former Sears site on Santa Monica Boulevard at Wilton Place, 7 blocks south of the subject lot, is vacant and readily available for occupancy.

Under the California Environmental Quality Act ("CEQA"), an EIR should consider alternate sites for private development projects. An EIR "must consider a reasonable range of alternatives to the project, or to the location of the project." Guideline Section 15126.6(f)(2). Citizens of Goleta Valley v. Board of Supervisors (1990) 52 Cal.3d 553, 574-575. The Draft EIR, however, brushes aside this option, stating on page VI-4: *"Alternate sites were not analyzed because the project applicant does not own or control other property within the Hollywood community that satisfies the objectives for the proposed project. In particular, the proposed project is a transit-oriented development located near a Metro Red Line station that would serve the Hollywood community."*

This statement belies the reality that the Food 4 Less site is equal distant to the Metro Red Line station as is the proposed Target site. Target also ignores the fact that for years the Community Redevelopment Agency had been trying to develop a multi-acreage site at the northwest corner of the intersection of Hollywood Blvd. and Western Ave. If Target's primary objective is to develop a transit-orientated development, then why did the company never pursue that potential site, located immediately across from the Metro Red Line?

The reality is that Target successfully operates a variety of store sizes in the Los Angeles basin. The West Hollywood Target at La Brea Ave. and Santa Monica Blvd. is one of it's top five retail operations in the United States, generating over \$100 million in revenue annually, even though at 137,500 sq. ft. it is 26,000 sq. ft. smaller than the proposed Hollywood Target. This leased store was designed and constructed by the J.H. Snyder Co., and is served by two levels of subterranean parking where the water table is only 15 feet deep. The Applicant has provided no explanation why a smaller West Hollywood Target with subterranean parking is so successful, while a similar store in Hollywood would not be.



All parking for West Hollywood Target store is in subterranean levels, as shown above.

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Also, Target Corp. has recently signed a long-term lease to open a "City Target" urban store of approximately 100,000 sq. ft. at the Beverly Connection shopping center located on La Cienega Blvd. in west Los Angeles between Beverly Blvd. and 3rd Street. City Target stores are designed for a smaller urban footprint, and Target is opening similarly sized stores in both Westwood and downtown.

None of the alternatives analyzed in the DEIR offer a logical combination of a smaller Target store as illustrated by the success of the West Hollywood Target or the reduced scale of a City Target, combined with additional retail uses and served by subterranean and rooftop parking. Such an alternative would comply with SNAP and significantly lessen the Project's aesthetic impacts.

D. THE STATEMENT OF OVERRIDING CONSIDERATIONS PRESENTS A FALSE JUSTIFICATION FOR THE PROJECT.

A lead agency cannot approve a project with significant environmental impacts unless mitigation measures or alternatives are infeasible **and** overriding considerations exist which allow approval of the project. § 21081.

However, a lead agency cannot merely adopt a statement of overriding considerations and approve a project with significant impacts. It must first adopt feasible alternatives and mitigation measures. Friends of Sierra Madre v. City of Sierra Madre (2001) 25 Cal.4th 165, 185. "CEQA does not authorize an agency to proceed with a project that will have significant, unmitigated effects on the environment, based simply on a weighing of those effects against the project's benefits, unless the measures necessary to mitigate those effects are truly infeasible." City of Marina v. Board of Trustees of the California State University (2006) 39 Cal.4th 341.

A lead agency's CEQA findings must be supported by substantial evidence. (§ 21081.5). As explained by the California Supreme Court, "The requirement [for findings] ensures there is evidence of the public agency's actual consideration of alternatives and mitigation measures, and reveals to citizens the analytical process by which the public agency arrived at its decision." Mountain Lion Foundation v. Fish & Game Commission (1997) 16 Cal.4th 105, 134.

Increased costs of an environmentally superior alternative do not equate to economic infeasibility: "The fact that an alternative may be more expensive or less profitable is not sufficient to show that the alternative is financially infeasible. What is required is evidence that the additional costs or lost profitability are sufficiently severe as to render it impractical to proceed with the project." Citizens of Goleta Valley v. Board of Supervisors (Goleta 1) (1988) 197 Cal.App.3d 1167, 1181.

The Commission's Statement of Overriding Considerations fails these tests. Instead, the Statement lists benefits it claims would be accomplished by approving the proposed Project, such as jobs, economic growth and site revitalization, which in fact would also be achieved if the Project were constructed without the significant number of exceptions granted to the Applicant.

Alternatives to the approved Project that would achieve its same economic goals without significant impacts to Aesthetics and Transportation/Traffic/Parking are improperly rejected in the EIR and Statement of Overriding Considerations as "infeasible," without substantial evidence to support this claim.

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The Determination Letter states that the benefits of the Project supporting the Statement of Overriding Considerations include: "sustainable design," "a well-designed, high quality retail development," "good planning principles," "retail/shopping and dining options," and "additional shade trees." None of these claims, however, qualify as substantial evidence that alternatives to the Project are infeasible in order to mitigate its significant impacts. Dining options and additional shade trees can be provided within a Target project built less than 35 feet in height, and at no point has the Applicant stated that Target is financially incapable of constructing and profiting from a Code-compliant development.

None of this was even considered by the members of the Central Area Planning Commission at its August 14, 2012 hearing. Instead, the Commission immediately moved to approve the Project following the close of public comment. This vote occurred despite the Commission members being presented during the hearing with hundreds of pages of site plans dated August 14, reports, and lengthy objection letters. As stated by one member of the public during his testimony, the Commission members had a "mountain of paper" in front of them that they hadn't read, and the hearing needed to be continued. Instead, the Project was swiftly approved.

III. CONCLUSION

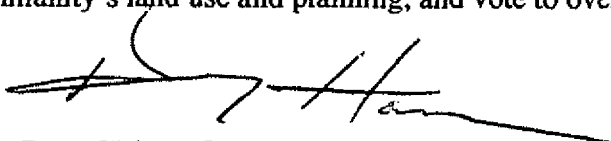
The proposed Project would tower above the quiet, low-rise historic neighborhoods surrounding Sunset Blvd. that the Specific Plan was created to protect. It would further burden our overwhelmed infrastructure with increased traffic loads absent appropriate neighborhood traffic mitigation. And it would encourage other developers to seek numerous exceptions from the area's SNAP regulations.

The extensive discretionary requests sought for the Target development are completely without merit and any hardship is entirely self-imposed. The Determination Letter's findings are legally inadequate.

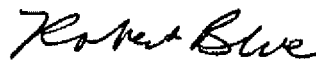
The applicant leased the property fully aware of the area's zoning restrictions and height limitations and has made no effort at community hearings to claim a legal hardship or justify any of the discretionary approval requests. Instead, the Applicant has excelled at proclaiming that the proposed Project is what the Target Corporation intends to construct, no matter what the community says to the contrary.

The EIR is seriously deficient and does not comply with CEQA. Meaningful environmental concerns are papered over or ignored; vague and general mitigation measures are assumed, without facts or real analysis, to sufficiently overcome significant negative environmental effects; "facts" are repeatedly asserted for which the record contains no evidence; and numerous obligations imposed by CEQA are not met

As residents of an established neighborhood of mostly historic, single-family homes, the members of the La Mirada Ave. Neighborhood Association and Citizen's Coalition, Los Angeles, ask that the City Council recognize the negative impacts associated with this and similar projects inconsistent with our community's land use and planning, and vote to overturn the approvals for the Project.



Doug Haines, for the
La Mirada Avenue Neighborhood Association



Robert Blue
Citizen's Coalition, Los Angeles

Exhibit 1



FOR IMMEDIATE RELEASE
August 22, 2012

Contact:

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Aileen Getty Foundation Donates \$1.2 Million to Friends of the Hollywood Central Park for Environmental Impact Report

HOLLYWOOD—Friends of the Hollywood Central Park (FHCP), a nonprofit organization dedicated to creating a 44-acre street-level park over the Hollywood Freeway in a densely populated and park-poor area of the city, accepted a \$1.2 million gift today from the Aileen Getty Foundation to fund the Environmental Impact Report (EIR). With the Aileen Getty Foundation's generous donation and the City's contribution of \$825,000 the projected \$2 million Environmental Impact Report is now fully funded.

"FHCP is overwhelmed by Aileen Getty's magnificent donation – her indomitable spirit and commitment to Hollywood knows no bounds," said FHCP President, Laurie Goldman. "Aileen Getty is an extraordinary and special person whom we are honored to call our friend. The Aileen Getty Foundation gift allows FHCP to begin the environmental review process and takes us one *major* step closer to building the Hollywood Central Park."

"Hollywood Central Park will not only be a destination for the local community, it's going to be a global model of innovation in creating green and open public space in an urban city. Aileen Getty has long been a generous champion for Hollywood and her support of the park adds to her lasting impact on this neighborhood," said Councilmember Eric Garcetti.

Funding of the EIR has been FHCP's number one priority. In November 2011, FHCP celebrated CRA/LA's unanimous vote to fund the \$2 million EIR. One month later, in December, their joy turned to disappointment when the California State Supreme Court abolished redevelopment agencies (*California Redevelopment Agencies v. Ann Matosantos*). As 2012 began, FHCP re-doubled their efforts to find the



FOR IMMEDIATE RELEASE
August 15, 2012

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necessary EIR

funding. Mayor Villaraigosa, Council Member Eric Garcetti and Council Member Tom LaBonge, unwavering supporters of the Park, identified \$825,000 for the EIR. On July 5, 2012, the Los Angeles City Council authorized the transfer of \$825,000 to the Bureau of Engineering for Hollywood Central Park EIR. "We are proud to serve as the lead agency for the Hollywood Central Park's EIR and thank Aileen Getty for her generous donation to FHCP and the people of Los Angeles," said, City Engineer Gary Lee Moore. "Bureau of Engineering has a proven track record in the delivery of projects that embrace the goals of sustainable development, as this project does."

In May, FHCP Board members Laurie Goldman and Brian Folb met with Aileen Getty to introduce her to the Hollywood Central Park. They discussed the extensive benefits the Park would provide the Hollywood Community and Los Angeles. FHCP's hugely successful March advocacy trip to Washington, DC and the status of the EIR. "The Hollywood Central Park is all about building community and celebrating our commonality in a natural environment – an imaginative urban park built atop the Hollywood Freeway," said Aileen Getty. "The Park will allow people of all ages to connect to each other and to nature. I am energized by the opportunity to support this project. I believe it is a vital link in creating greater quality of life in our city."

"There are many angels in this City of Angels, but Aileen Getty has some of the biggest wings," Councilmember Tom LaBonge said. "There is a growing movement around the world to take back infrastructure to create public spaces, and the Hollywood Central Park will be another great example."



FOR IMMEDIATE RELEASE
August 15, 2012

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The Park began as an idea more than 28 years ago. In 2006, it progressed from a Hollywood Chamber of Commerce initiative to a Hollywood Community coalition, with steadfast support from Council Member Eric Garcetti and CRA/LA. Finally it culminated in the creation of the nonprofit organization, *Friends of the Hollywood Central Park*, dedicated to creating the Hollywood Central Park. Friends of the Hollywood Central Park, created in December 2008, committed itself to raising funds to create a park atop the Hollywood Freeway as it travels below grade between Santa Monica Boulevard and Hollywood Boulevard. By adopting efficient alternative and innovative land use plans and integrating strategies in order to transform the community and create long term prosperity, the Park will produce more than 45,000 direct and indirect jobs, create a sustainable community which promotes equity, strengthens the economy, protects the environment, promotes a healthy and safe community and serve as a national model for the creation of new green space in a dense urban environment.

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ABOUT FRIENDS OF THE HOLLYWOOD CENTRAL PARK

FHCP is a non-profit organization dedicated to building the Hollywood Central Park, a 44-acre street level park over the Hollywood Freeway as it travels below grade through the heart of Hollywood.

The Hollywood Central Park is a landmark infrastructure project that will reunite communities separated for more than 50 years by the freeway, create 45,000 jobs, provide economic stimulus and long term economic security, provide healthy communities and provide children with open green space in which to grow and thrive.

The Hollywood Central Park will transform Hollywood's disadvantaged communities into thriving economic engines and is an investment in our children, our community and our future. For more information visit <http://hollywoodcentralpark.org>

EXHIBIT 5

August 10, 2012

Doug Haines, La Mirada Avenue Neighborhood Association of Hollywood
P.O. Box 93596
Los Angeles, CA 90093-0596

City of Los Angeles, Central Area Planning Commission
City Hall, 2nd Floor
200 N. Spring Street
Los Angeles, CA 90012

RE: Staff Recommendation Report, proposed Target Hollywood.
Case No.: APCC 2008-2703-SPE-CUB-SPP-SPR-1A; CEQA No.: ENV-2008-1421-EIR;
Project Location: 5520 W. Sunset Blvd., Hollywood.

Honorable Commission members:

I. INTRODUCTION

In June of 2009, the Central Area Planning Commission approved an array of entitlements for a proposed Super Target store in Hollywood. On August 14, the Commission will once again consider almost exactly the same project.

Then as now, the proposed 194,749 square foot retail development would set major precedents and is opposed by several community organizations, including the Hollywood Studio District Neighborhood Council, the Melrose Hill Neighborhood Association, and the Hollywood Design Review Committee. Our community's opposition is simple to explain: the project as recommended would set major precedents and gut "SNAP," the carefully crafted Vermont/Western Transit Oriented District Specific Plan approved in 2001 to regulate the future of Hollywood development east of the 101 Freeway.

In 2009, Planning Staff submitted for the Commission's consideration a Recommendation Report supporting approval of virtually every entitlement requested by Target. Three years later, Planning Staff is again recommending that you approve the exact same entitlements. Then as now, the findings in the Recommendation Report that are required to provide the legal framework to justify the entitlement requests are word for word exactly the same as what Target's consultants wrote years ago. These findings have been adopted verbatim by Planning Staff, making the Recommendation Report, for all essential purposes, a document almost completely written by the applicant.

In other words, despite the passage of three years and the submission of hundreds of pages of community objections, during which court action led to the City Council rescinding the applicant's approvals and the applicant preparing an environmental impact report, members of Planning Staff are asking you to approve the same entitlements for the same project with the same findings written by the same developer. As a community, it is our sincere hope that this Commission will not hitch another ride on this endless merry-go-round, and will instead properly analyze the proposed project.

Central Area Planning Commission consideration of APCC-2008-2703-SPE-CUB-SPP-SPR
/ ENV-2008-1421-MND

August 10, 2012, Page 2 of 55

II. BACKGROUND

If constructed as described on page I-3 of the Draft *Environmental Impact Report* ("DEIR"), "Proposed Project," the Target development would consist of a structure 84 feet, 4 inches in height, with 194,749 sq. ft. of retail development and 225,286 sq. ft. of above-grade parking spaces in two levels totaling 458 stalls. Total site development is 420,035 sq. ft. The net lot area is 160,678 sq. ft. The primary component of the project would be a 163,862 sq. ft. Target retail store on the third level, with 30,887 sq. ft. of unidentified retail at ground level (hereinafter the "Project"). The applicant is Target Corporation ("Applicant").

On October 9, 2007, Target secured a 75-year Ground Lease with property owner Jordan Man See Chin of Hong Kong for the proposed Target site at the southwest intersection of Sunset Blvd. and Western Ave. in East Hollywood. Target's rent for the first 10 years of this lease is \$157,916.66 per month or \$1,895,000 annually. Following signing of its lease, Target assumed full and complete control of the site and began proceedings to evict the tenants that included: a Carl's Jr. restaurant; a CVS (formerly Savon) pharmacy; a Farm Fresh Ranch Market; and a clothing store.

However, a recycling center at the southwest corner of the site was allowed by Target to continue operating even though the Los Angeles Department of Building and Safety ordered it closed on February 12, 2009, and the Office of the City Attorney took the operator to criminal court (Case # BS 9CA00129). A Superior Court judge finally ordered the recycling operation permanently shuttered in January of 2010 following a guilty plea from the operator. Despite direct attempts by LAPD Hollywood Division to convince Target to expedite the closure of this nuisance operation, Target refused to intercede and continued to collect rent on the center's month-to-month lease during the entire court proceedings.



Illegal recycling center formerly at subject site that Target Corp. refused to shut down.

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Existing one-story retail development and parking lot on subject site as they appeared shortly after Target took complete control over the site in late 2007.



Target site today, after complete control by Target Corp. for the past 4 1/2 years.

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In 2008, Target filed an application with the City Planning Department for its requested deviations from the underlying zoning to develop the proposed Project. On June 23, 2009, the Central Area Planning Commission approved the Staff Recommendation Report, granting the applicant nine exceptions from the requirements of the Vermont/Western Transit Oriented District Specific Plan, in addition to a Project Permit Compliance approval, a Site Plan Review, a Conditional Use Beverage Permit for the sale of beer and wine for off-site consumption, and adoption of the Mitigated Negative Declaration. Three separate parties then appealed the Commission's approval to the Los Angeles City Council.

On September 29, 2009, the three appeals were scheduled for a hearing before the Planning and Land Use Management Committee ("PLUM"). This hearing, however, was cancelled at the request of the City Attorney. Target then continued the hearing seven times over the next nine months until the item was finally heard on June 29, 2010, during which the Project was recommended for approval and the appeals denied. At its meeting of June 30, 2010, the Los Angeles City Council approved the Project without opening the matter for a public hearing. Our neighborhood association then filed litigation in Los Angeles Superior Court.

On July 30, 2010, however, our neighborhood association sent a Cure and Correct letter to the City Attorney's Office pointing out a discrepancy in the Project's Modified Conditions of Approval, noting that after the Council's June 30 approval of the Project someone from City Staff illegally inserted additional supportive findings into the final document. In response, the City Council rescinded all Project approvals and placed the matter on its August 18 agenda for a new vote. At the August 18 meeting, the Applicant's representatives surrendered all claims to the entitlements, stating that they would instead prepare an environmental impact report ("EIR").

None of this information is provided in the developer-written Recommendation Report, which erroneously states on page A-3 that the Applicant withdrew the Project prior to the City Council taking any action on the appeals. The Recommendation Report then states: *"Since then, the applicant has worked with various stakeholders in order to continue to refine the design of the project."*

Target has in no manner made any significant changes to its proposed Project. The Applicant has instead refused to modify the development's massive, boxy design, repeatedly ignoring input from the residential community, the Hollywood Studio District Neighborhood Council, and the Hollywood Design Review Committee. Not only has Target's refusal to consider such input resulted in a lengthy waste of time for all involved, but it is especially frustrating to our community because Target apparently originally proposed years ago to construct an essentially Code-compliant project on the site, one which the neighborhood would have immediately embraced.

At the June 23, 2009 Central Area Planning Commission public hearing on the Target project, Ms. Kelli Bernard, Council District 13's then Planning Deputy and consultant for economic development, stated that Target first came to their council office more than three years earlier and proposed a store featuring Target's traditional low-level "suburban model." *"We don't want a suburban model"* stated Ms. Bernard for CD13. *"We went from having a large parking field out in front of it that you would see, for example, there's a Target on Rodeo and La Cienega. They (CD 13's Design Review Committee) did not want that sort of thing and neither did the council office."* The Hollywood Design Review Committee, however, was never presented with the low-level store originally conceived for the site by Target and proposed to CD13. Instead, CD13 apparently rejected the Code-compliant project out of hand.

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Council District 13's position demanding a taller Target project was reiterated on June 29, 2010 during Ms. Bernard's further testimony before the Los Angeles City Council's Planning and Land Use Management Committee: *"We challenged Target to create a more urban store"* stated Ms. Bernard. *"We're encouraging height and density on Sunset Blvd."*



Single-level Target store at Rodeo Rd. and La Cienega Blvd., that was cited by CD13 representative Kelli Bernard as what Target originally proposed for Hollywood.

The Vermont/Western Transit Oriented District Specific Plan was developed in concert with former Council District 13 representative Jackie Goldberg, area residents, property owners, local businesses and other public agencies. The Plan was created and approved by the Los Angeles City Council *"to guide all development, including use, location, height and density, to assure compatibility of uses and to provide for the consideration of transportation and public facilities, aesthetics, landscaping, open space and the economic and social well-being of area residents."* Compatibility of uses requires adherence to the zoning requirements of the Specific Plan.

The subject site is located in subarea C of the Plan, which limits the building height of commercial-only projects to a maximum 35 feet. The underlying zoning is C2-1. The site was first developed in 1916 as the original location of the Fox movie studios, later known as 20th Century Fox. The Fox studio left Hollywood for its Westside studio location in the late 1960s, and the existing single-story commercial buildings on the site were developed in the 1970s.

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Photo foreground: Looking south along Western Ave. at Sunset Blvd., circa 1917.

Immediately west of the subject site across St. Andrews Place is a 30-foot, 8-inch tall, single-story Home Depot with surface and rooftop parking. Across from the subject site at the NW intersection of Sunset Blvd. and Western Ave. is a one-story OSH hardware store with surface parking. At the SE corner of this intersection is a single-story Food-4-Less grocery store with both below-grade and surface parking.



Immediately West of the Target site: The 31-foot tall, one-story Home Depot

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Immediately north of the Target site: A one-story OSH Hardware store.



Immediately east of the Target site at the southeast corner of the intersection of Sunset Blvd. and Western Ave., a single-story Food-4-Less, ICDC College, and McDonald's.

Immediately south of the parcel is a single-story, historic U.S. Post Office building, and the one- and two-story headquarters of the non-profit Assistance League of Southern California. One block further south on Fernwood Ave. is residential housing and the non-profit Covenant House for at-risk youths.

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Immediately south of Target site: Two-story office of non-profit Assistance League of Southern California at De Longpre Avenue and St. Andrews Place.



Rear view of the non-profit Assistance League of Southern California, located directly south of Target site, showing its surface and subterranean parking. (Photo looking south from Target site on De Longpre Ave.)

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Single-story commercial development at northern corner of Sunset Blvd. and St. Andrews Pl.,



Dunes Inn on Sunset Blvd. near St. Andrews Place, a half block west of Target site.



Sunset Blvd. at Wilton, with Home Depot store at photo right. Project site is at upper right

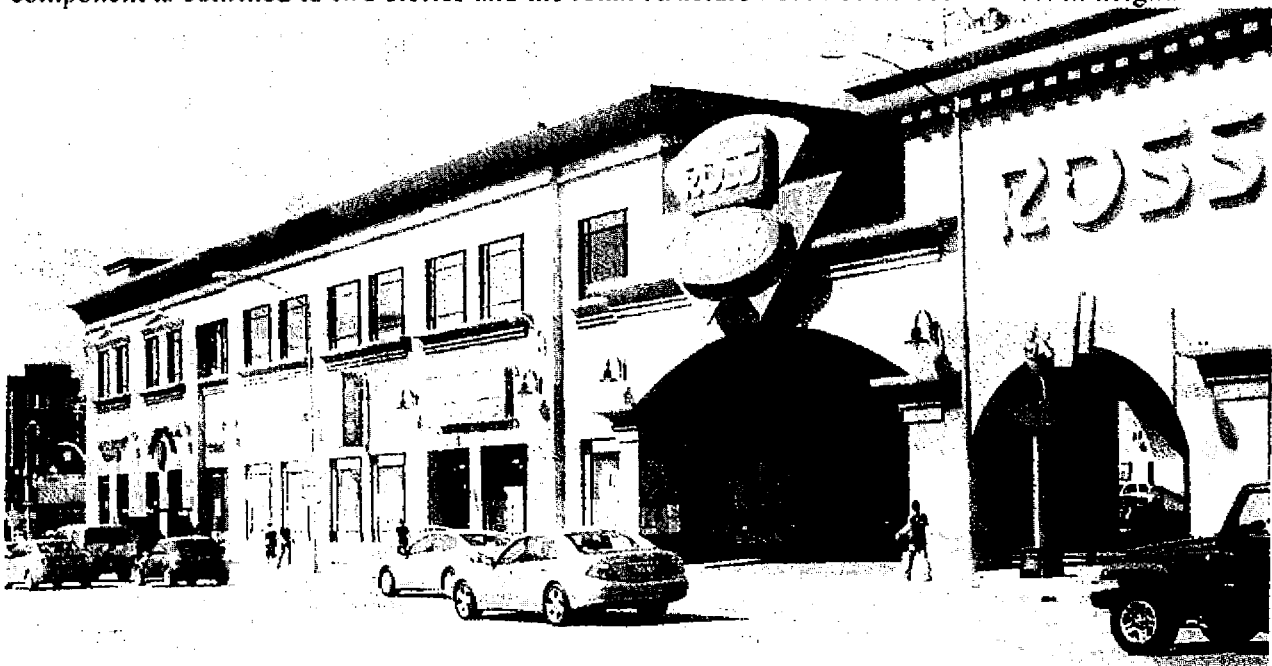
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On August 14, the Commission will again consider Target's request for multiple exceptions from SNAP, in addition to other Project approvals. California law requires that an exception from a zoning ordinance must show that the applicant would suffer practical difficulties and unnecessary hardships in the absence of the variance, that these hardships result from special circumstances relating to the property that are not shared by other properties in the area, and that the exception is necessary to bring the applicant into parity with other property owners in the same zone and vicinity.

The subject site is a rectangular-shaped lot covering an entire city block totaling approximately 3.69 net acres after dedications. There is nothing unique about its topography to distinguish it from any other lot in Hollywood, but even if there were, a particular characteristic of a property is not by itself sufficient to support an exception to the Specific Plan. The Applicant must instead show that such characteristics differ significantly from other similarly situated properties in the same zone and vicinity. Comments regarding superiority of project design, amenities, benefits to the community, and the superior aspects perceived of the proposed development to ones constructed in conformity with zoning regulations are irrelevant when considering the grant of an exception.

A mixed-use development located a quarter of a mile north of the Target site at the northeast intersection of Hollywood Blvd. and Western Ave. shows how all of Target's programmatic needs can be properly embodied without the necessity for any exceptions. Commonly referred to as the Ralph's Shopping Center for its primary tenant, this development features 215,927 square feet of retail space and 100 units of affordable senior housing on a 3.05-acre site. The project also offers extensive free subterranean and surface parking totaling 460 spaces. Per the requirements of the Specific Plan, the retail component is confined to two stories and the retail structure does not exceed 35-feet in height.

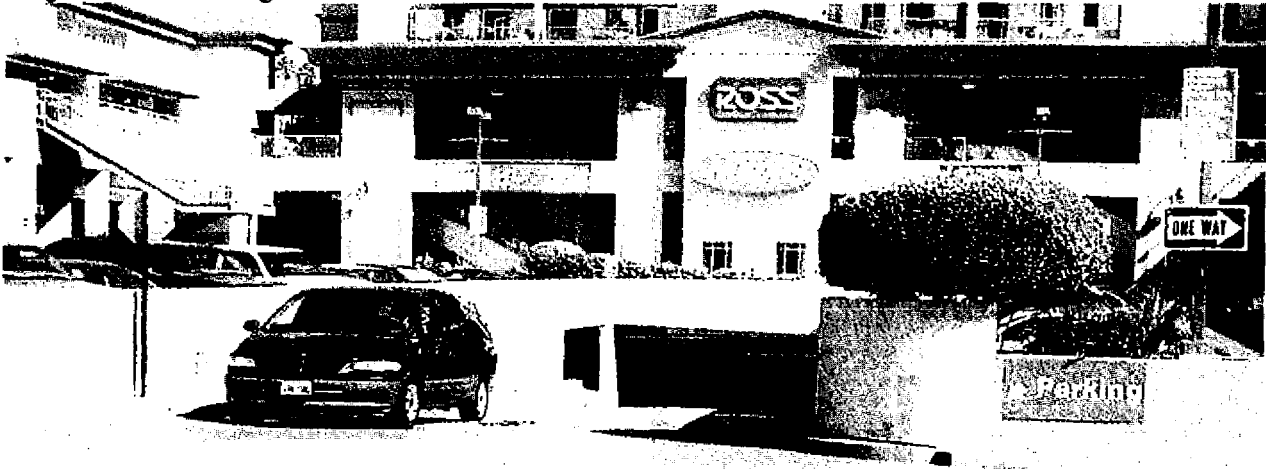


Mixed-use development at Hollywood Blvd. and Western Ave. across from Red Line subway stop.

By comparison, Target's proposed project would place 194,749 sq. ft. of retail on a 3.9-acre site with no housing and no subterranean parking. Target seeks a retail building that would exceed 84 feet in height.

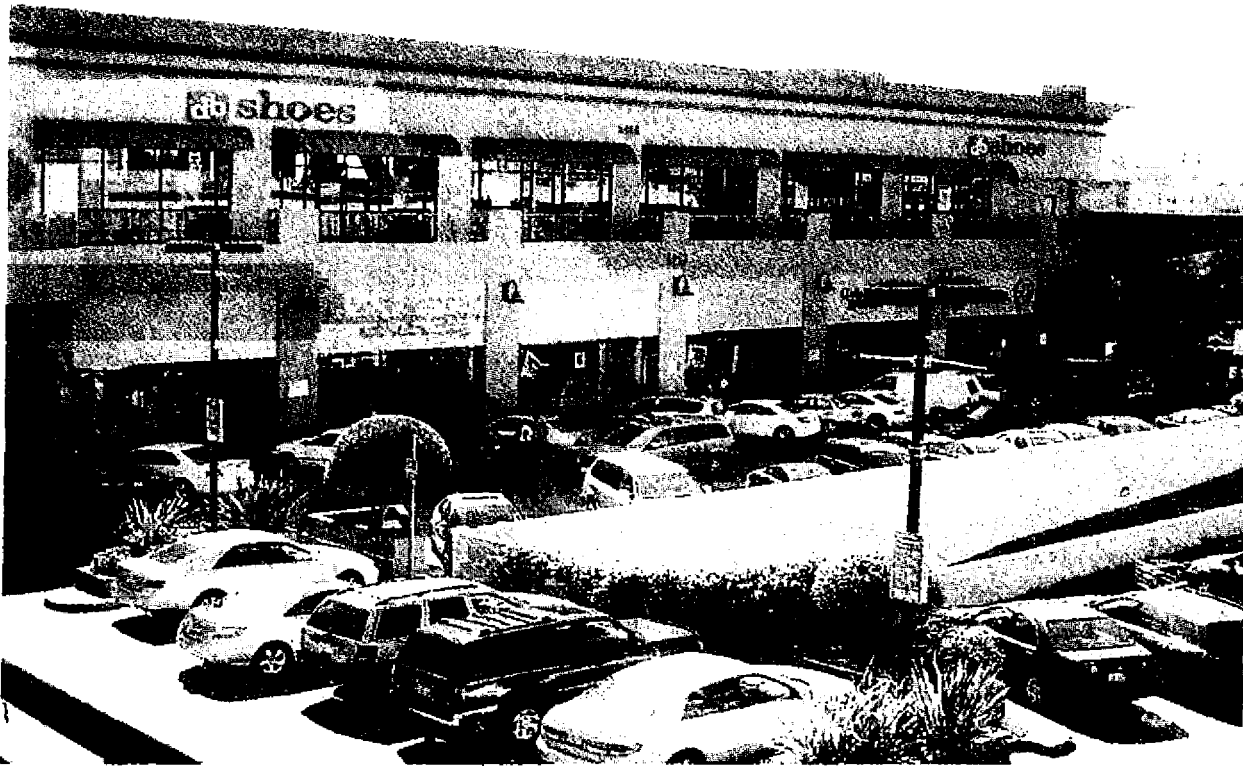
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Free subterranean and surface parking is available for use by patrons and neighbors.

The mixed-use Ralph's Shopping Center is located immediately across from a Red Line subway stop, and features neighborhood serving multi-tenant retail with a Ralph's supermarket, Ross Dress for Less, Aaron Brothers frame shop, and 16 smaller retailers. The development also includes a large, grade-level plaza, proudly advertises on the side of the building that it features "lots of lower level parking", and has façade articulation throughout the structure. All of this is offered on a site almost an acre smaller than the Target site.



Inner plaza at mixed-use development offers various neighborhood-serving retailers.

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	Proposed Target Store	Ralph's Shopping Center
Lot size	3.9 gross acres	3.05 gross acres
Retail square footage/ Number of retail outlets	194,749 square feet retail/ (unknown; 30,887 sq. ft. "other")	215,927 square feet retail/ 18 storefronts
Height of retail component	84 feet, 4 inches in height	Retail: less than 35 feet
Housing component	NONE	100 units affordable senior
Distance to subway stop	1/4 mile to Red Line	Across street from Red Line
Parking spaces	458: two levels at above grade	460: surface and subterranean

If the mixed-use development at the intersection of Hollywood Blvd. and Western Ave. can offer more square footage of retail space than the proposed Target project, on a smaller lot, and also include 100 units of affordable housing while keeping the height of the retail structures below 35 feet, how then can Target justify its requested exceptions to the Specific Plan?

III. OBJECTIONS

A. THE RECOMMENDATION REPORT'S FINDINGS DO NOT SATISFY THE RIGOROUS STANDARDS NECESSARY TO RECEIVE ANY EXCEPTION FROM THE SPECIFIC PLAN

Section 11.5.7.F.2 of the Los Angeles Municipal Code ("LAMC") requires that a Specific Plan exception be supported by written findings of all of the following:

- a) That strict application of the regulations of the specific plan would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the specific plan;
- b) That there are exceptional circumstances or conditions applicable to the subject property involved or to the intended use or development of the subject property that do not apply generally to other property in the specific plan area;
- c) That an exception from the specific plan is necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other property within the specific plan area in the same zone and vicinity but which, because of special circumstances and practical difficulties or unnecessary hardships is denied to the property in question;
- d) That the granting of an exception will not be materially detrimental to the public welfare or injurious to the property or improvements adjacent to or in the vicinity of the subject property;
- e) That the granting of an exception will be consistent with the principles, intent and goals of the specific plan and any applicable element of the general plan.

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Specific findings for granting a variation from the Zoning Code are required under Section 65906 of the California Government Code, which states:

“Variances from the terms of the zoning ordinances shall be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classifications.

“Any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.”

Section 11.5.7.F.1(a) of the LA Municipal Code further defines this rigid standard:

“An exception from a specific plan shall not be used to grant a special privilege, nor to grant relief from self-imposed hardships.”

All of Target’s requested exceptions from the Specific Plan are based entirely on seeking special privileges or applying self-imposed hardships. None of the findings have merit or meet the strict requirements for an exception as defined in Section 11.5.7.F.2 of the Municipal Code and §65906 of the California Government Code.

Crucially, the City’s approach disregards the core values underpinning our zoning system. As the California Supreme Court held in Topanga Assn. for a Scenic Community v. County of Los Angeles (1974) 11 Cal.3d 506, a zoning scheme is a contract in which “each party foregoes rights to use its land as it wishes in return for the assurance that the use of neighboring property will be similarly restricted, the rationale being that such mutual restriction can enhance total community welfare.” (Id. at 517).

These principles led the Supreme Court to hold that “self-imposed burdens cannot legally justify the granting of a variance.” Broadway, Laguna, Vallejo Assn. v. Board of Permit Appeals of City and County of San Francisco (1967) 66 Cal.2d at 774, 778.

As stated in McQuillin: The Law of Municipal Corporations, a leading treatise cited for a related point by the Supreme Court in Broadway, Laguna, supra, 66 Cal.2d at 775:

“The concept might be better understood, however, by examining what ‘practical difficulty’ or ‘unnecessary hardship’ is not. It is not mere hardship, inconvenience, interference with convenience or economic advantage, disappointment in learning that land is not available for business uses, financial or pecuniary hardship or disadvantage, loss of prospective profits, prevention of an increase of profits, or prohibition of the most profitable use of property...

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“In order for a landowner to be entitled to a hardship variance, the hardship must originate from circumstances beyond the control of the landowner and be of a type that does not generally affect other properties in the district. If the landowner can control the circumstances causing the hardship, then the granting of a variance is improper. No undue hardship is shown where the landowner could accomplish the same objective without a variance by changing his or her plans so that they conform to the existing zoning requirements.” (8 McQuillin Mun.Corp. § 25:179.37, 3rd ed. 2010). (Emphasis added).

The first required finding for an exception from the requirements of the Specific Plan, that the strict application of the regulations of the Specific Plan would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the Specific Plan, is evaluated based on whether the property can be put to effective use without the exception.

An exception to the Specific Plan is not intended to be used for the purposes of convenience or to increase the value of a property. If a property can be put to effective use consistent with its existing zoning, the fact that an exception would make the property more valuable or increase the income of the owner is immaterial.

In the appellate decision of Stolman v. City of Los Angeles (2003) 114 Cal. App. 4th, 916, a resident who lived near a gasoline station petitioned for a writ of mandate challenging the City of Los Angeles’ granting of a variance that permitted the station owner to expand operations to include an automobile detailing service. The trial court denied the petition, and the resident appealed. The Court of Appeal reversed, holding that:

- Substantial evidence did not support the City’s critical required finding that strict application of the zoning ordinance would result in practical difficulties or that the property owner would “face dire financial hardship” without the variance.

As in Stolman, we are aware of no records, evidence, or testimony showing that the proposed Project cannot be a viable development without the benefits provided by the requested SNAP exceptions. As stated in Stolman at 926:

The key question is whether the detailing operation enhances the continued viability of the gasoline station to the extent that Clark would face dire financial hardship without the variance, or whether Clark merely wants the variance in order to increase his existing profits from the sale of gasoline. (Emphasis added.)

The Stolman court rejected the City’s claim in that case because it had failed to provide sufficient evidence of any such “dire financial hardship” if the gas station there did not obtain a variance to allow the adding of a detailing service. Such evidence would have had to take the form of precise figures regarding “how many gallons [of gas] were sold” or whether the profit of eight cents a gallon the owner reported “was net or gross.” In other words, the Stolman court would not accept the claim that economic viability was threatened without a precise accounting of facts and figures to back it up. (Stolman, supra, 114 Cal.App.4th at 926).

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It is respectfully submitted that there is zero evidence in the record to support a finding of financial hardship on the part of the Applicant – a multi-billion dollar, worldwide retail juggernaut with 2011 gross sales exceeding \$69 billion (or 10 times the gross revenue of the City of Los Angeles). Nor has the Applicant provided any financial information to prove that the Project will suffer an “unnecessary hardship” if the exceptions are not granted. Nor is there anything unique to the subject site in relation to surrounding properties that would create special circumstances restricting its development in parity with the other parcels.

The Applicant entered into a lease agreement on the property fully aware of the existing Specific Plan restrictions, and therefore any hardship is entirely self-imposed. Granting any exception to the Specific Plan is therefore completely unwarranted.

“In the absence of an affirmative showing that a particular parcel in a certain zone differed substantially and in relevant aspects from other parcels therein, a variance granted with respect to that parcel amounted to the kind of ‘special privilege’ explicitly prohibited by Government Code §65906, establishing criteria for granting variances.”
Topanga Association for a Scenic Community v. County of Los Angeles, (1974) 11 Cal. 3d 506, 509.

The Recommendation Report’s Mandatory Findings justifying approval of the Project’s numerous exceptions to the Specific Plan carry no merit or offer any evidence of necessity, and in fact amount to the type of “special privilege” explicitly prohibited by California law. The findings are instead merely a superficial justification for the decision, as noted in our analysis below.

Free delivery. Section 6.N of the Vermont/Western Transit Oriented Specific Plan states:

Free delivery. An Applicant for any Project containing 40,000 square feet or more of retail commercial floor area shall submit to the Director of Planning as part of the application for a Project Permit Compliance, a program for retail use designed to provide free delivery of purchases made at the site by residents living within the Specific Plan area.

In justifying the exception to the Specific Plan requirement that Target provide free delivery to residents living within SNAP, the Recommendation Report states that the strict application of policies, standards and regulations of the Specific Plan would create unnecessary hardships for the following reasons:

- “The proposed Project is unique in nature to the Specific Plan area as it is the first such national retail use since the Specific Plan was adopted;”
- “No other retail use recently developed in the Specific Plan area offers the diverse amount of goods and services that Target would offer;”
- “There are other retail uses in the immediate area that are larger than 40,000 square feet that do not require free delivery;”

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- **“The anticipated high volume of purchases made by residents living in close proximity to the store would...have the unintended consequence of making local neighborhoods less safe with numerous daily trucks coming from Target...”**

Mandatory Findings:

- a). The strict application of the policies, standards and regulations of the specific plan to the subject property will result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the zoning regulations.**

The Recommendation Report’s findings completely ignore whether or not the subject property can be put to effective use without the exception. Instead, the first finding makes the somewhat dubious claim that a free delivery program would conflict with the goal of SNAP “to create more livable residential neighborhoods,” arguing that the *“anticipated high volume of purchases...would result in large trucks traveling numerous times a day through residential neighborhoods.”* Such deliveries, , *“would have the unintended consequence of making local neighborhoods less safe.”*

The Report’s argument -- that SNAP area residents will be imperiled by Target’s fleet of reckless delivery trucks -- is irrelevant to the question of whether or not the Code requirement creates a hardship for the Applicant.

“In order for a landowner to be entitled to a hardship variance, the hardship must originate from circumstances beyond the control of the landowner and be of a type that does not generally affect other properties in the district. If the landowner can control the circumstances causing the hardship, then the granting of a variance is improper.” (8 McQuillin Mun.Corp. § 25:179.37, 3rd ed. 2010). (Emphasis added).

The findings supporting approval of the exception from providing free delivery state that Target *“typically carries products that do not require deliveries because the products for sale are generally small in size.”* This argument mirrors the statements previously made by Target in the *Initial Study* and *Draft EIR*. If true, and Target’s products are small in size and do not require deliveries, how then can the City claim that requiring the service *“would result in large trucks traveling numerous times a day through residential neighborhoods”*?

Mandatory Findings:

- b). That there are exceptional circumstances or conditions applicable to the subject property involved or to the intended use or development of the subject property that do not apply generally to other property in the specific plan area.**

The “exceptional circumstances” finding required for an exception to the Specific Plan involves distinguishing the property from other properties in the same zone and vicinity. In order to qualify as a special circumstance, there must be a logical relationship between the condition identified and the exception requested, meaning that the unusual condition must cause the hardship.

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The Recommendation Report's findings assert that the exceptional circumstances justifying the exception from free delivery are: Target *"is a discount department store;"* that *"most of the properties in the Specific Plan area are smaller lots...that would likely be developed with smaller retail uses"* not requiring free delivery; and that *"no other retail use...offers the diverse amount of goods and services that Target would offer."*

Offering a wide range of goods and services is not a hardship. Claiming that Target is a discount department store is also not a hardship; nor is there validity to the claim that other properties in SNAP are on smaller lots, and therefore a large retailer opening a large store suffers a hardship. All such claims are nonsense and have no relevancy to the requirements to justify the finding.

A Specific Plan is designed to be exactly that, *specific* to the neighborhood it serves. A national business model is irrelevant to a local zoning ordinance. As stated in Stolman v. City of Los Angeles, supra

"A zoning scheme, after all, is similar in some respects to a contract; each party forgoes rights to use its land as it wishes in return for the assurance that the use of neighboring property will be similarly restricted, the rationale being that such mutual restriction can enhance total community welfare." (emphasis added)

Mandatory Findings:

c). That an exception from the specific plan is necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other property within the specific plan area in the same zone and vicinity but which, because of special circumstances and practical difficulties or unnecessary hardships is denied to the property in question.

This finding establishes that the exception is necessary to bring the property owner into parity with other properties in the same zone and vicinity. The Recommendation Report's findings cite the Home Depot store to the west of the subject lot as not required to provide free delivery and the Food 4 Less store to the east as operating *"without providing free delivery of groceries to residents in the SNAP Area."*

The Report also states that *"it would be an unnecessary economic hardship to require the proposed Target store to provide free delivery of goods to residents within the Specific Plan area while the other larger retail uses in the immediate vicinity of the project site do not provide free delivery."*

The Recommendation Report now identifies the "larger" Home Depot store as having a square footage of 143,000 sq. ft., as opposed to the proposed 163,862 sq. ft. Super Target store. (The developer previously identified this Home Depot store in the city's 2010 findings as being 276,000 sq. ft. Neither figure, however, is correct).

Home Depot and Food 4 Less are not required to abide by the SNAP free delivery requirement because they opened years before the ordinance was enacted, and are therefore grandfathered uses. Target, however, is bound to abide by the ordinance, as would be any other large retailer that is planning to open a store within the SNAP.

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Yet Food 4 Less for years offered free transportation for shoppers in order to remain competitive with the Farm Fresh Ranch Market formerly on the subject lot, which also offered free transportation. Also, Home Depot offers shoppers a large truck for self-delivery at a nominal, hourly rate.

The Recommendation Report does not give any example of “other property” in the same zone and vicinity that has been developed since 2001 that is exempt from the requirement to provide free delivery. If Food 4 Less or Home Depot leave their current locations, any large retailer taking control of those properties will be forced to conform to SNAP.

Mandatory Findings:

d). The granting of the exception will not be detrimental to the public welfare and injurious to property or improvements adjacent to or in the vicinity of the subject property.

The Recommendation Report states: “*residents living within the SNAP would have the option to either drive to the store for convenience to purchase larger merchandise...*” or “*patrons could also use the Target website to purchase items and have them delivered at a low cost. Moreover, granting the exception would have the benefit of not generating unnecessary additional truck trips...*”

Forcing residents of SNAP to order their merchandise on-line and pay for the postage raises the question of why a Target store is even needed in the area in the first place, particularly since Target’s corporate management is so apparently indifferent to the needs of our community. The residential composition of East Hollywood is primarily low-income renters, with an unusually large number of affordable housing developments located within 1,000 feet of the subject site. Many of these residents, who include a large concentration of HIV patients and elderly immigrants, do not have ready access to automotive transportation or the financial resources to pay excessive shipping charges. Denying free delivery to this community will be detrimental to the public welfare, essentially shutting out a large segment of society from deriving any benefit from a Target store in their neighborhood.

Mandatory Findings:

e). That the granting of an exception will be consistent with the principles, intent and goals of the specific plan and any applicable element of the general plan.

The Recommendation Report claims that Target’s requested exception from the requirement to provide free delivery to SNAP residents is consistent with the Specific Plan because it “*would lessen potential impacts of traffic truck trips, noise, air quality, and safety from a large number of trucks delivering goods daily throughout the residential neighborhoods in the SNAP area.*”

The Applicant, however, has provided no estimate of how many rumbling, diesel-spewing trucks driven by reckless Target employees would be necessary for the deliveries to be made, or how those deliveries contrast with the system recommended by Target, which is for people to order the items on-line from Target’s warehouses, pay a significant postage fee, and have the merchandise shipped by rumbling, diesel-spewing trucks to their homes. The requested exception is therefore completely unjustified, and must be denied.

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Building Height. Section 9.B (1) of the Vermont/Western Transit Oriented Specific Plan states:

Commercial Only Project. Projects comprised exclusively of commercial uses (not Hospital and Medical Uses) shall not exceed a maximum building height of 35 feet and a maximum FAR of 1.5, provided, however, that roofs and roof structures for the purposes specified in Section 12.21.1 B 3 of the Code, may be erected up to ten feet above the height limit established in this section, if the structures and features are set back a minimum of ten feet from the roof perimeter and screened from view at street level by a parapet or a sloping roof.

Mandatory Findings:

- a). **The strict application of the policies, standards and regulations of the specific plan to the subject property will result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the zoning regulations.**

The Recommendation Report findings regarding the Project's requested exception from the maximum 35-foot building height does not address whether or not the subject property can be put to effective use without the exception. Instead, the Report's central argument in the first finding is that *"one of the main goals of the Specific Plan (Section 2, Purposes) is to promote flexibility in the regulation of height and massing in order to achieve a balanced mix of uses within the Plan area."* This statement distorts the Specific Plan's basis for flexibility as actually detailed by Purpose H:

"Promote increased flexibility in the regulation of the height and bulk of buildings as well as the design of sites and public streets in order to ensure a well-planned combination of commercial and residential uses with adequate open space."

Target not only has no residential component, the Project is requesting four additional exceptions from the Specific Plan restrictions regulating height, bulk and massing. The proposed development in no manner whatsoever can therefore be considered a *"well-planned combination of commercial and residential uses."*

Furthermore, the Report's findings repeat the conceit that the height exception is justified because the Project *"would provide a pedestrian oriented environment and bring quality businesses to the existing community"* (without identifying what these quality businesses are and why they won't come to a community with a 35-foot height limitation); and that *"from the Sunset Boulevard street level view, the impact of the additional building height would be minimized"* (ignoring the reality that historic views are to the north, and would be completely blocked for those south of the site by the unprecedented height and massing of the structure).

Mandatory Findings:

- b). **That there are exceptional circumstances or conditions applicable to the subject property involved or to the intended use or development of the subject property that do not apply generally to other property in the specific plan area.**

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The Recommendation Report's exceptional circumstances finding for a Project building height of 74 feet fails to distinguish the property from other properties in the same zone and vicinity. No mention is made in the finding of unusual physical characteristics of the property, such as size, shape, topography, location, or surroundings that restrict its development.

Instead, the Report's finding for exceptional circumstances to allow more than double the allowed building height completely ignores this standard, instead repeating prior claims that the Project "*reduces additional environmental effects*" from subterranean parking, or that "*the unique nature of this project (large national commercial retailer) makes it infeasible to add a residential component.*" Neither statement is relevant to the required showing.

The Recommendation Report further states that "*newer developments in the area have been constructed with varying heights, some of which exceed the proposed height of the project.*" The Report, however, fails to identify a single example of these "newer developments" for comparison with the proposed Target development (note also that the Project as designed does not vary in height).

The Report further claims that "*even if the entire parking structure would underground, an exception would still be required,*" reasoning that the parking component is 30 feet above grade while the height of the 3rd floor and mezzanine stock room is 44 feet – thereby a building height of 44 feet is required. This reasoning not only defies logic, it also conflicts with Project Alternatives "B" and "D" in the *Draft EIR*, which offer building heights of 35 feet and 28 feet, respectively.

It's important to also note that the *Draft EIR* considered a cartoonish choice of alternatives to the Project. Alternative B, the "SNAP-Compliant Commercial Alternative," has one level of subterranean parking and one level of ground-level parking, and inexplicitly places the first-floor of retail six feet below grade. The Applicant ignores sensible options to resolve this jimmied design, such as rooftop parking, or a reduced scale Project, and instead dismisses the Alternative as unworkable.

Alternative D, "Reduced Project Alternative," would be a 149,400 sq. ft. Target with subterranean parking and no perimeter retail. The height of this design would be 28.5 feet. This option, however, is also rejected by the EIR, which states that subterranean parking would create significant environmental impacts, and that the loss of perimeter retail would not meet the project goal of a "*commercial mixed-use project of shopping and dining opportunities...*" The environmental issue of subterranean parking, if it is truly an issue rather than merely an excuse to avoid the expense of excavation, can be partially addressed by rooftop parking, and the size of the Target store can be reduced to accommodate other retail operations.

Alternatives that would truly reduce the scale of the Project and provide subterranean parking were likewise rejected in the EIR without analysis. Alternative sites were not analyzed "*because the project applicant does not own or control other property within the Hollywood community ...*" (DEIR P. VI-4). Yet the Food 4 Less site has been for sale for years (note exhibits previously submitted to Council File 09-2092), and the former Sears site on Santa Monica Blvd. is vacant and readily available for occupancy.

It is not the responsibility of the City to approve exceptions to our Zoning laws in order to accommodate a developer's building design. Instead, it is the responsibility of the developer to conform to the restrictions of the underlying zoning by designing his building to do so.

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“One who purchases property in anticipation of procuring a variance to enable him to use it for a purpose forbidden at the time of sale **cannot complain of hardship ensuing from a denial of the desired variance.**” City of San Marino v. Roman Catholic Archbishop of Los Angeles (1960) 180 Cal.App.2d at 673. (emphasis added).

In 2010, when the City first used the developer’s supplemental findings as its own, the exceptional circumstances finding also provided financial data in an attempt to support the exception to more than double the allowed building height. At that time, a cost estimate for subterranean parking was employed as justification to provide the exception, stating:

“[T]he applicant has provided substantial evidence that underground parking would be prohibitively expensive. The cost of below grade parking cost is approximately \$11.9 million – which represents an approximate 20 percent cost increase on an approximate \$54 million project.”

The Stolman Court held that economic viability may be a potential factor in the grant of a variance, but the court rejected the City’s claim in that case because it had failed to provide sufficient evidence of any such “dire financial hardship” if the gas station there did not obtain a variance to allow the adding of a detailing service. Such evidence would have had to take the form of precise figures regarding “how many gallons [of gas] were sold” or whether the profit of eight cents a gallon the owner reported “was net or gross.” In other words, the Stolman Court would not accept the claim that economic viability was threatened without a precise accounting of facts and figures to back it up. (Stolman, supra, 114 Cal.App.4th at 926.)

However, the developer’s prior claim of an \$11.9 million Project cost increase for subterranean parking is just that, a claim unsubstantiated by any detailed financial analysis in the administrative record. Second, the City does not determine if a 20% higher cost for a subterranean parking structure -- if accurate -- is an unusual expense constituting a hardship, especially considering that the non-profit Assistance League of Southern California is located immediately south of the subject lot and has subterranean parking, as does the Food-4-Less site east of the subject lot, as well as the Walgreen’s Pharmacy/Affordable Housing development at the NE corner of Sunset Blvd. and Western Ave. (Note photos on pages 24 - 27). Also, the Home Depot store immediately west of the Target site features plentiful rooftop parking.

Subterranean parking at the subject lot would therefore be considered consistent with development in the same zone and vicinity, and an accepted expense for businesses (and even non-profits) in the area. This is particularly relevant since the Applicant has wasted 58 months pursuing the height exception, during which Target has expended \$9,159,166 for rent on the site. Target has also not provided any analysis showing the savings in cost between subterranean parking and the proposed parking podium.

The Applicant has also identified its West Hollywood Target store – located 2.5 miles west of the subject lot – as a prized outlet, ranking “**in the top five**” nationally, “**so it is a \$100 million-plus facility for us.**” (see transcript of 6/9/2010 Target shareholders submitted in our letter of 6/29/10). That Target store, located in the West Hollywood Gateway project, is completely served by subterranean parking.

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Furthermore, the Applicant is requesting approval for excessive parking beyond the restrictions of the Specific Plan, creating his own hardship of how to accommodate the additional parking within the development. The City cannot then justify an additional exception to more than double the allowed building height merely to accommodate its other exception for additional parking, especially since the City has also admitted during public testimony that the Applicant previously came in with a one-level, suburban-style store.

The Recommendation Report also states: *“technical issues render underground parking infeasible. Subterranean parking requires loud and expensive ventilation system requirements that may cause greater noise impacts than the proposed project.”*

No evidence is presented by the City to support this claim of excessive noise generated by subterranean parking ventilation systems, or why such systems cannot be adequately muffled. This statement also conflicts with the obvious noise of squealing tires and engine echo generated by vehicles circulating in above-ground parking structures.

Finally, the City claims *“subterranean parking would also eliminate the ability for any green space to meet landscape requirements by removing the community gathering area.”* No details are presented to substantiate this statement, nor are alternative parking proposals (such as rooftop parking with a landscaped, green roof) reviewed as options. Nor has the Applicant explained why a reduced scale alternative that would not only comply with the Zoning regulations but would also conform with Target's new policy of building smaller stores in urban markets is not feasible. Nor has the Applicant explored building his development in a larger location, such as the Food-4-Less site across Western Ave.

Mandatory Findings:

c). That an exception from the specific plan is necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other property within the specific plan area in the same zone and vicinity but which, because of special circumstances and practical difficulties or unnecessary hardships is denied to the property in question.

This finding establishes that the exception is necessary to bring the property owner into parity with other properties in the same zone and vicinity. The Report's states: *“there are several properties within the Specific Plan area developed with similar heights as the proposed Project, including taller hospital facilities along Sunset and the community college along Western Avenue that are located in the C2 zone.”*

The City does not identify any properties “within the Specific Plan area” that match the Project's proposed height. The City mentions *“taller hospital facilities along Sunset”* but fails to reveal that SNAP specifically permits increased height for hospital uses to *“support the hospital core near the corner of Sunset Boulevard and Vermont Avenue such that this industry will generate jobs and medical services for local residents.”* (Purpose O). Target is not proposing a hospital on the subject site.

There is also no known community college on or near Western Avenue.

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The Report also states: *"For a Target or similar type national retail use to be developed within the Specific Plan without a height exception would require a larger lot and would not provide a mix of retail types and uses envisioned in the Specific Plan."* No evidence is presented to support this statement, which contrasts with the mix of retail at Hollywood Blvd. and Western Ave. in the Ralph's development, and ignores the availability of the Food-4-Less 7-acre lot across from the subject site as shown below:



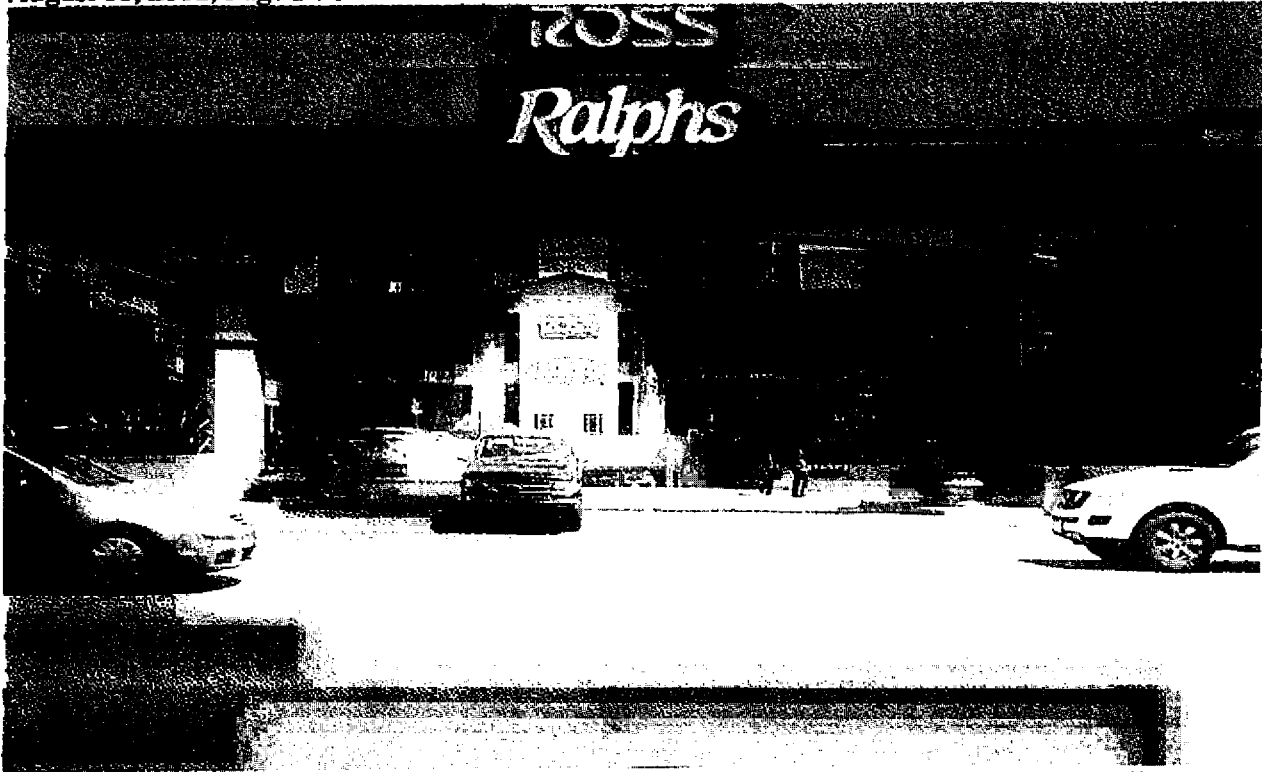
Finally, the Report claims *"Target possesses a substantial property right to develop a viable project that is competitive with other large retailers in the area."* Previous findings, however, stated *"Target would be unique to the area in that it would be a larger store"* (for the exception from the requirement for free delivery). The City fails to identify a single similar use in the same zone and vicinity that exceeds the 35-foot height restriction for commercial-only projects. The exception is therefore explicitly unjustified and must be denied.

The language of the Zoning Ordinance and Government Code Section 65906 "emphasizes *disparities* between properties, not treatment of the subject property's characteristics in the abstract. It also contemplates that at best, only a small fraction of any one zone can qualify for a variance." Topanga Assn. for a Scenic Community v. County of Los Angeles, supra, 11 Cal.3d at p. 520 (emphasis in original).

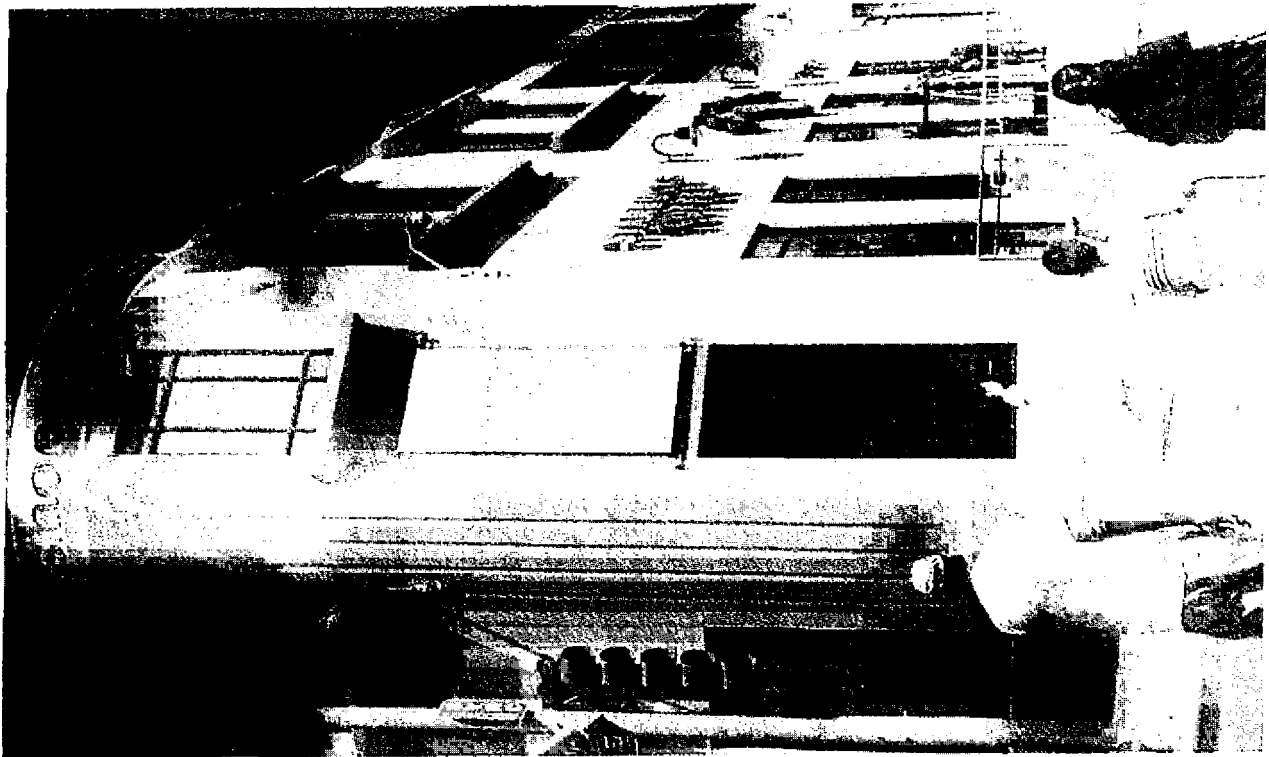
The Recommendation Report concludes this finding by stating: *"A subterranean parking area would not eliminate the need for the exception, is infeasible, would cause impacts the proposed project does not cause, and would still require exceptions from the SNAP."*

No evidence has been presented to support the Applicant's claim that subterranean parking creates practical difficulties or unnecessary hardships, that a proper building design would not eliminate the need for the exception, that excavation would cause permanent impacts like the height exception would if it is granted, or that below-grade parking is somehow infeasible. Note photos of nearby developments showing otherwise:

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Ralph's development at Hollywood/Western advertises "Lots of Lower Level Parking."



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Food 4 Less at SE corner of Sunset Blvd./Western Ave. has multi-acre below-grade parking.



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Mandatory Findings:

- d). The granting of the exception will not be detrimental to the public welfare and injurious to property or improvements adjacent to or in the vicinity of the subject property.

The Recommendation Report states that an exception from the 35-foot height limitation would not be detrimental to the public welfare because *“the proposed project would be buffered from low-rise commercial land uses by the intervening streets. The setbacks created by the intervening streets and the transitional heights created by the project’s design would reduce the effects of the contrasting building heights...”* This comment ignores the *Draft EIR’s* acknowledgement that the Project would have a substantial adverse effect on historic scenic vistas that would be significant and permanent.

Panoramic views are vistas that provide visual access to a large geographic area, for which the field of view can be wide and extend into the distance. The determination of significance is based on whether or not view blockages of visual resources would occur.

View blockages from public places are considered significant under the *City of LA CEQA Thresholds Guide* (2006). In addition, conservative analysis considers private views from residential buildings as significant since a resident’s expectations concerning views may be similar to public expectations of view access from public places. Specifically, due to the proximity of the Project to the Hollywood Hills, this conservative approach properly addresses private view impacts relative to distant and panoramic views of the historic landscape.

Based on the factors set forth in the City’s Thresholds Guide, the Project would have a significant impact on views if its development would substantially obstruct an existing view of a visually prominent resource from a public street, sidewalk, park, community cultural center, trail, or public vantage point. By this standard, the Project would significantly impact views from public streets and sidewalks south of the subject site, the Covenant House facility, and the Assistance League of Southern California.



Spectacular views as currently seen from the second floor public area at Covenant House building.

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Existing view of Hollywood Hills and Griffith Park Observatory taken from sidewalk in front of 5528 Fernwood Ave., 1-block south of Target site.

As acknowledged in the *Draft EIR*, the Project would permanently block scenic vistas if granted an exception to exceed the 35-foot maximum building height limitation. The exception would therefore be materially detrimental to the public welfare and injurious to property in the vicinity of the subject site.

Mandatory Findings:

- e). That the granting of an exception will be consistent with the principles, intent and goals of the specific plan and any applicable element of the general plan.

The Recommendation Report states that SNAP “*aims to promote flexibility in the regulation of height and bulk of buildings and the design of signs,*” but disregards the fact that such flexibility only applies with residential developments. Claiming that Target offers “*a mix of uses*” does not make it a mixed-use project, which is described in the Los Angeles Municipal Code as “Developments Combining Residential and Commercial Uses.” (See LAMC Sections 12.24.V.2; 12.22.A.18).

One of the key elements of SNAP is its intent to “*guide all development, including uses, location, height and density, to assure compatibility of uses and to provide for the consideration of transportation and public facilities, aesthetics, landscaping, open space and the economic and social well-being of area residents.*” (Purpose E).

The proposed Project would be incompatible with the surrounding low-level streetscape, would have a significant, permanent impact on aesthetics, offers token landscaping and open space, and would provide primarily part-time, minimum wage jobs. It is therefore completely at odds with the principles, intent and goals of the Specific Plan, and would in fact set major precedents that would gut SNAP.

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Parking. Section 9.E (3) of the Vermont/Western Transit Oriented Specific Plan states:

Commercial Only Project. Notwithstanding the contrary provisions of Section 12.21 A.4 of the Code and regardless of the underlying zone, the following parking standards shall apply to Projects with commercial uses, other than Hospital and Medical uses: (i) the maximum number of off-street parking spaces which may be provided shall be limited to two parking spaces for each 1,000 square feet of combined floor area of commercial uses contained within all buildings on a lot; (ii) a maximum of 50% of the required non-residential parking spaces may be provided off-site, but within 1,500 feet of the lot for which they are provided.

Mandatory Findings:

a). The strict application of the policies, standards and regulations of the specific plan to the subject property will result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the zoning regulations.

In justifying the exception to permit 458 parking spaces in lieu of the maximum permitted 390 spaces, the Recommendation Report states that the strict application of policies, standards and regulations of the Specific Plan would create unnecessary hardships for the following reasons:

- *"The major tenant of this project would be a Target store, which typically requires a higher parking percentage to meet demand compared to smaller retailers;"*
- *"A typical Target project elsewhere would provide a higher parking ratio;"*
- *The increase is necessary "to provide convenience for patrons using the site;"*

No evidence accompanies the finding to support the developer's claims that a Target store requires a higher parking percentage than a "smaller" retailer, or that other Target stores "elsewhere" typically offer a higher parking ratio, or that the increase is necessary to provide convenience for patrons using the site. Such claims of hardship are therefore completely unsubstantiated.

The subject site lies within the boundaries of the former Hollywood Community Redevelopment Area, which retains the same retail parking requirement as that of the Specific Plan, or two spaces per thousand square feet of commercial area.

How then is the strict application of the parking regulation an unnecessary hardship inconsistent with the intent of the Specific Plan, when all other retailers within both the Specific Plan area and the Hollywood Community Plan area are subject to the same standard?

Mandatory Findings:

b). That there are exceptional circumstances or conditions applicable to the subject property involved or to the intended use or development of the subject property that do not apply generally to other property in the specific plan area.

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The “exceptional circumstances” finding required for an exception to the Specific Plan involves distinguishing the property from other properties in the same zone and vicinity. Per California case law, special circumstances are typically limited to unusual physical characteristics of the property, such as size, shape, topography, location, or surroundings that restrict its development. In order to qualify as a special circumstance, there must be a logical relationship between the condition identified and the exception requested.

The finding for exceptional circumstances for an exception to allow additional parking for the Project completely ignores this standard, instead repeating prior claims used for the finding that strict application of the SNAP parking restrictions would result in practical difficulties or unnecessary hardships, i.e. that *“the intended use of the property with a Target store is not typical in the Specific Plan area,”* that Target *“differs from other specialty smaller retail uses in the SNAP that customers typically do not patronize”* daily due to its variety of goods and services, and that Target will attract customers from *“the broader community.”* Again, no examples are provided of “specialty smaller retail uses in the Specific Plan” area for comparison. No evidence or example is offered to support these claims.

“In the absence of comparative information about surrounding properties, (the) data lack legal significance.” Topanga Assn. for a Scenic Community v. County of Los Angeles (1974) 11 Cal.3rd at 520.

A quarter of a mile north of the Target site at the northeast intersection of Hollywood Blvd. and Western Ave. is the Ralph’s Shopping Center. This development, constructed in 2001 under the Interim Control Ordinance pre-dating SNAP features 215,927 square feet of retail space and 100 units of affordable senior housing on a 3.05- acre site. The project also offers extensive subterranean and surface parking totaling 460 spaces, in conformance with both SNAP restrictions and the Community Redevelopment Plan.

Also, northeast of the Target site is an outlet of the national pharmacy chain Walgreen’s. Designed and constructed within the confines of SNAP, this mixed-use development has both surface and subterranean parking conforming to the Code restrictions.

The City neglects to identify a single physical limitation on the subject property that would warrant an exceptional circumstance, nor does the City adequately cite why a national retailer requires more parking than a local retail operation, or what difference there is between the products offered for sale.

Mandatory Findings:

c). That an exception from the specific plan is necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other property within the specific plan area in the same zone and vicinity but which, because of special circumstances and practical difficulties or unnecessary hardships is denied to the property in question.

This finding establishes that the exception is necessary to bring the property owner into parity with other properties in the same zone and vicinity. Conversely, California Government Code §65906 specifies that the exception cannot grant a special privilege:

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“Any variance granted shall be subject to such conditions as will assume that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.”

This finding identifies both the Hollywood Home Depot store immediately west of the subject site and the Food 4 Less grocery store east of the Project site as examples of national retailers with more on-site parking than currently allowed under the Specific Plan [Note: the City does not quantify the number of parking spaces at either Home Depot or Food 4 Less, thereby rendering the claim irrelevant]. Yet the finding also admits that both retail operations were constructed before enactment of SNAP. Both stores also were constructed prior to the opening of the Metro Red Line subway.

The Specific Plan, enacted in 2001, changed the zoning laws for both the subject site and the underlying property for Home Depot and Food 4 Less. To state that a project developed under old zoning laws possesses a right not shared by the subject site distorts the intent of the mandatory finding, i.e. that an exception is necessary for the preservation of a right denied “because of special circumstances and practical difficulties or unnecessary hardships...to the property in question.” If in the future a new development were constructed at the Home Depot site, the new parking restriction would then apply. Target, therefore, has no basis for comparison, since SNAP specifically was enacted to place a brake on uncontrolled development such as Home Depot.

The findings also do not quantify whether all of the provided parking at the Home Depot and Food 4 Less is actually needed, or if the parking is excessive. In fact, a third of the Food 4 Less surface parking lot currently is restricted to employees of Deluxe Film Laboratories while that adjacent 24-hour operation completes a multi-year expansion, confirming the site’s surplus of parking.



Food 4 Less parking lot section restricted to Deluxe Film Laboratories employees (lab seen in b.g.).

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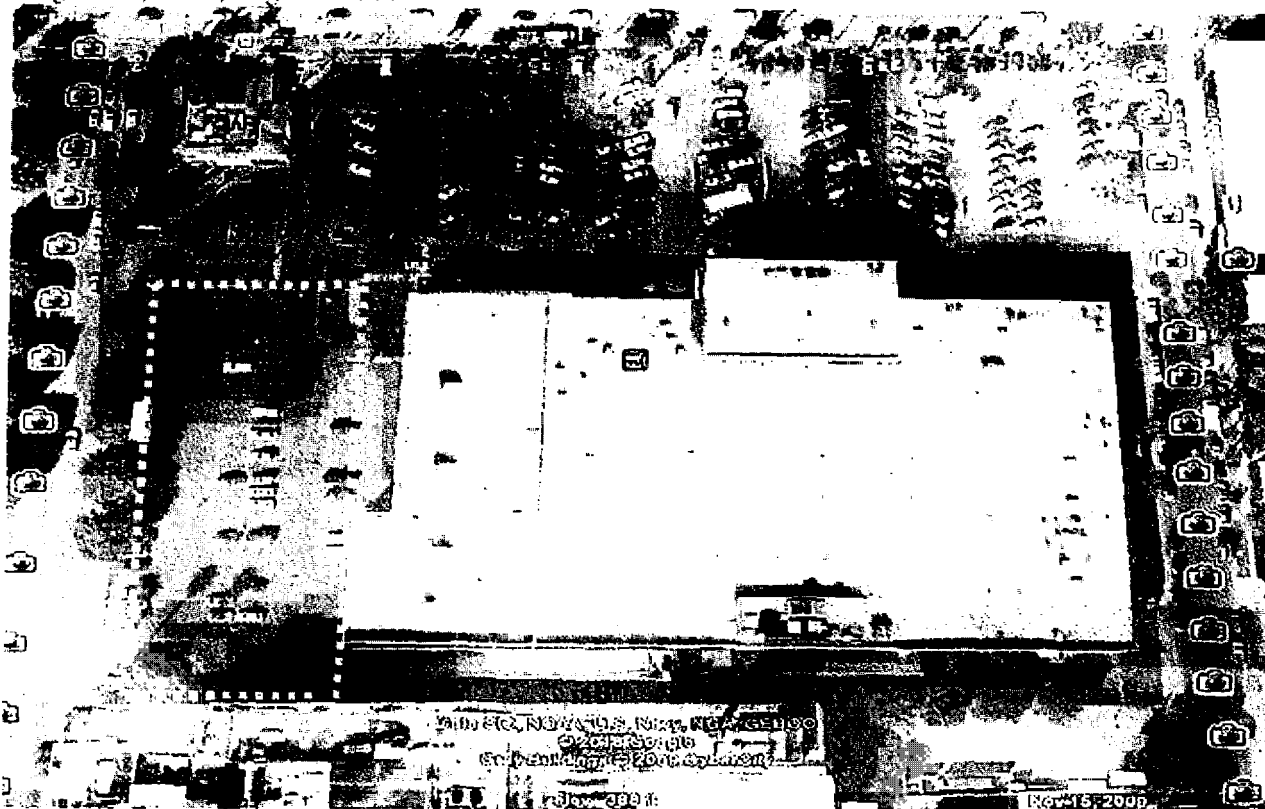


Photo showing Food 4 Less site and Deluxe parking area at left (lab seen at lower edge of photo).

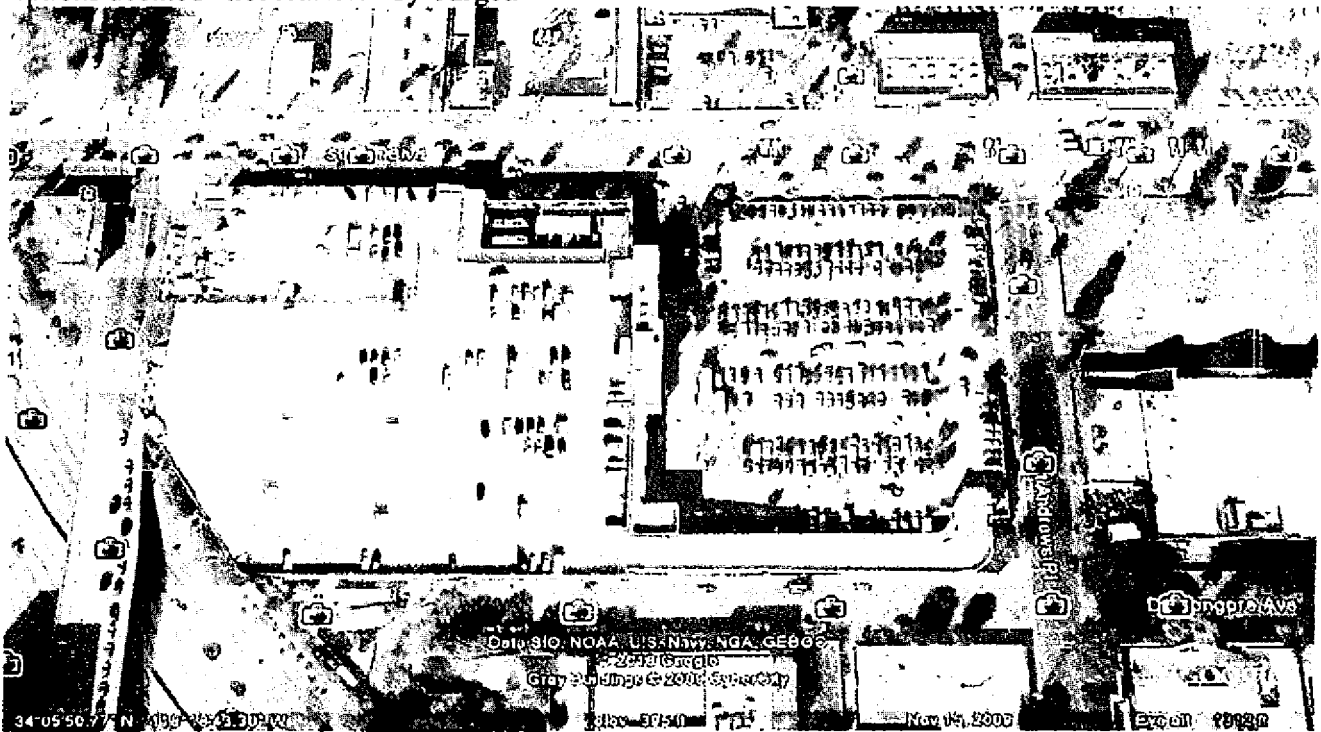


Parking area at Food 4 Less site restricted for Deluxe Lab employees.

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It should also be noted that national retailer Home Depot has roof top parking at its Hollywood site, while national retailer Food 4 Less has subterranean parking on its Hollywood lot -- two parking options deemed "not feasible" by Target.



Aerial view of Home Depot store located immediately west of the subject site. Note that extensive rooftop parking is largely unused while smaller, grade-level parking lot is full.



Note spectacular scenic vistas of the Hollywood Hills at a height only 30 feet 8 inches above grade.

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Mandatory Findings:

- d). The granting of the exception will not be detrimental to the public welfare and injurious to property or improvements adjacent to or in the vicinity of the subject property.

For this finding, the Recommendation Report omits a line from the City's 2010 findings that argued that many of the Project's customers will not use public transportation and would drive to the store. The finding in 2010 previously stated: *"As such it can be expected that the use will attract customers from a wide area, many of whom do not have access to, or use public transportation options as found in the Specific Plan Area."* The finding now has a typo where this comment was deleted. The Report now states that many people *"do not have access to convenient transportation...As a result, some Target customers would drive to the store and require parking."* The Report then claims that additional parking will *"result in patrons not parking off-site on...adjacent residential neighborhoods."*

Encouraging increased vehicle trips and decreased public transit use will endanger the public welfare by increasing car and truck traffic within a wide radius of the project site. Since Target is refusing to mitigate (or even acknowledge) this additional traffic, neighborhood impacts will be significant. The granting of an exception for increased parking will therefore create dangerous traffic conditions for area residents.

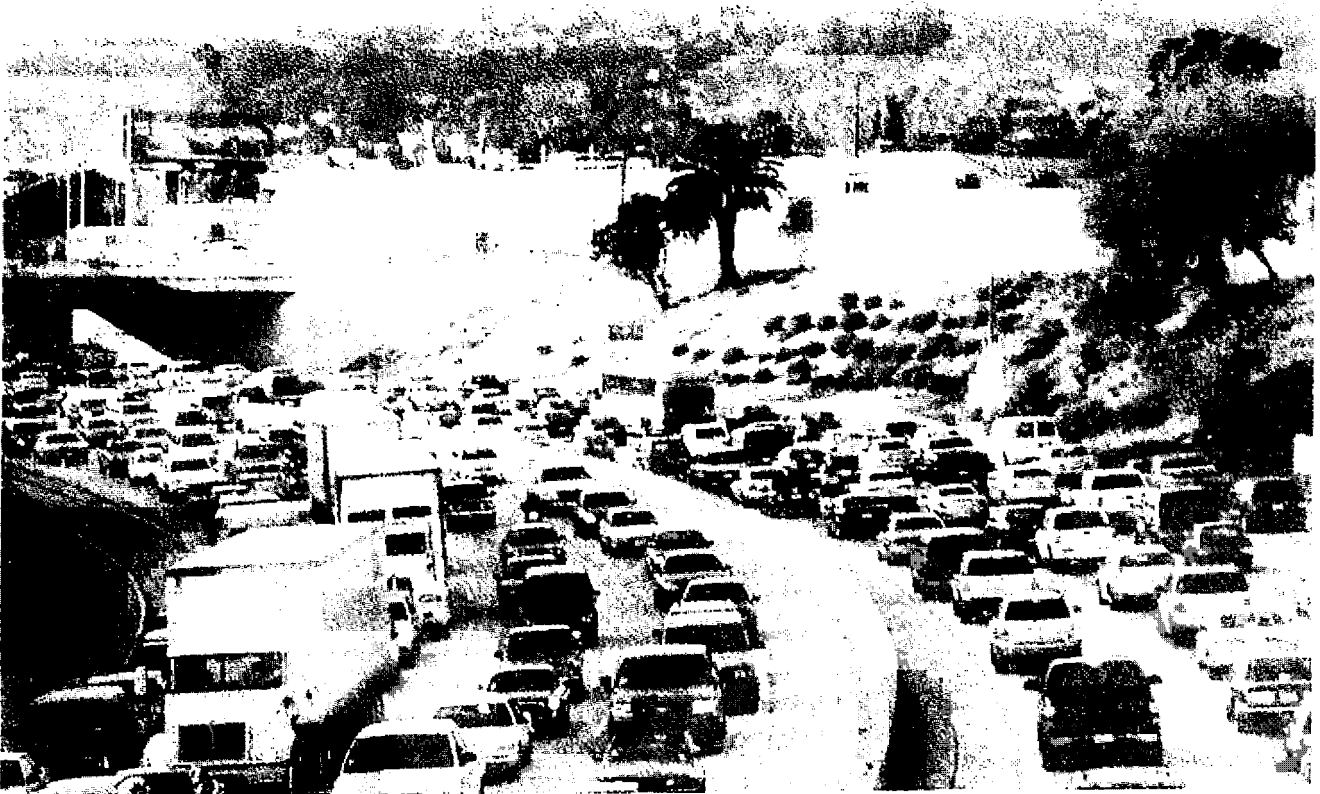
This issue is particularly relevant since the subject lot is located in close proximity to the 101 Freeway, and our community is a cut-through route frequently used to avoid the heavy traffic congestion on Western Ave. and Santa Monica Blvd. The *Draft EIR* identified two intersections that would be significantly impacted by the Project: Western Ave. and Fountain Ave., and Western Ave. and Santa Monica Blvd. These intersections define the northern and southern boundaries of our community. No mitigation is proposed by Target to lessen impacts at these intersections, or to the residential streets connected to them.



Southbound traffic on Western Ave. at NB 101 Freeway on-ramp

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101 Freeway at Western Ave., showing existing vehicle congestion. La Mirada Avenue is at upper right.



Northbound traffic on Western Ave. at NB 101 Freeway on-ramp, showing block-long line of idling cars waiting to turn left onto on-ramp.

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Note Nu-Metrics Traffic Analyzer Studies conducted on March 20, 2008 for six blocks east of Western Ave. that connect to Fountain Ave., and three blocks running parallel to Fountain Ave:

Street	Between	Traffic Volumes	#s Vehicles by direction
Serrano Ave., 1100 block	Virginia Ave. and Santa Monica Blvd.	3,528	1,950 Northbound; 1,578 Southbound
Hobart Blvd., 1400 block	Sunset Blvd. and De Longpre Ave.	3,352	1,586 NB 1,766 SB
Hobart Blvd., 1100 block	Lexington Ave. and Virginia Ave.	2,922	1,356 NB 1,566 SB
Hobart Blvd., 1200 block	La Mirada Ave. and Fountain Ave.	2,526	1,317 NB 1,209 SB
Kingsley Dr., 1100 block	Virginia Ave. and Lexington Ave.	1,510	620 NB 890 SB
Kingsley Dr., 1200 block	Lexington Ave. and Fountain Ave.	1,368	647 NB 721 SB
La Mirada Ave., 5400 block	Western Ave. and Serrano Ave.	1,623	1,117 Westbound; 506 Eastbound
La Mirada Ave., 5300 block	Serrano Ave. and Hobart Blvd.	774	357 WB 417 EB
Lexington Ave, 5300 block	Serrano Ave. and Hobart Blvd.	385	169 WB 216 EB

Note from the chart that vehicle counts steadily increase in relation to the street's proximity to Western Ave. Note also that northbound traffic counts for Hobart Blvd. at Virginia Ave. near Santa Monica Blvd. are almost the same as the number of cars counted traveling north on Hobart Blvd. at Fountain Ave. -- 1,356 cars counted at Virginia Ave. vs. 1,317 cars at Fountain Ave. This similarity in northbound vehicle totals is repeated on Kingsley Dr., where 620 cars were counted traveling north at Virginia Ave., and 647 cars were counted traveling northbound at Fountain Ave.

Such data clearly indicates that these streets are prime cut-through routes, especially since the concurrent perpendicular street counts are extremely low (almost one-tenth in the case of Lexington Ave. at Serrano Ave.) -- with the exception of the 5400 block of La Mirada Ave., which is used as a diversion route to avoid the congestion of Western Ave. and to access the North Bound 101 Freeway on-ramp. The evidence clearly shows that Serrano Ave., Hobart Blvd., Kingsley Dr. and La Mirada Ave. are cut-through routes. Detrimental traffic impacts to this neighborhood as a result of Target providing extra parking for "customers from a wide area" will be significant.

Mandatory Findings:

- e). That the granting of an exception will be consistent with the principles, intent and goals of the specific plan and any applicable element of the general plan.

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The name of the Specific Plan is the "Vermont/Western **Transit Oriented District**." The Plan explicitly states that it was created to "achieve maximum benefit from the subway stations," and that its purpose is to "create a transit friendly area." Nowhere does the Specific Plan state, as claimed by the City in this Recommendation Report, that one of its major goals is to "*provide for a viable and successful commercial core*," and that increased parking is somehow "*necessary to provide convenience*" for shoppers.

The Recommendation Report also states in this finding that: "*A similar project outside the Specific Plan area would require 1 parking space per 250 square feet for a total of 780 spaces.*" The City does not identify what area they are referencing as outside the confines of the Specific Plan, since the Hollywood Redevelopment Plan matches the parking requirements for SNAP, and Enterprise Zones in all of Hollywood and many dense, urban areas within the City of Los Angeles also have greatly reduced parking standards.

Therefore, per California State Law and the Los Angeles Municipal Code, there is no merit to the findings for increased parking

Exceptions from Section 9.1 of the Specific Plan and Section V of Development Standards.

Target has requested approval of five exceptions from the Specific Plan Development Standards and Design Guidelines (hereinafter "Development Standards"), requiring 25 separate findings. Yet the City groups together four of the five exceptions under the common heading "Building Design."

There is no provision in the Code allowing the City to make such generalized group findings, and the public should not have to guess how to piece together this jigsaw puzzle. The City instead has the burden of showing that it has satisfied all of the elements required for the approval of an exception to the Specific Plan. Tustin Heights Assoc. v. Orange County (1959) 170 Cal.App.2d 619. Failure to prove any of the matters required by the zoning ordinance must result in a denial of the exception applications. Minney v Azusa (1958) 164 Cal.App.2d 12.

Here, neither the Applicant nor the City even remotely approached the required showings. Therefore, on this foundational question the application should be denied. See, e.g., Moss v Board of Zoning Adjustment (1968) 262 Cal.App.2d 1, 3, holding that a determination of the existence of all of the facts essential to making the necessary findings must precede any grant of a variance. Case law and the Los Angeles Municipal Code act as a limitation upon the power to grant exceptions. Accordingly, each of the numerous requests should be denied on this ground.

The five requested exceptions from the Development Standards are:

- An Exception allowing the applicant to be exempt from the requirement that all roof lines in excess of 40 feet be broken up through the use of gables, dormers, cut-outs or other means;
- An Exception to allow relief from the requirement that the second floor of the development be set back a minimum of ten feet from the first floor frontage;

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- An Exception to allow entrance canopies and balconies within 15 feet of the property line to exceed the maximum permitted height of 30 feet;
- An Exception from the requirement that transparent building elements occupy a minimum 50% of the ground floor facade;
- An Exception to allow store deliveries between the hours of 5 AM and 12 AM Monday – Sunday, in lieu of the requirement that deliveries shall occur no earlier than 7AM and no later than 8PM, Monday through Friday, and no earlier than 10AM and no later than 4PM Saturdays and Sundays.

The Report's findings largely repeat the arguments stated previously, claiming that the Project will *"provide new pedestrian and transit friendly uses"* that will *"promote an attractive streetscape;"* that *"newer developments consist of contemporary materials and colors similar to those proposed by the project"* (without identifying where these newer developments are and what the color scheme has to do with the exception); that the *"project's design incorporates roof lines that highlight its modern, contemporary form"* (presumably for the exception from the requirement to break up all roof lines, without detailing why contemporary roofs can't vary in form); that *"an exception is necessary to address changing design vernaculars that were not anticipated at the time the SNAP was adopted"* (without explaining what the word "vernacular" is supposed to convey, since it is most commonly used to describe ordinary homes as opposed to large commercial buildings); to *"provide a clean and safe shopping environment for the residents within the SNAP area"* (without stating why lower canopies or a more transparent building would be less clean and unsafe); that *"the project would provide new employment opportunities...that will benefit residents"* (implying that conforming to the Code will create unemployment); and *"the project incorporates façade treatments ...and the use of colors and materials to provide a pleasing design".*

Seeking *"to provide a pleasing design"* is a subjective determination and cannot be construed a hardship. Yet the Applicant and City have focused on this hardship claim, stating that requirements of the Specific Plan, if enforced, *"would counteract the project's design statement,"* would prevent a *"unique and well designed project,"* and would result in practical difficulties that may end up *"substantially reducing the size of the project."* No evidence or example has ever been offered to support these claims, and all such "hardships" are limitations knowingly self-imposed by the Applicant in his design of the Project. The Applicant's requested exceptions are therefore without merit.

As stated by the Court of Appeal in Orinda Association v. Board of Supervisors of Contra Costa:

"[D]ata focusing on the qualities of the property and Project for which the variance is sought, the desirability of the proposed development, the attractiveness of its design, the benefits to the community, or the economic difficulties of developing the property in conformance with the zoning regulations, lack legal significance and are simply irrelevant to the controlling issue of whether strict application of zoning rules would prevent the would-be developer from utilizing his or her property to the same extent as other property owners in the same zoning district." Orinda Association v. Board of Supervisors of Contra Costa (1986) 182 Cal.App.3d 1145, 1166. (emphasis added)

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The procedure for allowing an Exception from the Development Standards has six required findings in addition to the findings required under LAMC Section 11.5.7.F.2. Key among them, and most relevant to the subject requests, are findings #2 and #4, requiring that *“the Project, as a consequence of the modification or Exception, will not result in any additional vehicle trip generation, parking, density, building mass, height or bulk,”* and *“the Project as modified will be in proper relation to adjacent uses or to the development of the community.”* Clearly, reducing and eliminating stepback requirements, as requested by the Applicant, will increase the building’s mass and bulk, as will an exemption from the requirement to break up roof lines and reduce transparent building elements.

Constructing a project over twice the allowed height obviously also runs directly counter to the required findings, and its approval would create a building counter to adjacent uses and the development of East Hollywood.

The Recommendation Report’s findings regarding building design also make a series of false claims, including: *“Existing sidewalks would be modified and widened to provide a lively streetscape that includes...street trees”* The existing Sunset Blvd. sidewalk width is 15 feet. While this width would remain the same under the Project, Western Avenue’s 20-foot-wide sidewalks would be reduced in width to 15 feet. The historic Canary Date Palm trees lining Sunset Blvd. would also be removed. These trees, which date to approximately 1915, are an integral part of Sunset Boulevard’s aesthetic, and there is no reason to destroy them.

The Recommendation Report also inaccurately states: *“The access ramp was designed along St. Andrews Place because this street is minimally traveled by pedestrian (sic) and vehicles...”* This claim conflicts with the fact that the main entrance to the Hollywood Home Depot is on St. Andrews Pl., and that hundreds of day laborers congregate there daily seeking work. In comments submitted to the Draft EIR, counsel for Home Depot stated in written objections that Target failed to properly analyze the Project’s construction and operational traffic/circulation impacts, concluding: *“there is no doubt that significant congestion will occur at the intersection of St. Andrews Place and Sunset Blvd.”*

The Recommendation Report also erroneously states: *“the SNAP offers flexible application and interpretation of the Guidelines through the evaluation to each project and the Exception process.”* This comment reflects a fundamental misunderstanding of what is required under State law, established case law, and the Los Angeles Municipal Code for an exception to be granted. As stated under Section 11.5.7.F.1(a) of the LA Municipal Code:

“An exception from a specific plan shall not be used to grant a special privilege, nor to grant relief from self-imposed hardships.”

LAMC Section 18.01 defines the word “shall” as “mandatory,” reflecting the dictate of our courts. “The terms ‘shall,’ ‘must,’ and ‘all’ are ordinarily used in ‘laws, regulations or directives to express what is mandatory.’ This is particularly so where to construe it otherwise would render it ineffective and meaningless.” Rosenfield v. Superior Court (1983) 143 Cal.App.3d 198, 202. The “Legislature knew the difference between the discretionary ‘may’ and the mandatory ‘shall,’ and intended them to have such different meanings.” Decker v. U.D. Registry, Inc. (2003) 105 Cal.App.4th 1382, 1389.

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Hours of Operation. Subarea C, Guideline 19 of the Vermont/Western Transit Oriented Specific Plan states:

Commercial Only Project. Parking lot cleaning and sweeping, trash collections and deliveries to or from a building shall occur no earlier than 7AM and no later than 8PM, Monday through Friday, and no earlier than 10AM and no later than 4 PM on Saturdays and Sundays.

Mandatory Findings:

a). The strict application of the policies, standards and regulations of the specific plan to the subject property will result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the zoning regulations.

In justifying an exception from the Development Standards to allow Target to receive deliveries between 5AM and Midnight 7 days a week, the Recommendation Report states that the relief is necessary "*due to site constraints.*" However, the finding doesn't describe what the constraints are, and instead makes general comments about making "*products available to serve the community's needs,*" and that "*such deliveries would not necessarily pose an immediate impact to adjacent properties...*" Nowhere does the finding describe how the strict application of SNAP's restricted hours of operation would result in practical difficulties or unnecessary hardships.

Mandatory Findings:

b). That there are exceptional circumstances or conditions applicable to the subject property involved or to the intended use or development of the subject property that do not apply generally to other property in the specific plan area.

The Recommendation Report's justification for this finding is actually the Report's previous finding for the Applicant's requested exception from the SNAP requirement to provide free delivery, stating "*Most of the properties in the SNAP are smaller lots owned individually and would likely be developed with smaller retail uses that would not require free delivery.*" Apparently, no one bothered to check the Applicant's submitted findings for mistakes. This finding is therefore irrelevant, and the requested exception must be denied.

Mandatory Findings:

c). That an exception from the specific plan is necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other property within the specific plan area in the same zone and vicinity but which, because of special circumstances and practical difficulties or unnecessary hardships is denied to the property in question.

This finding makes a general statement about "*other businesses in the immediate area that likely have earlier and later delivery hours than prescribed by the SNAP.*" The finding states that the Food 4 Less store operates 24-hours a day, and that "*grocery stores typically have early morning deliveries...*"

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Again, no evidence is provided to support this statement, although the comment is irrelevant since the Food-4-Less site was developed 41 years ago, or 30 years before the passage of the SNAP in 2001. A similar comment is made in the finding about the Home Depot store, which likewise doesn't conform to SNAP because it opened 5 years prior to passage of the ordinance. The finding also refers to "*large hospital facilities in the area (that) likely have early and late deliveries similar to that requested by Target.*"

Hospitals and Medical Centers are regulated under their own Development Standards within SNAP and do not have any restrictions on their hours of operation. To our knowledge, Target is not proposing to include a hospital in the Project.

Mandatory Findings:

d). The granting of the exception will not be detrimental to the public welfare and injurious to property or improvements adjacent to or in the vicinity of the subject property.

The Recommendation Report states for this finding that: "*The expansion of delivery hours is reflective of the business operations anticipated for this project and would not apply to other projects in the area.*" The finding provides no explanation, however, why expanded delivery hours wouldn't be sought by other commercial projects if the exception were granted to Target. The finding also states: "*In addition, restaurant or food uses may require the flexibility of deliveries...to occur after business hours.*" The implication from this statement is that a food establishment will occupy the perimeter retail space located on the ground floor of the Project, but Target has never provided a list of such future tenants or possible tenants, so such speculation is irrelevant to the immediate request.

The finding concludes by claiming "*the project is located along two major commercial corridors and is not immediately adjacent to uses that might be sensitive to noise commonly associated with truck deliveries, trash collections or parking lot clearing.*" This statement is patently false.

Target proposes to locate its loading docks at its parking entrance on De Lonpre Ave., across the street from the Assistance League's Children's Learning Center and Theatre for Children, and directly across from the Assistance League's parking facilities. Although the *Draft EIR* describes the loading docks as "off street and internal to the project site," the configuration will require large container delivery trucks to use the public street to maneuver and back into the parking structure. In addition, the *Draft EIR* states that the delivery trucks will exit the Project by heading west on De Longpre Avenue, and then turn north along St. Andrews Pl. to Sunset Blvd. This route would create the highest opportunity for a collision involving a pedestrian or passenger vehicle. The same potential for accidental impacts applies to off-hours trash collection.

Mandatory Findings:

e). That the granting of an exception will be consistent with the principles, intent and goals of the specific plan and any applicable element of the general plan.

This finding states that "allowing some deliveries to occur outside the permitted hours" will "create a safer environment." As noted above, deliveries made outside normal business hours, especially at night, can be lethal to residents and visitors to the community. Target has shown no justification for the request other than to seek a special privilege inconsistent with the SNAP.

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B. THE APPLICANT HAS OFFERED NO EVIDENCE FOR PUBLIC CONVENIENCE AND NECESSITY TO JUSTIFY ITS REQUEST FOR BEER AND WINE SALES.

The Project site is located in Census Tract 1909.01. The California Department of Alcoholic Beverage Control ("ABC") permits three licenses for the sale of beer and wine for off-site consumption in this Census Tract and three licenses already exist: Tom's Market, 1114 St. Andrews Place, ABC Type 20 license; Tony's Liquor, 5707 Santa Monica Blvd., Type 21 license; Four Acres Market, 1111 N. Western Ave., Type 20. This Census Tract therefore would have an undue concentration if any more alcohol licenses were permitted.

Across Sunset Blvd. from the Project site is Census Tract 1905.1, which also is permitted to have three licenses for the sale of beer and wine for off-site consumption. This Census Tract is also full, with Walgreen's at 5451 Sunset Blvd., Type 20; CVS Pharmacy at 5500 Hollywood Blvd., Type 21; and a liquor store at 5566 Hollywood Blvd., Type 21.

Across Western Ave. from the Project site is Census Tract 1911.1. This Census Tract is also full in regards to its permitted number of alcohol licenses, with Food 4 Less at 5420 Sunset Blvd., Type 21; Fountain Market at 5203 Fountain Ave., Type 21; and Bill's Liquor at 5332 Sunset Blvd., Type 21.

The area surrounding the proposed Project is therefore saturated with venues selling alcohol. The ABC and City Planning Dept. recently denied a request for a Type 20 license for a 7/11 store at Sunset Blvd. and St. Andrews Pl., across from the Target site, due to the existing concentration of alcohol licenses.

The Target site is located in LAPD Crime Reporting District 668. RD 668 had a total of 475 Part I and Part II crimes and arrests in the year 2010, with a high level of narcotics arrests and public drunkenness, and the highest number of gambling arrests. Los Angeles' 1,135 Reporting Districts reported 266,457 offenses and arrests for 2010, an average of 235 crimes and arrests per Reporting District. The Project's Reporting District therefore had a 2010 crime rate over 200% above the citywide average.

The Target site is also immediately across from both the Children's Learning Center and the Theatre for Children, both operated by the Assistance League of Southern California. A Federal parole facility located in the 5500 block of Harold Way near St. Andrews Pl. is within 500 feet of the Target site; the Covenant House, a facility for at-risk youths, is also within 500 feet at the corner of Western Ave. and Fernwood Ave., as is a homeless shelter operated by People Assisting the Homeless on Fernwood Ave. near De Longpre Ave. The proposed Project is also within 1,000 feet of other sensitive uses, including Grant Elementary School and Helen Bernstein High School.

State law regulates the issuance of alcohol licenses. Under the California Business and Professions Code, the ABC shall deny an application for an alcohol license for the following reasons, unless a determination is made that the license is necessary for public convenience and necessity:

- The premises are located within 1,000 feet of schools and playgrounds, or located in the immediate vicinity of churches and hospitals;

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- The premises are located in a crime-reporting district that has a 20 percent greater number of reported crimes than the citywide average;
- The granting of the license would exceed the number of permitted alcohol licenses for the area, resulting in an undue concentration of alcohol permits;
- The premises are located within 100 feet of a residence, as measured by airline at the parking lot.

The Applicant has shown no justification for its CUB request for beer and wine sales. The Applicant has instead provided irrelevant information in the Conditional Use findings, stating "*the proposed project will provide a needed improvement to the community by replacing a deteriorated shopping center with a high quality commercial center containing a variety of retail uses.*" This statement is not only meaningless (especially since Target is responsible for the "deteriorated shopping center"), but it purposely ignores the fact that both Walgreen's and Food 4 Less are located immediately across Western Ave. from the Project site, satisfying any local need for public convenience and necessity. The findings also avoid admitting that Target's request, if granted, would result in an undue concentration of existing permits.

Target's CUB findings provide no justification whatsoever for creating an undue concentration of alcohol licenses in the Census Tract, within an area with a crime rate significantly exceeding the citywide average, and located adjacent to numerous extremely sensitive uses. This is especially relevant since Target has taken a clean, quality commercial center containing a variety of retail uses and purposely turned it into a deteriorated mess.

C. THE PROJECT'S ENVIRONMENTAL IMPACT REPORT IS AN INADEQUATE ENVIRONMENTAL DOCUMENT AND SHOULD NOT BE CERTIFIED.

1. The Applicant has provided no legal justification for omitting the Hollywood Central Park from the EIR's List of Related Projects.

Under the California Environmental Quality Act, an environmental review must discuss significant cumulative impacts to which a project contributes an incremental amount. (Guidelines, § 15130, subd. (a).). "As defined in Section 15355, a cumulative impact consists of an impact which is created as a result of the combination of the project evaluated in the EIR together with other projects causing related impacts." (*ibid.*) "The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time." (*Id.*, § 15355, subd. (b).).

As noted in the *Draft EIR*, all proposed, recently approved, under construction, or reasonably foreseeable projects that could produce a related or cumulative impact on the local environment when considered in conjunction with the proposed project are required under CEQA to be included in this EIR. However, two key projects are notably absent from the List of Related Projects, despite being described in our comments to the Notice of Preparation. These are: the Hollywood Cap Park; and the NBC Universal Evolution Plan.

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1) **Hollywood Cap Park**

Project Description: Hollywood's Central Park is proposed over the 101 Freeway from North Bronson Avenue and Hollywood Boulevard to Santa Monica Boulevard. A mile in length, it will provide 44 acres of park space.

According to the Community Redevelopment Agency's ("CRA/LA") July 15, 2009 staff report, the "Cap Park" will include at the southeast corner of Fountain Avenue and St. Andrews Place a large plaza and baseball field, playgrounds, plaza spaces, viewing platforms, water features, picnic areas, open fields and community gardens. The CRA report also states that the project seeks to "transform a freeway corridor into a destination." The park is anticipated to generate 3,785 construction jobs. Cumulative impacts from the Target project and the adjacent Cap Park development are likely substantial. On Nov. 2, 2006, the CRA approved \$100,000 for a feasibility study (later increased to \$120,205), which was made public in November of 2008. On December 15, 2011, the CRA approved a Memorandum of Understanding with the Los Angeles Bureau of Engineering to transfer \$2 million to fund the EIR. On July 3, 2012, the Los Angeles City Council approved \$825,000 in funding for the Park.

2) **The NBC Universal Evolution Plan, Case No. ENV-2007-0254-EIR**
100 Universal Plaza.

Project Description: 2.01 million sq. ft. of commercial development. The Draft EIR was released in 2011.

The failure of the *Draft EIR* to accurately account for the cumulative impacts associated with the Hollywood Cap Park and the NBC Universal Evolution Plan is particularly glaring in light of the significant environmental impacts stemming from the concurrent introduction of so many other massive projects in the Hollywood area. "Proper cumulative impacts analysis is absolutely critical to meaningful environmental review..." Bakersfield Citizens for Local Control v. City of Bakersfield. (2004) 124 Cal.App.4th 1184, 1203, 1217.

Cumulative impacts analysis is particularly important in the urban setting. King County Farm Bureau v. City of Hanford, supra, 221 Cal.App.3d at 720 ("absent meaningful cumulative analysis, there would never be any awareness or control over the speed and manner of downtown development. Without that control, 'piecemeal development would inevitably cause havoc in virtually every aspect of the urban environment'") citing San Franciscans for Reasonable Growth v. City and County of San Francisco (1984) 151 Cal.App.3d 61. See also Los Angeles Unified School Dist. v. City of Los Angeles (1997) 58 Cal.App.4th 1019, 1025 (a project's impacts can assume "threatening dimensions...when considered in light of the other sources with which they interact").

"The requirement for a cumulative impact analysis must be interpreted so as to afford the fullest protection of the environment within the reasonable scope of the statutory and regulatory language." Citizens to Preserve the Ojai v. County of Ventura (1985) 176 Cal.App.3d 421, 431-432.

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If it is "reasonable and practical" to include other projects in a project's cumulative impacts analysis, then the lead agency is required to do so." San Franciscans For Reasonable Growth v. City and County of San Francisco, *supra*, 151 App.3d at 77. "The Guidelines explain that a discussion of cumulative effects should encompass 'past, present, and *reasonably anticipated future projects*.'" Laurel Heights Improvement Assn. v. Regents of University of California (1988) 47 Cal.3d 376, 394; citing Guidelines § 15130 (b)(1)(A); italics in original.

For example, Citizens Assn., *supra*, 172 Cal.App.3d 151, explicitly states that while projects "currently under environmental review unequivocally qualify as probable future projects to be considered in a cumulative analysis...even projects anticipated beyond the near future should be analyzed for their cumulative effect." *Id.* at 168.

A project that is under environmental review is a "reasonably foreseeable probable future project" within the meaning of the Guidelines. (Guidelines, § 15355, subd. (b).). This is because once review is begun, a significant investment of time, money and planning has probably occurred. Thus, once environmental review commences, the project is probable rather than merely possible. Friends of the Eel River v. Sonoma County Water Agency, 108 Cal.App.4th at p. 870; San Franciscans for Reasonable Growth v. City and County of San Francisco, *supra*, 151 Cal.App3d at pp. 74-75

It is an abuse of discretion to fail to include projects under environmental review if the omission will cause the severity and significance of the impacts to be gravely understated. San Franciscans for Reasonable Growth v. City and County of San Francisco, *supra*, 151 Cal.App3d at pp. 77-78

"*Proper cumulative impacts analysis is absolutely critical to meaningful environmental review...*" Bakersfield Citizens for Local Control v. City of Bakersfield (2004) 124 Cal.App.4th 1217. "[Q]uestions concerning...cumulative impacts constitute important issues of broad public interest that are likely to reoccur." (*Id.* at 1184, 1203).

Therefore, the Project EIR must include proper analysis of all related projects.

At the Project's July 9, 2012 Hearing Officer hearing, comments were made on behalf of our neighborhood association regarding the developer's unjustified exclusion of the Hollywood Central Park in the *Draft EIR's* List of Related Projects. The Hollywood Central Park, also referred to as the "Cap Park," would cover a 44-acre segment of the 101 Freeway located within one block of the Target site. The park is anticipated to generate 3,785 construction jobs, and cumulative impacts from the Target project and the adjacent Cap Park development are likely substantial.

Speaking in response for the Applicant, counsel from the firm Armbruster, Goldsmith & Delvac LLP dismissed the feasibility of the proposed Cap Park, characterizing it as "unreasonable," and "speculation." Such comments, however, have no basis under the California Environmental Quality Act ("CEQA").

As stated during the 7/9/12 hearing, on July 3, 2012 the Los Angeles City Council approved \$825,000 in funding for the Hollywood Central Park. This follows \$2 million in funding approved on December 15, 2011 by the Board of the Los Angeles Community Redevelopment Agency ("CRA"). Funding by the CRA for feasibility studies of the 44-acre park first began in 2006.

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Political support for the proposed Hollywood Central Park is extensive, as is its list of corporate sponsors. Of particular note is the support of attorney William Delvac, pictured at the 2012 "For Love of Hollywood" fundraising gala for the park. Mr. Delvac is a principal partner in Armbruster, Goldsmith & Delvac LLP, whose firm represents the Applicant (photos submitted in a July 19, 2012 letter to Hearing Officer Blake Lamb).

If it is "reasonable and practical" to include other projects in a project's cumulative impacts analysis, then the lead agency is required to do so." San Franciscans For Reasonable Growth v. City and County of San Francisco, *supra*, 151.App.3d at 77. "The Guidelines explain that a discussion of cumulative effects should encompass 'past, present, and *reasonably anticipated future projects*.'" Laurel Heights Improvement Assn. v. Regents of University of California (1988) 47 Cal.3d 376, 394; citing Guidelines § 15130 (b)(1)(A); italics in original.

For example, Citizens to Preserve the Ojai v. County of Ventura (1985) 176 Cal.App.3d 421, 431-432. explicitly states that while projects "currently under environmental review unequivocally qualify as probable future projects to be considered in a cumulative analysis...even projects anticipated beyond the near future should be analyzed for their cumulative effect." *Id.* at 168.

"Proper cumulative impacts analysis is absolutely critical to meaningful environmental review..." Bakersfield Citizens for Local Control v. City of Bakersfield (2004) 124 Cal.App.4th 1217. "[Q]uestions concerning...cumulative impacts constitute important issues of broad public interest that are likely to reoccur." (*Id.* at 1184, 1203).

There is no legal justification for the Applicant to omit the cumulative impacts associated with construction of the Hollywood Central Park, and the EIR must be amended to review it.

2. The Project's Final EIR refuses to acknowledge obvious mistakes in the Draft EIR.

Responses to comments to a Draft EIR are not allowed to be evasive, conclusory or mere excuses. Cleary v. County of Stanislaus (1981) 118 Cal.App.3d 348, 355-360. Comments from responsible experts that disclose new or conflicting data, or opinions that the agency may not have fully evaluated the project and its alternatives, may not be ignored and there must be a good faith, reasoned analysis in response. Berkeley Keep Jets over the Bay Committee v. Board of Port Commissioners of the City of Oakland (2001) 91 Cal.App.4th 1344, citing Cleary v. County of Stanislaus, *supra*.

The Project's Final EIR, however, is unfortunately often dismissive of legitimate comments, including those detailing obvious errors in the Draft EIR. As but one example, the DEIR at page III-4 references a "three-story ICDC College" east of the Project site. The ICDC facility, part of the Food 4 Less building, is not three stories. It is one story in height with below-grade parking. This information was pointed out in comments to the Draft EIR. The Final EIR, however, refused to even acknowledge this obvious fact, insisting that the building is "three stories above ground level" in an apparent attempt to provide some sort of credence for the unjustified height exception sought by the Applicant.

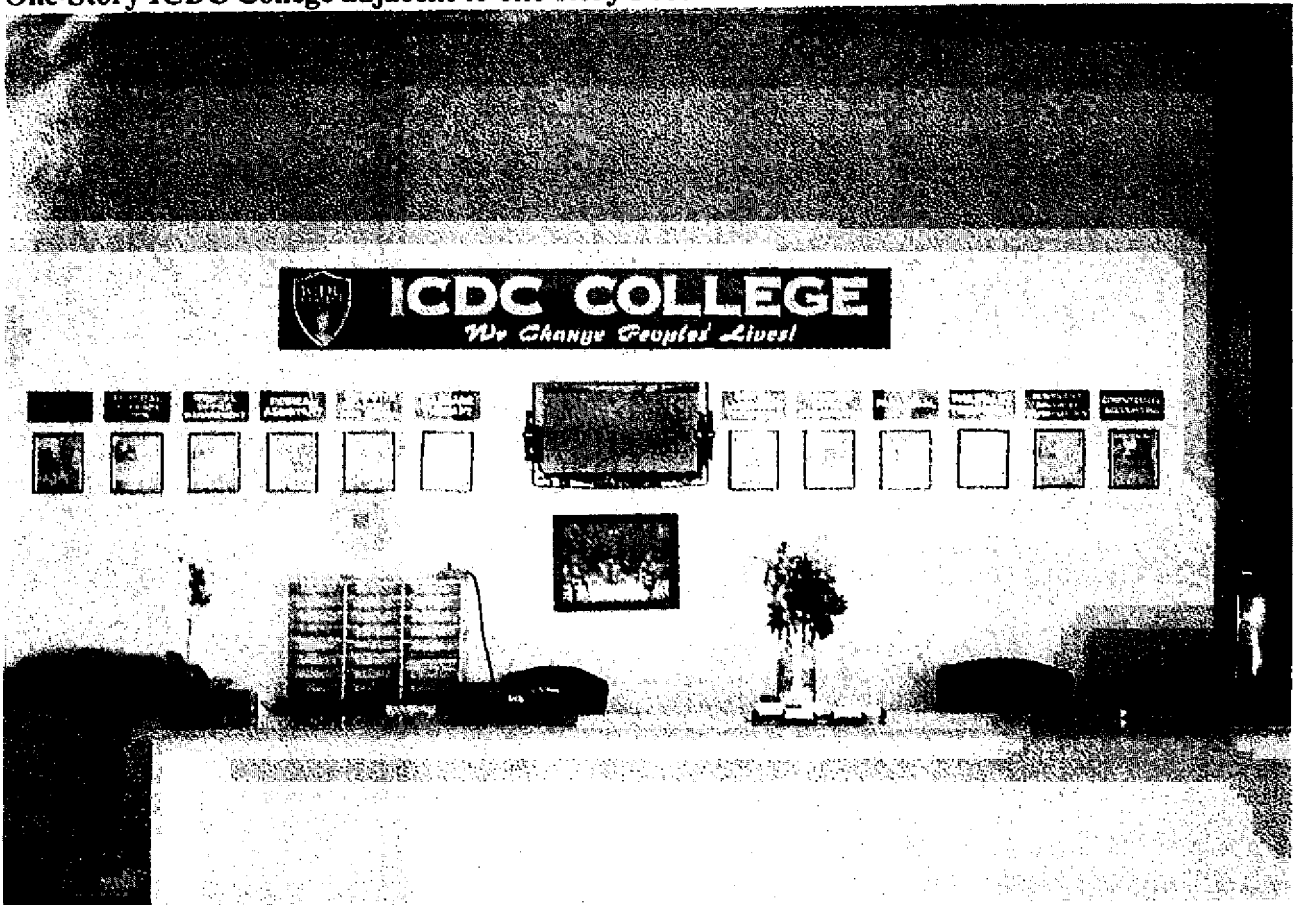
Yet the Final EIR admits in other comments that the taller Home Depot store is a "one-story" building.

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One-Story ICDC College adjacent to one-story Food 4 Less Market.



Front reception area of one-story ICDC College building.

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3. The Applicant and EIR offer inconsistent figures regarding the number of people to be employed by the proposed 163,862 sq. ft. Target store.

The Project *Draft EIR* on page II-10 states that the proposed Target “*would employ approximately 250 full and part-time employees.*” This statistic was reiterated by the Applicant’s representative at the July 9, 2012 Planning Department Hearing Officer hearing for the Project.

However, the Applicant’s November, 2010 “Application for Master Land Use Permit Application” that was submitted to the City Planning Department states on page 8 that the Project “*would employ approximately 400 full and part-time employees.*” In comments to the *Draft EIR*, our neighborhood association questioned the Applicant’s estimates for the total number of employees at this Super Target store. Instead of addressing our question, however, the Applicant distorted our analysis in an attempt to justify their request for a SNAP Exception for increased parking, which is without merit.

Spikes in parking demand during holiday shopping periods are typically resolved by establishing off-site parking locations for employees, with shuttle buses providing temporary transportation. The Glendale Galleria shopping mall uses the Los Angeles Zoo’s parking lot in Griffith Park as overflow parking for its employees during the holiday season from Thanksgiving through Christmas.

The Applicant must therefore devise similar plans and present them in a re-circulated EIR, rather than fabricate a false justification for their increased parking request. If Target believes that the square footage of their proposed store necessitates more parking spaces than is permitted under SNAP, then the proper solution is for Target to reduce the scale of their Project, rather than to request a special privilege.

4. The DEIR Alternatives Analysis omits relevant comparative information.

Alternative B, the “SNAP-Compliant Commercial Alternative,” has one level of subterranean parking and one level of ground-level parking, and inexplicitly places the first-floor of retail six feet below grade. The Applicant ignores sensible options to resolve this jimmied design, such as rooftop parking, or a reduced scale Project, and instead dismisses the Alternative as unworkable.

An EIR must focus on feasible alternatives to a proposed project. An EIR need not discuss alternatives that are “remote and speculative” and unlikely as a practical matter to be capable of implementation. Bowman v. City of Petaluma (1986) 185 Cal.App.3d 1065, 1083-1084; Save Our Residential Environment v. City of West Hollywood (1992) 9 Cal.App.4th 1745. The EIR therefore cannot purposely introduce an alternative that will only be dismissed as impractical.

Alternative D, “Reduced Project Alternative,” would be a 149,400 sq. ft. Target with subterranean parking and no perimeter retail. The height of this design would be 28.5 feet. This option, however, is also rejected by the EIR, which states that subterranean parking would create significant environmental impacts, and that the loss of perimeter retail would not meet the project goal of a “*commercial mixed-use project of shopping and dining opportunities...*” As noted earlier, the environmental issue of subterranean parking can be partially addressed by rooftop parking, and the size of the Target store can be reduced to accommodate other retail operations if it is the Applicant’s insistence on including them in the Project.

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Alternatives that would reduce the scale of the Project and provide subterranean parking were likewise rejected in the EIR without analysis. Alternative sites were not analyzed *"because the project applicant does not own or control other property within the Hollywood community ..."* (DEIR P. VI-4). Yet the 7-acre Food 4 Less site has been for sale for years (note exhibits previously submitted to the Council File), and the 4-acre former Sears site on Santa Monica Boulevard at Wilton Place, 7 blocks south of the subject lot, is vacant and readily available for occupancy.

Under the California Environmental Quality Act ("CEQA"), an EIR should consider alternate sites for private development projects. An EIR "must consider a reasonable range of alternatives to the project, or to the location of the project." Guideline Section 15126.6(f)(2). Citizens of Goleta Valley v. Board of Supervisors (1990) 52 Cal.3d 553, 574-575. The Draft EIR, however, brushes aside this option, stating on page VI-4: *"Alternate sites were not analyzed because the project applicant does not own or control other property within the Hollywood community that satisfies the objectives for the proposed project. In particular, the proposed project is a transit-oriented development located near a Metro Red Line station that would serve the Hollywood community."*

This statement belies the reality that the Food 4 Less site is equal distant to the Metro Red Line station as is the proposed Target site. Target also ignores the fact that for years the Community Redevelopment Agency had been trying to develop a multi-acreage site at the northwest corner of the intersection of Hollywood Blvd. and Western Ave. If Target's primary objective is to develop a transit-orientated development, then why did the company never pursue that potential site, located immediately across from the Metro Red Line?

The reality is that Target successfully operates a variety of store sizes in the Los Angeles basin. The West Hollywood Target at La Brea Ave. and Santa Monica Blvd. is one of it's top five retail operations in the United States, generating over \$100 million in revenue annually, even though at 137,500 sq. ft. it is 26,000 sq. ft. smaller than the proposed Hollywood Target. This leased store was designed and constructed by the J.H. Snyder Co., and is served by two levels of subterranean parking where the water table is only 15 feet deep. The Applicant has provided no explanation why a smaller West Hollywood Target with subterranean parking is so successful, while a similar store in Hollywood would not be.



All parking for West Hollywood Target store is in subterranean levels, as shown above.

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Also, Target Corp. has recently signed a long-term lease to open a "City Target" urban store of approximately 100,000 sq. ft. at the Beverly Connection shopping center located on La Cienega Blvd. in west Los Angeles between Beverly Blvd. and 3rd Street. City Target stores are designed for a smaller urban footprint, and Target is opening similarly sized stores in both Westwood and downtown.

None of the alternatives analyzed in the DEIR offer a logical combination of a smaller Target store as illustrated by the success of the West Hollywood Target or the reduced scale of a City Target, combined with additional retail uses and served by subterranean and rooftop parking. Such an alternative would comply with SNAP and significantly lessen the Project's aesthetic impacts.

D. THE SITE PLAN REVIEW DOES NOT SATISFY THE REQUIREMENTS OF LAMC SECTION 16.05.F.

As defined by LAMC Section 16.05.A, the purpose of a Site Plan Review is to "*promote orderly development, evaluate and mitigate significant environmental impacts, and promote public safety by ensuring that development projects are properly related to their sites (and) surrounding properties...*"

There are six findings required for the Project under its Site Plan Review. They are:

1. That the project complies with all applicable provisions of this Code and any applicable Specific Plan;
2. That the Project is consistent with the General Plan;
3. That the Project is consistent with any applicable Redevelopment Plan;
4. That the project consists of an arrangement of buildings and structures (including height, bulk and setbacks), off-street parking facilities, loading areas, lighting, landscaping, trash collection, and other such pertinent improvements, which is or will be compatible with existing and future development on neighboring properties;
5. That the project incorporates feasible mitigation measures, monitoring measures when necessary, or alternatives identified in the environmental review which would substantially lessen the significant environmental effects of the project, and/or any additional findings as may be required by CEQA;
6. That any project containing residential uses provides its residents with appropriate type and placement of recreational facilities and service amenities in order to improve habitability for the residents and minimize impacts on neighboring properties where appropriate.

This analysis will focus on Recommendation Report's findings numbers 1, 4 and 5.

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Site Plan Review Findings:

- 1). That the project complies with all applicable provisions of this Code and any applicable Specific Plan.**

The Recommendation Report states that the Project “*complies with many development standards of the SNAP, but requests exceptions*,” and then lists the deviations requested by the Applicant. The Report then states: “*With approval of these exceptions, the project would comply with the applicable provisions of the LAMC and the SNAP.*”

As noted previously, the purpose of a Site Plan Review is to ensure “*that development projects are properly related to their sites (and) surrounding properties.*” Approving an exception to the Code does not make a project properly related to its site and neighboring properties. The first Site Plan Review finding instead requires that the project comply with “*all*” provisions of the Code, not merely those cherry-picked by the Applicant to sugarcoat impacts related to its development.

The Recommendation Report finding further claims “*The goals of the SNAP seek to create a higher density of land uses...*” This comment is sheer nonsense. Nowhere in the Vermont/Western Transit Oriented District Specific Plan ordinance is there a statement that its goals include the densification of land uses. Instead, the primary purpose of SNAP, as expressed by Section 2.(E), is to “*guide all development, including use, location, height and density, to assure compatibility of uses...*”

The text of the Report’s finding ignores this purpose, instead quoting Specific Plan Section 2.(B), which encourages sufficient schools, parks, pools, libraries and police stations, and Section 2.(C), which seeks to establish a clean and safe pedestrian environment for residents.

The finding claims that approval of the Project “*will result in the payment of fees for schools, childcare facilities and other public services...*” This is incorrect. School funds are derived from residential development fees in order to mitigate housing impacts on school age population growth; commercial projects like Target’s do not pay any school fees. Regarding the SNAP fee for childcare facilities, Target originally attempted to weasel out of this obligation by seeking an exemption from the requirement (see *Draft EIR* p. IV.G-70), and the Recommendation Report at Condition 133 (p. C-20) still doesn’t declare whether or not Target is paying this fee. No other fees are conditioned in the Report.

The Project does not provide financing for any parks, pools, libraries or police stations, nor are any such amenities included within the development. Funding for parks comes from Quimby fees, which are assessed on residential developments, not commercial projects. Whether or not additional sales tax revenue generated by development of the proposed Target store would be redirected back within SNAP’s boundaries for public amenities like pools and police stations is speculative at best and a pipe dream in reality. Based on the fact that the entire 2.2 square mile area of SNAP contains just 1 park (Barnsdale Park, which is on top of a very tall hill and has no recreational facilities) and 1 library for its 50,000 residents, with no public pools or police stations, and that this statistic hasn’t changed since SNAP was approved in 2001, it is highly unlikely that approval of numerous Code exceptions for a Target store will alter that equation.

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The Recommendation Report also claims in the first finding that the Project will provide a clean and safe shopping environment by widening sidewalks *"to provide a lively streetscape..."* Yet, as noted previously, the Project will maintain the current 15-foot width of the Sunset Blvd. sidewalk but will significantly reduce the width of the sidewalk along Western Avenue from its current 20 feet to 15 feet. The Project will also remove the historic Canary Date Palm trees that have lined Sunset Blvd. for a century.

The Report's finding continues, stating: *"Through sensitive design, the project would be compatible with its surrounding uses."* This statement defies any logical analysis or factual support, since the Project is in fact nothing more than a massive, unarticulated box, and has been repeatedly derided as such by the architects who comprise the Hollywood Design Review Committee. Target has in fact shown no sensitivity to surrounding uses, the Specific Plan, or members of this community.

The Report's finding further claims a Floor Area Ratio ("FAR") of 1.15:1 as evidence of the Project's compatibility with surrounding uses, but this distorted figure is merely due to the LAMC not counting parking podiums in FAR calculations. If the 2-level, 225,286 sq. ft. parking structure were included, the 420,035 sq. ft. development's true FAR would be 2.5:1, or well in excess of the permitted FAR of 1.5:1 for the site.

The Recommendation Report further states that the Project complies with all Code provisions because it will: *"provide many pedestrian oriented amenities such as wide sidewalks, benches and new street trees that seek to make the neighborhood more livable and walkable"* (without explaining how reducing the width of the sidewalk makes it more walkable, or why cutting down mature trees and replacing them with saplings makes the community more livable); that *"the project would incorporate landscaping and architectural design that will promote an attractive streetscape and transit friendly development"* (without detailing how the Project's minimalist architecture and transit "friendliness" make the proposed development compliant with the strict provisions of the LAMC); and that *"these features would promote a lively retail center"* that would *"break up the massing and scale of the project"* (admitting that the Project is massive and out of scale, without explaining how a massive box makes a retail center "lively").

All such comments are superfluous, incidental to the required finding, and insulting to commonsense. The Project does not comply with the LAMC, and the finding cannot be made.

Site Plan Review Findings:

4). That the project consists of an arrangement of buildings and structures (including height, bulk and setbacks), off-street parking facilities, loading areas, lighting, landscaping, trash collection, and other such pertinent improvements, which is or will be compatible with existing and future development on neighboring properties.

The Recommendation Report repeats the same cheerful commentary in this finding employed elsewhere in the Report to avoid the Project's lack of compliance with SNAP, i.e. that the development will provide *"new wider sidewalks"* (when it will not), and that the Project will *"provide raised planters, landscaping, benches and other such amenities intended to ... facilitate the break-up of the massing and scale of the project."* There is no explanation, however, of how a street bench or raised planter can mask the Project's overwhelming massing that the numerous exceptions sought by the Applicant would create.

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More importantly, the Report acknowledges that *“mixed-use projects in the SNAP are limited to locating commercial uses on the ground floor. Therefore, while mixed-use buildings may reach a height of 75 feet, the upper stories would be 100% residential...”* Target is not building a mixed-use project. Under SNAP, it must therefore locate its retail on the ground floor, not in the clouds above two levels of parking. The Report reasons that since SNAP allows a 75-foot height for mixed-use projects in subarea C, *“the scale and massing of the project would be compatible with the scale and amassing allowed for future development that could occur along this corridor. As such, the height and bulk proposed has already been contemplated by the SNAP for this area.”*

The height and massing of the proposed Project was in fact anticipated by the writers of the Vermont/Western Transit Oriented District Specific Plan when they put in specific provisions to prevent developments like Target from occurring in SNAP. What Target is seeking instead is an abject rejection of SNAP merely for its own financial benefit.

Site Plan Review Findings:

4). That the project incorporates feasible mitigation measures, monitoring measures when necessary, or alternatives identified in the environmental review which would substantially lessen the significant environmental effects of the project, and/or any additional findings as may be required by CEQA.

The *Draft EIR* acknowledges permanent and significant impacts resulting from the Project to Traffic, Aesthetics, Air Quality and Noise. Traffic impacts include impacts to neighborhood street segments that are inadequately assessed for mitigation by the EIR. Other potential impacts are glossed over in the *Draft EIR*, which omits relevant related projects in order to skew the analysis.

The Project’s *Draft EIR* characterizes many environmental effects that will be caused by the Project as “insignificant,” “less than significant impact,” or “no impact,” such that few or no serious mitigation measures are allegedly necessary. Many such determinations in the *Draft EIR* are unsupported by facts, or premised on incorrect facts, or utterly lacking of any true analysis of the facts, or consisting of a superficial “analysis” which for the most part simply assumes its conclusion.

Our community will be significantly and permanently impacted by approval and implementation of the Project, and therefore this finding for the Site Plan Review should be rejected.

IV. CONCLUSION

The proposed Project would set a dangerous precedent for this community. It would tower above the quiet, low-rise historic neighborhoods surrounding Sunset Blvd. that the Specific Plan was created to protect. It would further burden our overwhelmed infrastructure with increased traffic loads absent appropriate neighborhood traffic mitigation. And it would encourage other developers to seek numerous exceptions from the area’s SNAP regulations.

The extensive discretionary requests sought for the Target development are completely without merit and any hardship is entirely self-imposed. The Recommendation Report’s findings are legally inadequate.

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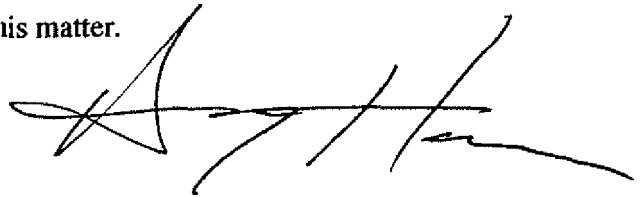
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The applicant leased the property fully aware of the area's zoning restrictions and height limitations and has made no effort at community hearings to claim a legal hardship or justify any of the discretionary approval requests. Instead, the Applicant has excelled at proclaiming that the proposed Project is what the Target Corporation intends to construct, no matter what the community says to the contrary.

The EIR is seriously deficient and does not comply with CEQA. Meaningful environmental concerns are papered over or ignored; vague and general mitigation measures are assumed, without facts or real analysis, to sufficiently overcome significant negative environmental effects; "facts" are repeatedly asserted for which the record contains no evidence; and numerous obligations imposed by CEQA are not met

As residents of an established neighborhood of mostly historic, single-family homes, the members of the La Mirada Ave. Neighborhood Association ask that the Central Area Planning Commission recognize the negative impacts associated with this and similar projects inconsistent with our community's land use and planning, and vote to deny the Project.

Thank you for your time and consideration of this matter.

A handwritten signature in black ink, appearing to read 'Doug Haines', with a long horizontal stroke extending to the right.

Doug Haines, for the
La Mirada Avenue Neighborhood Association

EXHIBIT 6

March 4, 2012

VIA PERSONAL DELIVERY

Doug Haines
La Mirada Avenue Neighborhood Association
P.O. Box 93596
Los Angeles, CA 90093-0596

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MAR 05 2012

**ENVIRONMENTAL
UNIT**

Mr. Hadar Plafkin, Environmental Review Coordinator
Los Angeles City Planning Department
200 N. Spring Street, Room 750
Los Angeles, CA 90012

RE: Objections to the Draft *Environmental Impact Report* for "Target Retail Shopping Center Project." ENV-2008-1421-EIR; located at 5520 Sunset Blvd., Hollywood.

Dear Mr. Plafkin:

I. INTRODUCTION

I am writing this letter on behalf of the La Mirada Avenue Neighborhood Association of Hollywood.

The La Mirada Avenue Neighborhood Association includes residents, business owners, and property owners who live and work within the immediate vicinity of a proposed "Target" retail development at 5520 Sunset Blvd. in Hollywood. The members of our neighborhood association will be directly impacted by development and operation of the project, and by the extensive and significant zoning precedents that will be established if it is approved as requested by the applicant. With due respect, the La Mirada Avenue Neighborhood Association opposes the currently proposed project.

If constructed as described on page I-3 of the Draft *Environmental Impact Report* ("DEIR"), "Proposed Project," the development's extensive exceptions from the Vermont/Western Transit Oriented District Specific Plan ("SNAP") would allow the construction, use and maintenance of a structure more than 84 feet in height in SNAP Sub Area "C" (35-foot height limit), with 194,749 sq. ft. of retail development and two levels of 225,286 sq. ft. of above-grade parking spaces totaling 458 stalls. The net lot area is 160,678 sq. ft. The primary component of the project would be a 163,862 sq. ft. Target retail store on the its third level, with 30,887 sq. ft. of unidentified retail at ground level (hereinafter the "Project"). The applicant is Target Corporation ("Applicant").

The Applicant's significant discretionary requests are extensive and precedent setting. Not only is the Project as proposed inconsistent with the requirements and guidelines of the Vermont/Western Transit Oriented District Area Specific Plan, but if implemented the Project would cause significant and permanent adverse environmental impacts to the surrounding neighborhood that are largely glossed over in the DEIR's analysis.

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The Project as proposed is oversized, poorly conceived, inappropriate for its location and inconsistent with both the Specific Plan and proper land use and planning. The Project as proposed would further set a precedent in changes to this area's established SNAP limitations, which would likely set in motion a domino effect where other property owners seek similar entitlements to copy its vastly increased height, massing, and boxy, unarticulated design. Future development along this low-scale area of east Hollywood could therefore potentially follow the entitlement trail blazed by the proposed Project, gutting the carefully crafted restrictions of SNAP. This is a goal expressed previously at public hearings in testimony by representatives of Council District 13, and is not merely the opinion of the letter writer.

Furthermore, rather than being a factual document as required under the California Environmental Quality Act ("CEQA"), the Project's DEIR is instead riddled with inaccuracies, ambiguities and omissions; goals and policies of Los Angeles' applicable zoning regulations are cherry picked and blatantly self-serving; key information is conspicuously absent from the required analysis; and comments raised in letters submitted in response to the Notice of Preparation are ignored. As such, the DEIR is woefully remiss in its directive to provide "*adequacy, completeness, and a good faith effort at full disclosure.*"

Accordingly, the La Mirada Avenue Neighborhood Association respectfully submits the following objections to the Project and its Draft *Environmental Impact Report*.

II. ERRORS, OMISSIONS AND INACCURCIES

Page II-1 describes the Project site as "currently not occupied." The site has in fact been occupied for the past year by a Fallas clothing store, which leased the former CVS/Pharmacy building at the eastern end of the complex soon after that tenant relocated. A Halloween-themed store also rented the former Farm Fresh Ranch Market building in October of 2011. The parking lot has also been rented as a truck staging area.

Additionally, as seen in Figure III-1 in the DEIR, a sign atop the former Farm Fresh Ranch Market site prominently advertises the premises as "For Lease."



A Fallas clothing store has occupied the subject site for the past year.

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Page II-1 describes "Surrounding Land Uses" that are north, east and west of the subject location, but fails to describe uses located south of the Project site. These uses include: the 2-story offices and teaching facilities of the Assistance League of Southern California; single-family homes and apartment buildings; the historic U.S Post Office building on Western Avenue at De Longpre Avenue; and the Covenant House, a shelter for at-risk youths.



Immediately south of Target site: Two-story office of non-profit Assistance League of Southern California at De Longpre Avenue and St. Andrews Place.

Page II-8 states under the heading "Design and Architectural Features" that *"the design has undergone extensive voluntary review through the Hollywood Design Review Committee...and the Hollywood Studio District Neighborhood Committee (sic)."*

The DEIR fails to acknowledge that both the Hollywood Design Review Committee and the Hollywood Studio District Neighborhood Council have rejected the proposed Project. (The Neighborhood Council voted at its February 13, 2012 Board meeting to support the Project only if all parking is contained in a subterranean garage).

Page II-10, under the heading "Access and Parking," states that the Hollywood Freeway (US-101) is *"located less than one half mile east of the project site."* The 101 Freeway is located west of the Project site. This error is repeated on page III-1.

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Page II-10 also states that the proposed Project “*would employ approximately 250 full and part-time employees.*” Yet the Target store located within the West Hollywood Gateway Retail Project at Santa Monica Blvd. and La Brea Ave. -- which at 137,795 sq. ft. is over 26,000 sq. ft. smaller than the proposed Target store at Sunset and Western -- is described in promotional material as having 800 “Full Hire” jobs. Since inadequate employee parking availability would severely impact the surrounding community, especially during peak holiday shopping periods, the DEIR must provide a more accurate breakdown of employment forecasts and alternative parking plans.

Page II-11, under the heading “Open Space and Landscaping,” states that the Ficus trees on Western Ave. would be removed with implementation of the Project. However, no mention is made of the historic Canary Island Date Palm trees (*Phoenix Canariensis*) lining the site’s frontage on Sunset Blvd. These trees, which date from approximately 1915, were previously slated for removal when the Project initially received City approval in 2010. Since these mature Palm trees are an important contributor to historic Sunset Blvd., their possible removal needs to be addressed in the EIR. (This matter is also listed on page II-14 under “Discretionary Actions and Approvals”).

Page III-4 references a “*three-story ICDC College*” to the southeast of the Project site. The ICDC facility, part of the Food 4 Less building, is not three stories. It is one story in height with below grade parking. The DEIR also describes the Assistance League building south of the Project site as three stories when it is two stories in height (the DEIR on page IV.B.1-13 correctly describes the Assistance League buildings as “one- and two-stories high”).

The DEIR on page III-4 also incorrectly describes the Home Depot store west of the Project site as having “*an attached above grade parking structure.*” This building has rooftop parking, which is accessed via an attached ramp.

Page III-10 provides an incomplete List of Related Projects. Our January 13, 2011 letter in response to the DEIR Notice of Preparation (“NOP”) noted dozens of relevant projects missing from the Initial Study, resulting in a defective baseline in that document that skewed the cumulative analysis to favor the Project.

Under the California Environmental Quality Act, an environmental review must discuss significant cumulative impacts to which a project contributes an incremental amount. (Guidelines, § 15130, subd. (a).). “As defined in Section 15355, a cumulative impact consists of an impact which is created as a result of the combination of the project evaluated in the EIR together with other projects causing related impacts.” (*ibid.*) “The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.” (Id., § 15355, subd. (b).).

As noted in the DEIR, all proposed, recently approved, under construction, or reasonably foreseeable projects that could produce a related or cumulative impact on the local environment when considered in conjunction with the proposed project are required under CEQA to be included in this EIR. However, two key projects are notably absent from the List of Related Projects, despite being described in our comments to the NOP. These are: the Hollywood Cap Park; and the NBC Universal Evolution Plan.

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1) **Hollywood Cap Park**

Project Description: Hollywood's Central Park is proposed over the 101 Freeway from North Bronson Avenue and Hollywood Boulevard to Santa Monica Boulevard. A mile in length, it will provide 44 acres of park space.

According to the Community Redevelopment Agency's ("CRA/LA") July 15, 2009 staff report, the "Cap Park" will include at the southeast corner of Fountain Avenue and St. Andrews Place a large plaza and baseball field, playgrounds, plaza spaces, viewing platforms, water features, picnic areas, open fields and community gardens. The CRA report also states that the project seeks to "transform a freeway corridor into a destination." The park is anticipated to generate 3,785 construction jobs. Cumulative impacts from the Target project and the adjacent Cap Park development are likely substantial. On Nov. 2, 2006, the CRA approved \$100,000 for a feasibility study (later increased to \$120,205), which was made public in November of 2008. On December 15, 2011, the CRA approved a Memorandum of Understanding with the Los Angeles Bureau of Engineering to transfer \$2 million to fund the EIR.

2) **The NBC Universal Evolution Plan, Case No. ENV-2007-0254-EIR
 100 Universal Plaza.**

Project Description: 2,937 residential units with 2.01 million sq. ft. of commercial development. The Draft EIR was released in 2011.

The failure of the Draft EIR to accurately account for the cumulative impacts associated with the Hollywood Cap Park and the NBC Universal Evolution Plan is particularly glaring in light of the significant environmental impacts stemming from the concurrent introduction of so many other massive projects in the Hollywood area. "Proper cumulative impacts analysis is absolutely critical to meaningful environmental review..." Bakersfield Citizens for Local Control v. City of Bakersfield. (2004) 124 Cal.App.4th 1184, 1203, 1217.

Cumulative impacts analysis is particularly important in the urban setting. King County Farm Bureau v. City of Hanford, supra, 221 Cal.App.3d at 720 ("absent meaningful cumulative analysis, there would never be any awareness or control over the speed and manner of downtown development. Without that control, 'piecemeal development would inevitably cause havoc in virtually every aspect of the urban environment'") citing San Franciscans for Reasonable Growth v. City and County of San Francisco (1984) 151 Cal.App3d 61. See also Los Angeles Unified School Dist. v. City of Los Angeles (1997) 58 Cal.App.4th 1019, 1025 (a project's impacts can assume "threatening dimensions...when considered in light of the other sources with which they interact").

"The requirement for a cumulative impact analysis must be interpreted so as to afford the fullest protection of the environment within the reasonable scope of the statutory and regulatory language." Citizens to Preserve the Ojai v. County of Ventura (1985) 176 Cal.App.3d 421, 431-432.

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If it is "reasonable and practical" to include other projects in a project's cumulative impacts analysis, then the lead agency is required to do so." San Franciscans For Reasonable Growth v. City and County of San Francisco, *supra*, 151.App.3d at 77. "The Guidelines explain that a discussion of cumulative effects should encompass 'past, present, and *reasonably anticipated future projects*.'" Laurel Heights Improvement Assn. v. Regents of University of California (1988) 47 Cal.3d 376, 394; citing Guidelines § 15130 (b)(1)(A); italics in original.

For example, Citizens Assn., *supra*, 172 Cal.App.3d 151, explicitly states that while projects "currently under environmental review unequivocally qualify as probable future projects to be considered in a cumulative analysis...even projects anticipated beyond the near future should be analyzed for their cumulative effect." *Id.* at 168.

A project that is under environmental review is a "reasonably foreseeable probable future project" within the meaning of the Guidelines. (Guidelines, § 15355, subd. (b).). This is because once review is begun, a significant investment of time, money and planning has probably occurred. Thus, once environmental review commences, the project is probable rather than merely possible. Friends of the Eel River v. Sonoma County Water Agency, 108 Cal.App.4th at p. 870; San Franciscans for Reasonable Growth v. City and County of San Francisco, *supra*, 151 Cal.App.3d at pp. 74-75

It is an abuse of discretion to fail to include projects under environmental review if the omission will cause the severity and significance of the impacts to be gravely understated. San Franciscans for Reasonable Growth v. City and County of San Francisco, *supra*, 151 Cal.App.3d at pp. 77-78

"Proper cumulative impacts analysis is absolutely critical to meaningful environmental review..." Bakersfield Citizens for Local Control v. City of Bakersfield (2004) 124 Cal.App.4th 1217. "[Q]uestions concerning...cumulative impacts constitute important issues of broad public interest that are likely to reoccur." (*Id.* at 1184, 1203).

Therefore, the Project EIR must include proper analysis of all related projects, including the Hollywood Cap Park and the NBC Universal Evolution Plan.

Page IV.B.1-2 states that the ICDC College is three stories in height. As noted earlier, it is a one-story building.

Page IV.B.1-8 describes the commercial buildings on the site as "vacant." As noted earlier, a Fallas clothing store occupies the site, and a "For Lease" sign advertises the remaining spaces.

Page IV.B.1-11 states "*there are no designated State or local scenic highways adjacent to the project site or in the project area.*" Historic Route 66 follows Santa Monica Blvd. through Hollywood.

Page IV.B.1-12 claims under the heading "Existing Viewsheds": "*the existing urban development prevents the availability of expansive scenic views of the Hollywood Hills around the project site.*" This is incorrect. As noted in our 1/13/11 NOP comment letter, spectacular views of the Hollywood Hills are available throughout the area and would be permanently blocked by the Project.

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Existing scenic vistas of Hollywood Hills and Griffith Park Observatory from sidewalk in front of 5528 Fernwood Ave., 1-block south of Target site. Note Assistance League parking lot and rear of existing buildings on Project site.



Spectacular views of Hollywood Hills as seen from second floor public area at Covenant House building on Fernwood Ave., one block south of Project site. Existing panoramic views of Hollywood Hills would be permanently blocked by construction of Target store.

The Draft EIR also omits any reference to the Griffith Park Observatory. This famed landmark is an important element of the Hollywood Hills viewshed, and must be discussed in the EIR

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Page IV.B.1-13 states that there currently are no expansive views through the project site to scenic or visual resources. This comment neglects the multi-acreage parking lot as a viewing location of the Hollywood Hills. Note photo below:



Immediately north of the Target site: Note views of the Hollywood Hills and Griffith Park Observatory in the background.

Page IV.B.1-18 provides a bullet-pointed list of design elements that it credits as reducing the impacts of the Project's massing. However, as noted earlier, the Hollywood Design Review committee -- which is comprised of professional architects and reviews all major Hollywood development within Council District 13 -- has rejected the Target design for being essentially a massive box. As of the date of this comment letter, Target has refused to consider changes to its design in response to this committee.

Page IV.B.1-19 states that construction of the proposed Project would require the demolition of "*all existing trees and landscaping, as well as portions of sidewalks and other areas.*" However, as noted earlier, the DEIR does not clarify if this involves removal of the historic Date Palm trees lining Sunset Blvd. If the Applicant repeats its request for the removal of these nearly 100-year-old trees, the DEIR must analyze the cultural/historic impacts.

Page IV.B.1-26 omits any reference to the Griffith Park Observatory when listing significant views. As noted earlier, the Observatory must be included in any analysis of impacts to views and view corridors. The DEIR also claims that views from second floor windows of the Covenant House (located south of the Project site) are limited. Note photo on page 7 of this letter showing spectacular vistas of Hollywood Hills as taken from the second floor of Covenant House.

Page IV.B.1-30 states that there "*are no view resources located to the southwest and therefore such view blockage would not be significant.*" Note photo on page 7 of this letter showing clear views south of the Project site.

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Pages IV.C-33 to 35 omit the Hollywood Cap Park and NBC Universal Evolution Plan from the Related Project Trip Generation Summary. These major projects need to be included.

Page IV.G-2 claims erroneously that the development at the northeast corner of Sunset Blvd. and Western Ave. is *"90 feet in height."* This is grossly inaccurate. The residential component of this 5-story, 56-unit Walgreens/mixed-use affordable housing development has a maximum height of 65 feet (See 7/29/03 APCC Determination Letter page C-1, Condition of Approval - B-5, Height: *"The height of all buildings and structures on the subject property shall not exceed 65 feet..."*).

Page IV.G-2 also lists the height of the Home Depot store as *"approximately 60 feet."* This is also grossly inaccurate. As pointed out in our 1/13/11 comment letter to the NOP, the Home Depot store measures **30 feet, 8 inches** in height from the lowest natural grade on De Longpre Ave. to the roofline, or half the height listed in the DEIR (Note surveyor's report attached at **Exhibit 1**). The DEIR cannot simply make wild guesses regarding a building's height with no factual evidence of support.

Page IV.G-21, under the heading "Parking Requirements," states: *"one parking space is required for every 1,000 sq. ft. of commercial."* This is incorrect. The DEIR references Los Angeles Municipal Code ("LAMC") Section 12.21(A)(4)(i), but this provision relates to parking downtown and is not applicable. The correct LAMC section is 12.21(A)(4)(x)(3)(2), requiring two parking spaces per 1,000 sq. ft. Parking for the Project is controlled under SNAP Section 9E.

Page IV.G-24 states under the heading "Project Characteristics" that the Project site is "vacant." As previously noted, this is incorrect.

Page IV.G-25, under the heading "Design and Architectural Features," describes the proposed Project as *"a convenient, pedestrian friendly shopping center..."* The main occupant of the site, the Target store, would be located on the third level above two stories of parking. The Project cannot therefore be accurately described as convenient for pedestrian access, who must climb three levels.

Page IV.G-26 erroneously states that the Project would *"provide an overall FAR of approximately 1.15:1, which is compatible with surrounding low-rise buildings in the area..."* This statement lacks factual analysis and is clearly the opinion of the writer. The almost 90-foot-tall Project is not compatible with low-rise buildings, and is claiming a Floor Area Ratio of 1.15:1 only because under the LAMC parking facilities are not included in FAR calculations. If the Project's 225,286 sq. ft. of above-grade parking were included in determining the actual floor area (DEIR p. IV.K.2-10), the overall FAR would be 2.61:1.

The DEIR further states that the Project is *"similar in design and use to many of the surrounding commercial uses, would be a more appropriate design for an urban area compared to the previous suburban-style shopping center and would represent an improvement in appearance and usefulness of the project site compared to the previous use. As the proposed project would include similar uses to those of the surrounding area and be consistent with the design of surrounding development, no significant impacts would result from the proposed project with regard to land use functional compatibility."* This statement is the opinion of the writer, has no basis in fact, and is countered by the Project's rejection by the professional architects who comprise the Hollywood Design Review committee. The conclusion of that committee was that the Project's design in no manner integrates with the surrounding community.

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Page IV.G-28 states that the Project site is “approximately 1,000 feet” from the Metro subway stop at the intersection of Hollywood Blvd. and Western Ave. As pointed out in our 1/13/11 comment letter to the NOP, the Project site is in fact 1,402 feet from the subway street entrance, or 40% greater in distance than the estimate in the DEIR. (Note: Our measurement with a rolling footage counter started from the southwest corner of the intersection of Sunset Blvd. and Western Ave. to the southern edge of the street-level perimeter of the Metro Hollywood/Western subway entrance). The DEIR’s guess of 1,000 feet from the Project site to the Metro stop is repeated throughout the document. Like the wildly inaccurate estimates of surrounding building heights, such off-the-cuff estimates have no place in an EIR.

Page IV.G-28 also claims that the Project’s proximity to the Metro stop “would provide a broad geographic range in which employees could locate without requiring long vehicle commutes.” This comment is sheer speculation, and no evidence is provided to support the claim that employees will use the Metro subway to work at Target. No studies of other low-wage employers in the Project area are presented to substantiate such claims.

Page IV.G-29 states: “A typical Target store of the size proposed would require 656-820 spaces. But a significantly lowered parking ratio than is usually required by Target is being proposed in order to promote pedestrian uses and transit uses – thereby reducing vehicle trips” No evidence is presented to support the claim that a typical Target requires up to 820 parking spaces. SNAP allows a maximum of 386 parking spaces on the site, which is consistent with the LAMC requirement of 2 parking spaces per 1,000 sq. ft. of commercial space. Target is requesting an exception from this restriction to allow 458 parking stalls, or an additional 72 parking spaces. Target is therefore requesting more parking than the Code permits. How then is seeking additional parking somehow geared to reducing vehicle trips?”

This specious argument is repeated on page IV.G-30.

Page IV.G-30 cites a 2030 population estimate for the Hollywood Community Plan Area of 249,000 persons, 115,000 housing units, and 130,000 jobs. These figures are taken from the Draft EIR for the Hollywood Community Plan Update, and have been acknowledged as grossly inaccurate in the Update’s Final EIR. Year 2010 Census figures show a significant and consistent population decline in Hollywood over the previous two decades, with a 2010 population of 198,228 residents. Hollywood lost over 15,000 residents between 1990 and 2010 (See Plan Update Final EIR p. 3-3).

Page IV.G-34, under the heading “Enable prosperity for all People,” states: “The proposed project would provide a substantial amount of employment opportunities, and thus, would be consistent with the Compass Growth Vision principle to enable prosperity for all people.” This conclusion ignores the loss of jobs by employees of the site’s previous retail tenants. The primary occupant of the proposed Project, Target Corp., is a minimum wage, non-union employer with a large contingent of part-time employees. The former main tenant of the site, the Farm Fresh Ranch Market, was a union employer offering primarily full-time jobs. Grocery workers in California who belong to the United Food and Commercial Workers union earn an average hourly pay of \$15.41 (Source: LA Times, 3/3/12 Business Section, “Wal-Mart’s New Push in Groceries”). By eliminating such living wage jobs, the proposed minimum wage Target store has therefore reduced prosperity prospects for area residents, not increased it. Also, since the proposed Target would include food sales, union wage positions at nearby grocery chains may also be impacted. None of this is analyzed in the DEIR.

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Page IV.G-42 states that the Project site is 1,000 feet from the Metro subway stop at Hollywood and Western. As noted previously, the correct distance is 1,402 feet.

Page IV.G-44 states under its review of Policy LU.3.1: *"The sidewalks surrounding the project site will maintain their current width of approximately 10 feet..."* The site's existing sidewalks are not 10 feet wide. The sidewalk fronting the Project site at Sunset Blvd. is currently 15 feet wide and the sidewalk along Western Ave. is 20 feet wide. The Applicant has previously stated that all sidewalks would be 15 feet wide. Is the Applicant now reducing the sidewalk width to 10 feet?

Page IV.G-45 states under its review of Policy LU.3.9 that the Project would *"incorporate new street trees adjacent to the project site..."* As noted previously, does the Applicant intend to remove the historic Palm trees on Sunset Blvd.?

Page IV.G-52 states under its review of Policy M.1.4 that traffic signal controllers will be upgraded at four intersections where the Project would otherwise result in significant traffic impacts. However, the intersection of Fountain Ave. and Western Ave. (identified in the DEIR as significantly impacted by the Project) is not one of the intersections listed for upgrade. Why not?

Page IV.G-52 also erroneously states under its review of Policy M.1.6 that *"all significant traffic impacts will be reduced to a level of less than significant."* This is incorrect. The DEIR Traffic Analysis at page IV.C-58 identifies two intersections where the Project will result in significant impacts that cannot be mitigated: Santa Monica Blvd. and Western Ave. and Fountain Ave. and Western Ave. These two intersections define the La Mirada neighborhood.

Page IV.G-53 states under its review of Policy M.1.15, which is a policy seeking to facilitate the movement of emergency vehicles, that *"all significant traffic impacts will be reduced to a level of less than significant, thereby maintaining the current movement of traffic."* As noted above, this statement is incorrect. The DEIR acknowledges that the Project will create significant impacts that cannot be mitigated at the intersections of Santa Monica Blvd. and Western Ave. and Fountain Ave. and Western Ave., resulting in gridlock conditions on Western Ave. The LAFD station responsible for the La Mirada neighborhood is Station 52, located at 4957 Melrose Ave. near Western Ave. This station's primary access route for our community is via Western Ave. Gridlock conditions on Western Ave. would therefore result in a significant delay in response times that cannot be mitigated by using sirens or driving in opposing lanes, since those lanes would be full.

Page IV.G-54 states under its review of Policy M.1.89 that *"no significant neighborhood impacts would occur as a result of traffic generated by the proposed project."* This is incorrect. The DEIR traffic analysis on page IV.C-60 identifies a significant neighborhood traffic impact on St. Andrews Place north of Fountain Ave., and concludes that the mitigation measure of a speed hump *"would not be feasible to implement and the impact at this location would be significant and unavoidable."* NOTE: Due to the City's fiscal crisis, DOT funding for speed humps has been eliminated.

Page IV.G-59 states that the proposed Project is consistent with City policies to break up building massing. The Project is in fact requesting a number of exceptions from the SNAP guidelines created to specifically address massing, and is therefore inconsistent with such policies.

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Page IV.G-62 cites the city goal of preservation of mature trees. As noted earlier, the DEIR does not explain the Applicant's intent for the historic Palm trees lining Sunset Blvd.

Page IV.G-68 claims consistency with Goal 515 of the Hollywood Redevelopment Plan that, among other points, requires that the height of a building be limited by the applicable ordinances and regulations. The Project is not consistent with this goal as it does not comply with "all applicable design standards."

Pages IV.G-70 to 78 regard the Project's consistency with the requirements of SNAP. The DEIR prefaces this review with a statement that the Project complies with the ordinance "*to the greatest extent possible*," and that the requested exceptions are "*minor deviations*." A number of the requested exceptions would in fact eliminate the requirements altogether, and therefore cannot be accurately characterized as "minor." Furthermore, no evidence is cited in the record to support the claim that Target has complied "*to the greatest extent possible*."

Page IV.G-70 omits any reference to an option within the childcare requirement in SNAP Section 6G-4 for a cash payment in lieu of providing the floor area necessitated by Section 6G-1. Target Corp. made \$65 billion in revenue in 2011, and therefore has the resources to afford such payments to benefit its employees. The exception request is therefore unjustified.

Page IV.G-71 states that Target "*typically carries products that do not require deliveries because the products are generally small in size*." No evidence is presented to support this claim. In contrast to this statement, Target's advertising places a heavy emphasis on bulky consumer electronics items such as televisions and associated products. The EIR must provide a breakdown of store product sales to support such claims. Otherwise, such statements are mere guesses.

Page IV.G-71 omits mention of the Applicant's requested exception to permit a zero-foot setback above the roofline for an additional 10 feet of vertical elements. Also, regarding the Project's height, on Page IV.G-72 the DEIR references the Walgreen's mixed-use development at the NE corner of the intersection of Sunset Blvd. and Western Ave. as support for buildings over 75 feet in height. As noted previously, this development had a maximum height for its affordable housing component of 65 feet.

Page IV.G-72 omits any reference to the Applicant's requested exception to exceed the maximum allowed number of parking spaces by 72 stalls. The Project's parking is not consistent with SNAP.

III. ENVIRONMENTAL OBJECTIONS

A. The analysis of additional police protection requirements contains inaccurate statistics and offers an inadequate comparative analysis.

The DEIR's discussion of the potential impacts of the proposed Project on police protection services is fatally flawed. The DEIR analysis utilizes the wrong statistics, ignores proper academic standards of review, and credits a two-year-old phone interview with one LAPD officer as the criteria for policy decisions while disregarding the proper LAPD personnel for information and commentary.

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The DEIR on page IV.J.1-1 states that the Project site is located in Reporting District ("RD") 669. This is incorrect. The Project site is located within RD 668 (See **Exhibit 2**). Furthermore, the DEIR describes the Hollywood Community Police Station's boundaries as: Sunset Blvd. to the north, Santa Monica Blvd. to the south, Western Avenue to the west, and Normandie Ave. to the east. These boundaries exclude the Project site, and are actually the boundaries for RD669 and RD659. The correct borders for the Hollywood Community Police Station's service area are: Normandie Ave. to the east, West Hollywood to the west, Mulholland Dr. to the north, and Beverly Blvd. to the south. The station currently has 314 sworn officers for a population of 300,000 people, or one officer per 955 persons.

The DEIR states that there is no official standard that governs the ratio of LAPD officers per residential population, and cites a January 11, 2010 phone interview with a Sergeant Morales of the LAPD Community Crime Liaison Unit as the basis for this position. This interview would have been conducted almost a year prior to the Project's December 6, 2010 Notice of Preparation. Such comments therefore have questionable relevancy to the Project.

The Los Angeles Department of City Planning utilizes the National Association of City Managers and Police Department standard of four officers per 1,000 residents to determine the adequate level of deployment of police officers in Los Angeles (See Hollywood Community Plan Update Draft EIR p. 4.3-11). Under this national standard, the Hollywood Community Police Station would require approximately 1,200 officers, or 886 more officers than currently serving the area, to provide adequate protection for the station's 300,000 residents.

Attached at **Exhibit 2** are year 2010 Los Angeles Police Department Crimes and Arrests by Reporting District figures for the Hollywood area, covering Reporting Districts 600 through 699. These statistics are available to the City Planning Department as the "ABC runs," and are provided to applicants of liquor licenses and other Conditional Use Permit requests. Such detailed information should therefore have been made available to the Project, and should not have been suppressed from the DEIR.

The Project is located in Reporting District 668. RD 668 had a total of 475 Part I and Part II crimes and arrests in the year 2010, with a high level of narcotics arrests and public drunkenness, and the highest number of gambling arrests. Los Angeles' 1,135 Reporting Districts reported 266,457 offenses and arrests for 2010, an average of 235 crimes and arrests per Reporting District. The Project's Reporting District therefore had a 2010 crime rate over 200% above the citywide average.

If the Project's Reporting District currently has a crime rate exceeding 200% above the citywide average, and the existing police force is short by 886 officers, impacts of the Project are therefore potentially significant. This is the official position of the LAPD as expressed in a June 2, 2008 comment letter submitted to the Project's Initial Study. As stated by Lieutenant Douglas Miller of the Office of the Chief of Police: "*A project of this size would have a significant impact on police services in the Hollywood Area*" (see **Exhibit 3**). Since the proposed Project is now larger than what was originally proposed in 2008, the Lieutenant's comments are even more relevant.

Utilizing accepted national standards, cumulative impacts to police services and the Project's impact to the officer-to-resident ratio would require a new or expanded police station. No funding is currently available for the city to comply with such needs. Project impacts would therefore be significant.

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B. Approval of the Project would result in significant impacts to Land Use and Planning.

The applicant's discretionary requests are both extensive and precedent setting. The Project as proposed is inconsistent with the requirements and guidelines of the Vermont/Western Transit Oriented District Area Specific Plan, and if developed would create adverse environmental impacts to the surrounding neighborhood that are significant, permanent and without mitigation. Section 11.5.7.F.2 of the Los Angeles Municipal Code ("LAMC") requires that a Specific Plan exception be supported by written findings of all of the following:

- a) That strict application of the regulations of the specific plan would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the specific plan;
- b) That there are exceptional circumstances or conditions applicable to the subject property involved or to the intended use or development of the subject property that do not apply generally to other property in the specific plan area;
- c) That an exception from the specific plan is necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other property within the specific plan area in the same zone and vicinity but which, because of special circumstances and practical difficulties or unnecessary hardships is denied to the property in question;
- d) That the granting of an exception will not be materially detrimental to the public welfare or injurious to the property or improvements adjacent to or in the vicinity of the subject property;
- e) That the granting of an exception will be consistent with the principles, intent and goals of the specific plan and any applicable element of the general plan.

California law requires that an exception from a zoning ordinance must show that the applicant would suffer practical difficulties and unnecessary hardships in the absence of the variance, that these hardships result from special circumstances relating to the property that are not shared by other properties in the area, and that the exception is necessary to bring the applicant into parity with other property owners in the same zone and vicinity. Specific findings for granting a variation from the Zoning Code are required under Section 65906 of the California Government Code, which states:

"Variances from the terms of the zoning ordinances shall be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classifications."

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“Any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.”

Section 11.5.7.F.1(a) of the LA Municipal Code further defines this rigid standard:

“An exception from a specific plan shall not be used to grant a special privilege, nor to grant relief from self-imposed hardships.”

The first required finding for an exception from the requirements of the Specific Plan, that the strict application of the regulations of the Specific Plan would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the Specific Plan, is evaluated based on whether the property can be put to effective use without the exception.

The subject site is a rectangular-shaped lot covering an entire city block totaling approximately 3.69 net acres after dedications. Current structures on the site are all one-story in height and include a vacated CVS Pharmacy now occupied by a Fallas clothing store and a former Farm Fresh Ranch Market. The subject site is located in subarea C of the Vermont/Western Transit Oriented District Specific Plan, which limits the building height of commercial-only projects to a maximum 35 feet. The underlying zoning is C2-1. The site was first developed in 1916 as the original location of the Fox movie studios, later known as 20th Century Fox, which left Hollywood for its Westside studio location in the late 1960s. The existing single-story commercial buildings were developed in the 1970s.



Photo foreground: Looking south along Western Ave. at Sunset Blvd., circa 1917. Note former Fox Movie Studios lot on subject site.

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Existing one-story retail development and parking lot on subject site.

Immediately south of the parcel is a single-story, historic U.S. Post Office building, and the one- and two-story headquarters of the non-profit Assistance League of Southern California. One block further south on Fernwood Ave. is residential housing and the non-profit Covenant House for at-risk youths.

Immediately west of the subject site across St. Andrews Place is a 31-foot tall, single-story Home Depot with surface and rooftop parking. Across from the subject site at the NW intersection of Sunset Blvd. and Western Ave. is a one-story OSH hardware store with surface parking. At the SE corner of this intersection is a single-story Food-4-Less grocery store with both below-grade and surface parking.



Immediately West of the Target site: The 31-foot tall, one-story Home Depot

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Immediately north of the Target site: A one-story OSH Hardware store.



Immediately east of the Target site at the southeast corner of the intersection of Sunset Blvd. and Western Ave., a single-story: Food-4-Less, ICDC College, and McDonald's.

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A particular characteristic of a property is not by itself sufficient to support an exception to the Specific Plan. The Applicant must instead show that such characteristics differ significantly from other similarly situated properties in the same zone and vicinity. Comments regarding superiority of project design, amenities, benefits to the community, and the superior aspects perceived of the proposed development to ones constructed in conformity with zoning regulations are irrelevant when considering the grant of an exception.

“In the absence of a specific ‘bonus’ or ‘merit’ system of zoning enacted by the municipal or county legislature, a variance applicant may not earn immunity from one code provision merely by over compliance with others. Otherwise, the board charged with reviewing development proposals would be empowered to decide which code provisions to enforce in any given case. That power does not properly repose in any administrative tribunal” Orinda Association v. Board of Supervisors of Contra Costa (1986) 182 Cal.App.3d at 1147.

All of Target’s programmatic needs are embodied in a mixed-use development a quarter of a mile north of the Target site at the northeast intersection of Hollywood Blvd. and Western Ave. Commonly referred to as the Ralph’s Shopping Center for its primary tenant, this development features 215,927 square feet of retail space and 100 units of affordable senior housing on a 3.05- acre site. The project also offers extensive free subterranean and surface parking totaling 460 spaces. Per the requirements of the Specific Plan, the retail component is confined to two stories and the retail structure does not exceed 35-feet in height.



Mixed-use development at Hollywood Blvd. and Western Ave. across from Red Line subway stop.

By comparison, Target’s proposed project would place 194,749 sq. ft. of retail on a 3.9-acre site with no housing and no subterranean parking. Target’s retail building would exceed 84 feet in height.

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Free subterranean and surface parking is available for use by patrons and neighbors.

The mixed-use Ralph's Shopping Center is located immediately across from a Red Line subway stop, and features neighborhood serving multi-tenant retail with a Ralph's supermarket, Ross Dress for Less, Aaron Brothers frame shop, and 16 smaller retailers. The development also includes a large, grade-level plaza, proudly advertises on the side of the building that it features "lots of lower level parking", and has façade articulation throughout the structure. **All of this is offered on a site almost an acre smaller than the Target site.**



Inner plaza at mixed-use development offers various neighborhood-serving retailers.

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	Proposed Target Store	Ralph's Shopping Center
Lot size	3.9 gross acres	3.05 gross acres
Retail square footage/ Number of retail outlets	194,749 square feet retail/ (unknown; 30,887 sq. ft. "other")	215,927 square feet retail/ 18 storefronts
Height of retail component	84 feet, 4 inches in height	Retail: less than 35 feet
Housing component	NONE	100 units affordable senior
Distance to subway stop	1,402 feet to Red Line	Across street from Red Line
Parking spaces	458: two levels at above grade	460: surface and subterranean

If the mixed-use development at the intersection of Hollywood Blvd. and Western Ave. can offer more square footage of retail space than the proposed Target project, on a smaller lot, and also include 100 units of affordable housing while keeping the height of the retail structures below 35 feet, how then can Target justify its requested exceptions to the Specific Plan?

C. The Project would have a substantial adverse effect on aesthetics.

Appendix G to the State CEQA Guidelines (Title 14 of the Government Code) provides that a development could have significant environmental impacts to aesthetics if it would "substantially degrade the existing visual character or quality of the site and its surroundings." Furthermore, the Los Angeles City CEQA Guidelines provide that a factor in determining the significance of aesthetic impacts is the "degree of contrast between the proposed features and existing features that represent the area's valued aesthetic image."

In determining whether an impact is significant, the City must consider the current character of the area, which the Project DEIR refers to as one to two story commercial uses. This low-level neighborhood characteristic is reflected by the Specific Plan's height restrictions, limiting commercial-only development to a maximum height of 35 feet with extensive building step-back and other design requirements.

Structures in the immediate vicinity of the Project site are dominated by single-story retail fronted by surface parking, with the exception of the Walgreen's mixed-use development at the northeast corner of Sunset Blvd. and Western Ave. That project also features one-story retail fronted by surface parking, but additionally includes an affordable housing component behind it.

The Walgreen's development follows the guidelines of the Specific Plan by stepping back and breaking up the massing of its buildings, varying the rooflines, and providing subterranean parking. In contrast, Target's building design does little to relieve the structure's overbearing massing, does not vary the rooflines, and would tower above all other structures in its vicinity.

The visual character of the proposed Project would not match the visual character of the surrounding low-level development, nor would it conform to the requirements of the Specific Plan. There are no 84-foot-tall buildings in the immediate area. Therefore, the Project would not match the visual character of the surroundings and would be aesthetically unpleasing.

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Looking east from Sunset Blvd. and St. Andrews Place to existing Project site.



Illustrated view of proposed 84-foot-tall Target store at St. Andrews Place and Sunset Blvd.



Single-story commercial development at northern corner of Sunset Blvd. and St. Andrews Pl.

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Immediately south of Target site: Two-story office of non-profit Assistance League of Southern California at De Longpre Avenue and St. Andrews Place.



Single-level post office south of Target site at Western and De Longpre Avenues.

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The proposed Project's significant aesthetic impacts could be mitigated by decreased height, stepping the Project's footprint back and designing a storefront with reduced massing and increased articulation. Not only is such a project possible, apparently it is what Target originally proposed.

At the June 23, 2009 Central Area Planning Commission public hearing on the Target project, Ms. Kelli Bernard, Council District 13's consultant for economic development, stated that Target first came to the council office more than three years earlier and proposed a store featuring Target's traditional low-level "suburban model." *"We don't want a suburban model"* stated Ms. Bernard for CD13. *"We went from having a large parking field out in front of it that you would see, for example, there's a Target on Rodeo and La Cienega. They (CD 13's Design Review Committee) did not want that sort of thing and neither did the council office."*



Single-level Target store at Rodeo Rd. and La Cienega Blvd., that was cited by CD13 representative Kelli Bernard as something CD13 told Target they did not want for Hollywood.

Council District 13's position was reiterated on June 29, 2010 during Ms. Bernard's further testimony before the Los Angeles City Council's Planning and Land Use Management committee: *"We challenged Target to create a more urban store"* stated Ms. Bernard. *"We're encouraging height and density on Sunset Blvd."* Such comments conflict with the restrictions of the Specific Plan, which states in part at Section 2E under the heading of "Purpose": *"This Specific Plan is intended to guide all development, including use, location, height and density, to assure compatibility of uses..."*

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Compatibility of uses requires adherence to the zoning requirements of the Specific Plan. To the immediate west of the proposed Target site, Home Depot operates an 188,787 sq. ft. store on an entire city block. The height of this single-level building is 30 feet, 8 inches as measured from the lowest level at grade to the roofline. Parking is on a surface lot and at roof level. By comparison, Target proposes an 84-foot tall, 194,749 square foot retail center with two above ground parking levels on a site that also covers an entire city block. Target's store would be incompatible not only with the Home Depot, but with every other property in the same zone and vicinity.



Home Depot's single-level store has rooftop parking. Note spectacular scenic vistas of the Hollywood Hills as seen at a height of 30 feet, 8 inches above grade.



Sunset Blvd. at Wilton, with Home Depot store at photo right. Project site is at upper right

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Google Earth photo of Sunset Blvd. at Western Ave., looking east. Note low-level streetscape.

D. The Applicant has provided no justification for an increase in the permitted number of parking stalls.

The DEIR doesn't even discuss a justification for the Project's request to provide 72 parking stalls more than permitted under SNAP, other than to mention the request and to vaguely state that a typical Target store would provide vastly more parking. The Applicant has previously claimed that the Hollywood Home Depot store immediately west of the subject site and the Food 4 Less grocery store east of the Project site are examples of national retailers with more on-site parking than is currently allowed under the Specific Plan. Since the DEIR omits the subject altogether, our comments will focus on this prior argument.

The Applicant did not previously quantify whether all of the provided parking at the Home Depot and Food 4 Less is actually needed, or if the parking is excessive. In fact, a third of the Food 4 Less surface parking lot is currently restricted to employees of Deluxe Film Laboratories while that adjacent 24-hour operation undergoes a multi-year expansion, confirming the site's surplus of parking.

It should also be noted that national retailer Home Depot has rooftop parking at its Hollywood site, while national retailer Food 4 Less has subterranean parking on its Hollywood lot -- two parking options previously deemed "not feasible" by Target.

The EIR must explain why the Project is being promoted as "transit friendly" while asking for a significant increase in the number of parking stalls, and provide a proper analysis to justify exceeding the SNAP limitation.

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Food 4 Less parking lot section restricted to Deluxe Film Laboratories employees (lab in background).



Photo showing Food 4 Less site and Deluxe parking area outlined at left (lab seen at lower edge of photo).

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Parking area at Food 4 Less site restricted for Deluxe Lab employees.



Aerial view of Home Depot store located immediately west of the subject site. Note that extensive rooftop parking is largely unused while smaller, grade-level parking lot is full.

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E. The DEIR Alternatives Analysis omits relevant comparative information.

The Project proposes a 163,862 sq. ft. Target store with perimeter retail and two levels of above-grade parking. In contrast, the West Hollywood Target, located at La Brea Ave. and Santa Monica Blvd., is 137,500 sq. ft., or more than 26,000 sq. ft. smaller than the proposed Project. The West Hollywood Target, which is among the top five grossing Target stores nationwide, shares parking with other retailers in a two-level subterranean garage.

The West Hollywood location, owned and developed by the J.H. Snyder Company in 2003, was originally a Brownfield site requiring extensive and costly mitigation. The site's water table is also extremely high at 15 feet in depth, requiring pumping. In contrast, the water table beneath the Hollywood Project site is approx. 49 feet in depth, which could accommodate several levels of underground parking.



All parking for West Hollywood Target store is in subterranean levels, as shown above.

Target Corp. has recently signed a long-term lease to open a "City Target" urban store of approximately 100,000 sq. ft. at the Beverly Connection shopping center located on La Cienega Blvd. in west Los Angeles between Beverly Blvd. and 3rd Street. City Target stores are designed for a smaller urban footprint (see **Exhibit 4**).

None of the alternatives analyzed in the DEIR offer a logical combination of a smaller Target store as illustrated by the success of the West Hollywood Target or the new City Target, combined with additional retail uses and served by one level of subterranean parking and rooftop parking. Such an alternative would comply with SNAP and significantly lessen the Project's aesthetic impacts.

CEQA mandates that avoidable significant environmental damage be substantially lessened or avoided where feasible. Pub. Res. Code §§ 21002, 21100(b)(4), Guidelines §§ 150021, 15121, 15126. The EIR must contain a "reasonable range of alternatives to the project which (1) offer substantial environmental advantages over the project proposal...; and (2) may be 'feasibly accomplished in a successful manner' considering the economic, environmental, social and technological factors involved." Citizens of Goleta Valley v. Board of Supervisors (1990) 52 Cal.3d 553, 566.

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Under CEQA, unless the administrative record clearly demonstrates that it is infeasible for economic or other reasons, the lead agency is required to approve the environmentally superior alternative. Pub. Res. Code §§ 21002, 21081. A reduced scale alternative to the Project can be developed that is completely code compliant and acceptable to this community.

VI. CONCLUSION.

The Project's DEIR characterizes many environmental effects that will be caused by the Project as "insignificant," "less than significant impact," or "no impact," such that few or no serious mitigation measures are allegedly necessary. Many such determinations in the DEIR are unsupported by facts, or premised on incorrect facts, or utterly lacking of any true analysis of the facts, or consisting of a superficial "analysis" which for the most part simply assumes its conclusion.

The Project as proposed would create a myriad of significant and permanent adverse environmental impacts upon this community. It is respectfully submitted that in its current form, the Project should not be approved.

As a neighborhood, we ask that the City recognize the negative impacts associated with this and similar projects inconsistent with our community's land use and planning, and vote to not certify or recommend for certification the DEIR for the Project.

We reserve the right to submit additional commentary. Thank you for your courtesy and attention to this matter.

A handwritten signature in black ink, appearing to read "Doug Haines". The signature is stylized with a large, sweeping initial "D" and a long horizontal line extending to the right.

Doug Haines
for the
La Mirada Avenue Neighborhood Association

Exhibit 1

The vertical distance at the southwest corner of the Home Depot Building, located at 5600 Sunset Boulevard, is 30.50'. This vertical distance is from the roof line (measured from the inlet of roof drain) to the back of sidewalk on De Longpre Avenue. Please see detail below.

A circular professional seal for a land surveyor. The outer ring contains the text "PROFESSIONAL LAND SURVEYOR" at the top and "STATE OF CALIFORNIA" at the bottom. Inside the ring, the name "JOHN E. ALVO" is printed, with a handwritten signature over it. Below the name, the expiration date "EXP. 12/13" is printed. At the bottom of the inner circle, the license number "7908" is printed.

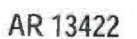
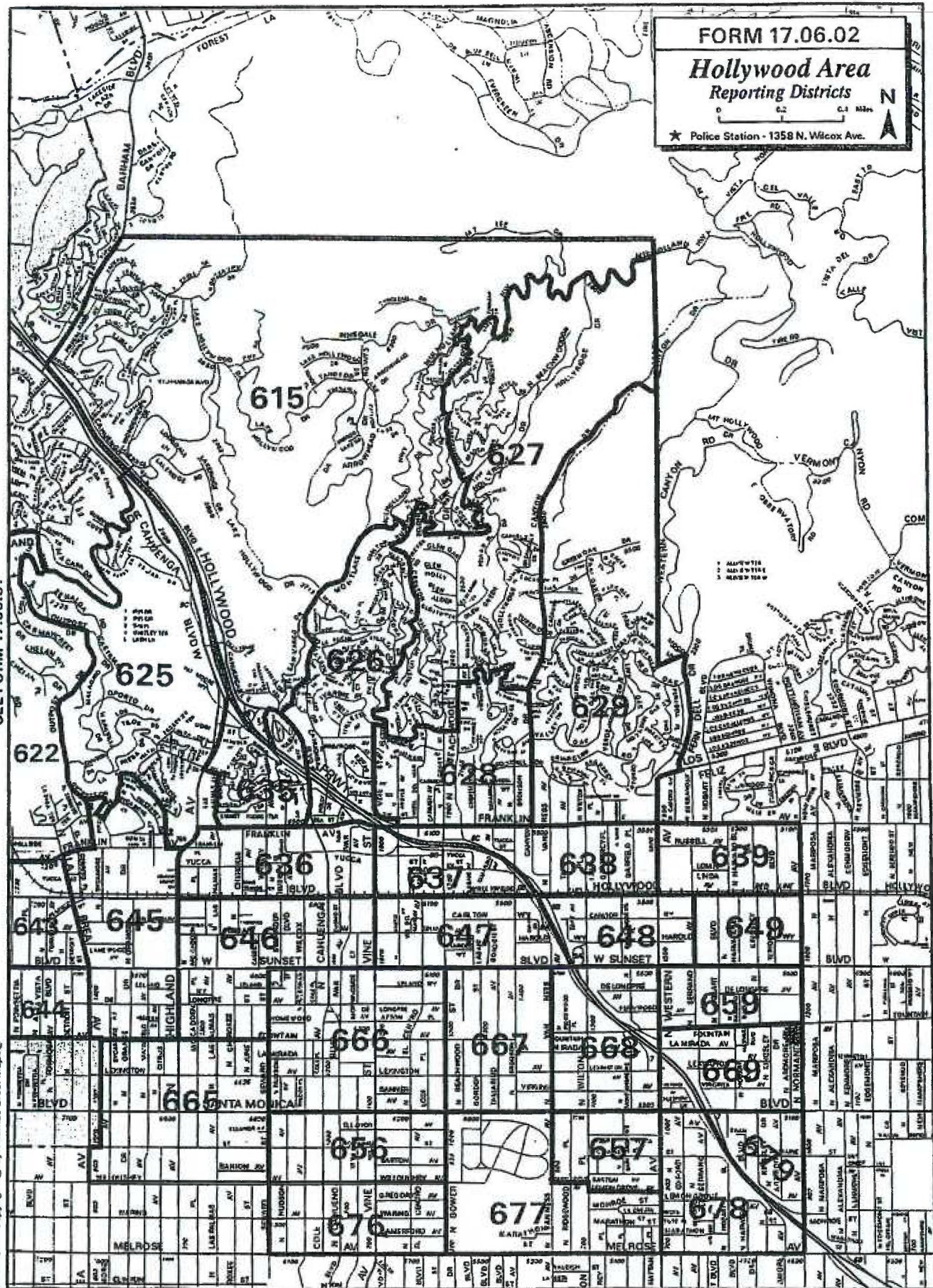


Exhibit 2

SEE FORM 17.06.01

Street Data Copyright © by Thomas Bros. Maps®



APR 2010 ADD PART I CRIMES
 000082703Rescan-001747

RD HOMICIDE RAPE ROBBERY AGG ASLT BURGLARY B/T AUTO PERS THEFT OTHER THFT AUTO THFT TOTAL

615	1			2	13	20		14	15	65
621				2	3	8		6	4	23
622		1	4	10	30	61		19	15	140
625		1	5	1	9	27		22	4	69
626			2	3	8	17		8	13	51
627				3	15	28		11	9	66
628			7	1	20	41		57	21	147
629		1	1		9	12		11	4	38
631				2	11	8		8	1	30
632		3	8	6	34	51		55	13	170
635		1			8	21		4	11	45
636		6	40	41	40	82	13	123	25	370
637	1	2	18	10	4	32		28	14	109
638		2	6	6	16	22		14	15	81
639		1	14	6	7	37	1	112	26	204
642			6		10	22	1	20	9	68
643		1	25	6	14	55	1	44	30	176
644		2	10	3	14	39		27	9	104
645		7	49	31	28	138	15	255	44	567
646		6	50	50	25	81	14	174	21	421
647	1	8	18	9	18	61	2	91	23	231
648	1	1	27	8	12	40	2	43	19	153
649	1	1	8	10	7	12		14	13	66
656		3	10	11	9	40		28	15	116
657	2		18	15	3	11		10	3	62
659		1	12	2	7	16	3	31	15	87
665			41	24	33	75	4	47	33	257
666		4	40	21	31	107	5	104	30	342
667	1	1	15	11	5	35	2	21	14	105
668	1	2	35	22	13	18	1	59	19	170
669	1	2	9	5	7	24		30	15	93
676			6	6	14	25		22	17	90
677		1	15	5	8	18		14	14	75
678	1		15	10	12	15	2	19	25	99
679			11	4	5	14	1	8	13	56
697									1	1

4947 TOTAL

701		1	9	17	38	70		65	33	233
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RD	OTHER ASSLT	FORG / COUNT	EMBEZ FRAUD	STLN PROP	WEAPN VIOLS	PROST RELAT	SEX OFNCS	OFF AGST FAMILY	NARC DRUG	LIQR LAWS	DRUNK	DIST PEACE	DISOR CNDCT	GAMBL	DWI RELAT	OTHER	FED OFNCS	TOTAL
643	6	0	0	0	4	14	0	0	19	2	27	1	0	3	22	41	0	139
644	4	0	0	1	1	9	1	0	11	0	16	0	1	0	22	24	0	90
645	56	6	7	2	5	30	9	0	162	13	282	5	10	3	108	551	0	1249
646	42	3	6	5	4	17	4	0	227	21	431	4	18	0	182	615	0	1579
647	10	0	2	2	3	20	4	0	49	4	148	0	6	0	72	119	0	439
648	6	1	1	0	3	25	5	0	47	3	28	0	3	0	10	53	0	185
649	3	0	0	2	0	90	0	0	33	2	29	0	6	0	3	47	0	215
656	4	0	3	2	2	6	1	0	40	1	52	0	1	0	18	30	0	158
657	7	0	1	0	1	15	1	0	33	1	10	0	2	0	13	29	0	113
659	3	1	0	3	2	101	6	0	39	3	29	1	5	0	5	44	0	242
665	27	3	1	5	7	60	8	0	366	8	477	0	7	0	113	322	0	1404
666	19	0	9	2	3	22	5	0	184	7	154	1	5	0	107	595	0	1113
667	5	0	1	0	1	20	5	0	45	2	11	1	1	0	18	21	0	131
668	7	2	6	6	6	13	5	0	71	2	40	2	4	7	31	103	0	305
669	7	0	1	1	0	30	3	0	39	1	15	2	4	0	11	32	0	146
671	1	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	2
672	0	0	0	0	0	0	0	0	3	0	0	0	0	0	0	0	0	3
676	2	0	0	0	1	0	1	0	13	0	15	0	0	0	2	23	0	57
677	1	0	1	1	1	16	2	0	24	3	9	0	0	0	6	20	0	84
678	3	1	1	0	1	19	6	0	25	3	14	0	2	0	23	31	0	129
679	1	1	0	1	0	15	0	0	18	1	12	0	0	0	10	13	0	72
697	0	0	0	0	0	1	0	0	0	0	0	0	1	0	0	0	0	2
699	0	0	0	0	0	0	0	0	1	0	0	0	0	0	1	0	0	2
TOTAL	293	26	47	46	49	682	78	0	1751	98	2368	21	129	14	1204	3400	0	10105
700	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	1
701	1	0	0	0	0	0	1	0	12	1	1	0	0	0	7	14	0	37
702	3	2	0	0	1	2	0	0	19	3	8	0	0	0	13	19	0	70
703	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	1	0	2
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711	2	0	0	1	0	0	0	1	9	1	10	0	0	1	6	23	0	54
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717	0	1	1	0	0	0	0	0	1	1	0	0	0	0	5	2	0	11
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721	0	3	7	0	0	0	0	0	6	0	3	0	0	0	7	7	0	33
722	1	1	0	0	1	0	0	0	6	0	3	4	0	0	8	8	0	32
723	0	0	0	0	0	0	0	0	3	1	3	0	0	3	5	7	0	22
724	6	1	2	0	0	0	0	0	4	0	5	0	0	4	2	24	0	48
725	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	3	0	4
726	1	0	0	0	0	0	0	0	1	0	0	0	0	0	2	2	0	6
727	1	0	1	0	0	1	1	0	5	0	0	0	0	0	11	2	0	22
729	1	0	0	0	0	0	0	0	1	0	0	0	0	0	3	0	0	5
732	1	0	0	0	0	0	0	0	3	1	1	0	0	0	3	1	0	10
733	0	0	0	0	0	0	0	0	2	1	0	0	0	0	1	1	0	5
734	2	1	2	0	0	1	2	0	3	0	2	0	0	0	4	14	0	31
735	2	0	0	0	1	5	0	0	4	0	2	0	0	0	8	5	0	25
736	0	0	0	0	0	0	0	0	1	0	1	0	0	0	0	3	0	5

Exhibit 3

APCC 08-2703 Rescan 001750
LOS ANGELES POLICE DEPARTMENT

WILLIAM J. BRATTON
Chief of Police



P.O. Box 30158
Los Angeles, Calif. 90030
Telephone: (213) 485-4101
TDD: (877) 275-5273
Ref #: 2.2.2

ANTONIO R. VILLARAIGOSA
Mayor

June 2, 2008

Ms. Michele DiGirolamo Ross
Project Manager
Christopher A. Joseph & Associates
11849 West Olympic Boulevard
Los Angeles, California 90064

PROJECT TITLE: Target at Sunset and Western

Dear Ms. DiGirolamo Ross:

The proposed project involves the Los Angeles Police Department's Hollywood Area. Enclosed are Area crime rates, predominant crimes, response time to emergency calls for service, and personnel statistics, which were obtained from Hollywood Area. The Department's response is based on information received from the Area in which the project is located, Information Technology Division and input from Community Relations Section, Crime Prevention Unit personnel.

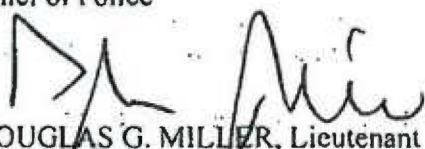
A project of this size would have a significant impact on police services in the Hollywood Area. The Department is available to advise you on crime prevention features appropriate for design of the property involved in this project. The Department strongly recommends developers contact Crime Prevention Unit personnel regarding these features.

Upon completion of the project, you are encouraged to provide the Hollywood Area Commanding Officer with a diagram of each portion of the property. The diagram should include access routes and any additional information that might facilitate police response.

Should you have any questions regarding this response, please contact Sergeant Karen Leong, Crime Prevention Unit, Community Relations Section, at (213) 485-3134.

Very truly yours,

WILLIAM J. BRATTON
Chief of Police


DOUGLAS G. MILLER, Lieutenant
Officer in Charge
Community Relations Section
Office of the Chief of Police

Enclosures

Exhibit 4

Los Angeles City Council, Planning and Land Use Management Committee
Appeal of APCC 2008-2703-SPE-CUB-SPP-SPR-1A; ENV-2008-1421-MND

BUSINESS

The Orange County Register

Target plans changes in stores

THE ASSOCIATED PRESS

Target, the nation's second-largest discounter after Wal-Mart, is navigating turbulent economic times by polishing old stores rather than opening many new ones, opening smaller urban stores and looking outside the U.S. for growth.

The new store format will begin rolling out in April and feature spruced-up home furnishing offerings, larger grocery sections, better video game displays and shelf lighting in the beauty section.

Company officials told investors at Target's analyst meeting in Philadelphia Thursday, which was Webcast, that it's changing every part of its stores to increase sales and profit and grab market share from rivals.

They said they will spend \$1 billion renovating 340 U.S. stores while opening fewer than 10 new ones in 2010. That's many fewer than the 58 they opened in the fiscal year ending Jan. 31 and the 91 in fiscal 2008.

Key in the renovations will be the enhanced grocery sections, which the chain hopes will bring shoppers in more often. Target introduced perishable items such as bananas and lettuce in about 100 of its general merchandise stores last year.

Chairman, president and CEO Gregg Steinhafer sees the economy stabilizing but told investors, "Consumers are still buying with caution and considering each purchase."

Given that tough environment, officials stressed they're being prudent about capital spending.

They said it costs \$1 million to add



ROD VEAL, THE ORANGE COUNTY REGISTER

A Target store opened in the Brea Marketplace last fall.

the new PFresh food format to an existing general-merchandise store. That compares with \$10 million to convert such a store to a Super Target.

And stores with the new food format that have been open at least a year have had an immediate 6 percent increase in traffic and sales. The PFresh concept combines fresh food such as produce and meat with grocery items.

Target plans to redo 300 to 400 U.S. stores per year. The company operates more than 1,700 stores, most of them general merchandise stores and all in the U.S., including about 250 Super Targets.

Target said that it plans to open stores in Canada, Mexico and Latin

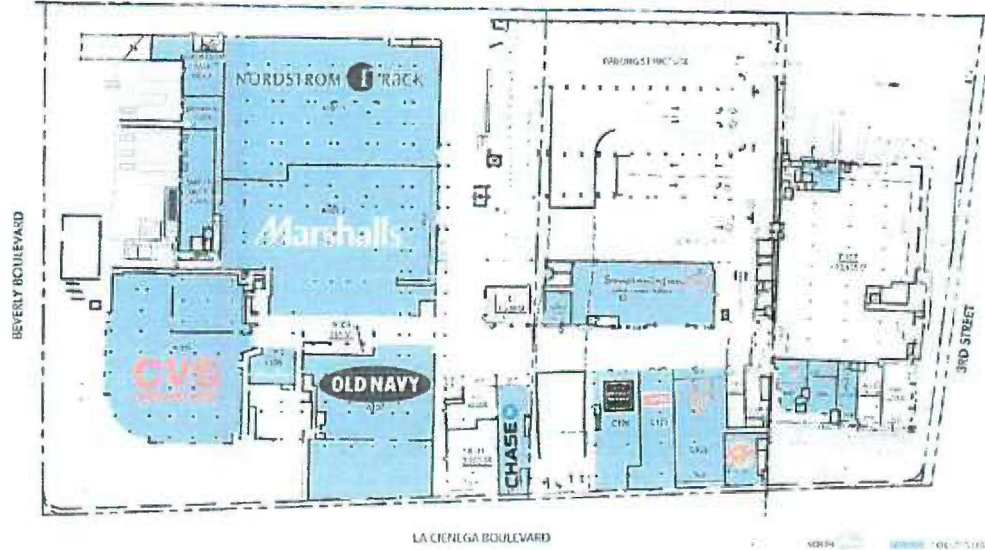
America, but not for at least three years.

As for the smaller stores coming to urban markets, Target plans to test the concept in the next few years with stores of 60,000 to 100,000 square feet, compared with the current average of 125,000 square feet.

Target's plans are similar to Wal-Mart's.

Wal-Mart told investors in October that it would expand faster overseas, particularly in emerging markets such as China and Brazil, than in the U.S. In the U.S., Wal-Mart is focusing on renovating existing stores and building fewer and smaller but more efficient stores. Wal-Mart aims to use the smaller formats to further penetrate urban markets.

Leasing Plan - Ground Floor



Leasing Plan - Second Floor

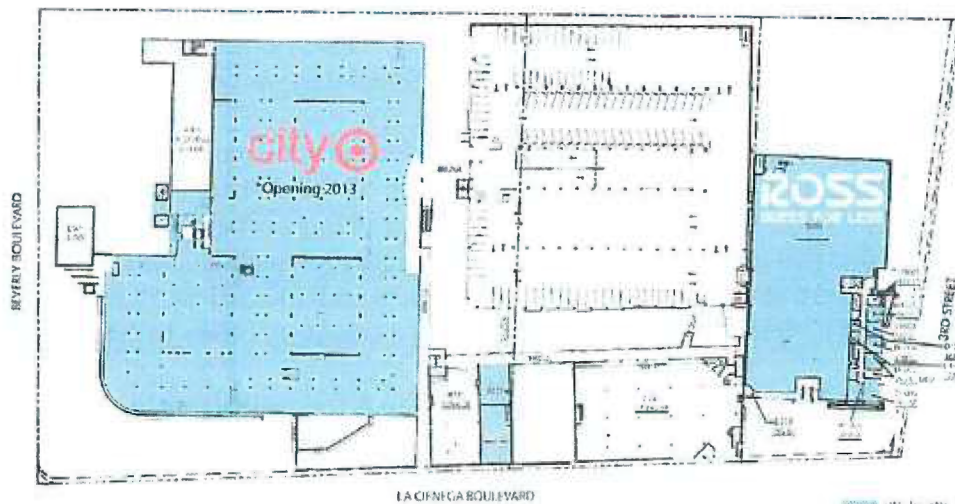


EXHIBIT 7

FROM THE DESK OF JON PERICA
10338 ETIWANDA AVE., NORTHRIDGE, CA 91326

RECEIVED
CITY CLERK'S OFFICE

2013 MAR -6 AM 9:15

CITY CLERK
BY _____
DEPUTY
COPY

February 20, 2012

Honorable City Council

APPEAL JUSTIFICATION – APCC 2008-2703 SPE-CUB-SPP-SPR-1A AND COUNCIL FILES 12-1604 AND CF 09-2092 – TARGET RETAIL PROJECT, 5520 SUNSET BLVD., HOLLYWOOD.

My name is Jon Perica and I worked in the Los Angeles Planning Department for 35 years, including working as a Zoning Administrator for 20 years issuing legal decisions on over 2,500 cases. My decisions were based on the required legal findings and a fair and impartial evaluation of each case irrespective of the applicant and political popularity of the case. None of my cases were ever overturned by a Superior Court action. Over these many years of ruling on development projects I have learned what makes a “good” project. Unfortunately, the Target Hollywood project is not a good project and can’t legally be supported.

I have reviewed the applicant’s requests and the City Planning Dept. and Central Area Planning Commission’s actions granting approval for the above-cited commercial project at 5520 Sunset Blvd. in Hollywood. I previously submitted a letter in 2009 regarding this case, pointing out at that time that the Commission’s incomplete findings for its original approval of the project were the worst I had ever seen for any Planning Commission grant in my 35 years with the Planning Department. Upon review of the Commission’s 2012 findings, and the developer’s supplemental findings adopted by the City at the November 13, 2012 Planning and Land Use Management Committee’s hearing for the matter (also known as the PLUM Committee), I again strongly believe that the City Council should deny the applicant’s requests for the following reasons:

1. Failure to make all the required findings.

The City of Los Angeles’ Zoning Code (Section 11.5.7.F.2) contains five required findings that must be individually reviewed and upheld in order to justify the approval of each requested exception to the Vermont/Western Transit Oriented District Specific Plan (also referred to as the Station Neighborhood Area Plan, or “SNAP”). The City of Los Angeles must also independently issue each of these five required findings in order to approve any exception for a deviation from the requirements of SNAP’s Development Standards and Design Guidelines. Therefore, both the applicant and the City Planning Department are required by the Zoning Code to address each of the project’s requested exceptions by separately delineating the five required findings to determine if the exceptions are justified.

Target has requested eight exceptions from SNAP; five of those exceptions are from SNAP's Development Standards and Design Guidelines. Each of these requested exceptions requires 5 separate findings. The Zoning Code at Section 11.5.7.F.2 clearly lists the five separate findings that must be submitted and reviewed for any exception to be approved. The City's Zoning Code could have listed all of the required five findings together as a group but it does not. Instead, each finding is delineated separately for a very good reason, since it is required under Section 65906 of the California Government Code, and by implication, Section 562 of the Los Angeles City Charter.

Justification for Required Findings – The reasons for the separate findings are numerous. Asking for an exception to a long established City Planning requirement constitutes a major deviation from what the community, council office, neighborhood councils and Planning Department have spent years to formulate and enact. The City's various Specific Plans are especially sensitive to such deviations since they go beyond the underlying zoning to establish additional restrictive regulations that enhance and preserve the unique characteristics of a distinct community. The purpose of a Specific Plan is primarily one of correcting past planning mistakes and strictly controlling future development, to improve the quality of that development, and to enhance the quality of life of local residents and businesses. To deviate from the City Planning community standards requires a very compelling justification to override the Zone Code.

The fact that SNAP's Development Standards and Design Guidelines have so many details is therefore a reflection of the vigorous and exacting standards that Specific Plans are held to. To reach consensus on those Standards, all of the major stakeholders in the community meet and confer through a series of public hearings over a period of many years. The resulting ordinance is a carefully crafted roadmap specifically designed to improve the community by requiring that future construction both enhance the visual environment while also being compatible with the appearance and scale of the surrounding neighborhoods. To deviate from the Standards would therefore negate that harmonious effort, causing adverse impacts and incompatible design features that would result in a negative impact on the entire community. Any deviation therefore must be taken very seriously, and the City must rigorously enforce the five required findings made for each requested exception in order to justify a grant for approval.

Specific Reasons Findings are Inadequate – Target requested five exceptions from SNAP's Development Standards. These are: 1) An exception to reduce the transparent building elements such as windows and doors to 24 percent in lieu of the required minimum 50 percent; 2) An exception from the required 10-foot setback of the second-floor from the first floor; 3) An exception to allow entrance balconies to exceed the permitted height of 30 feet; 4) An exception from the requirement that roof lines be articulated; and 5) An exception allowing relief from the allowable hours of store deliveries. Target is also seeking exceptions from other aspects of SNAP's zoning regulations, including an exception from the restriction that commercial buildings not exceed 35 feet in height, in order to make the building over 74 feet in height. Each of these requested exceptions requires rigorous review under the Los Angeles Municipal Code.

Unfortunately, however, instead of following the Zoning Code by showing the five required findings for each requested exception, Target merely submitted findings for four of the five exceptions from the Development Standards as a group, not delineating how each of the exceptions is justified. For the City Planning Department to accept this, and for the City Council to approve it, is unprecedented.

Problems of Missing Findings – Under the Municipal Code, Target was **required to submit the five required findings** for each of the five requested exceptions from SNAP's Development Standards, for a total of 25 separate findings. To approve the exceptions with anything less is clearly prohibited by the clear and unambiguous language of the Code. Target did provide separate findings for its requested exception for relief from the allowable hours of store deliveries, but lumped the other four exceptions together as a group with incomplete, generalized findings. The City or any stakeholder who reads the Target findings cannot clearly determine if all five required findings have specifically been submitted for each exception as required by the Code. Such "generalized" applicant findings do not address each exception request so it is impossible to determine if all of the required justifications are made to approve **each** exception, or if Target made adequate arguments for each exception being requested. A generalized argument for one of the five findings to justify one exception might be inadequate for the remaining exceptions. Without specifically answering all of the required findings for each of the four exceptions, the application is incomplete, and the requested exceptions cannot be approved. Until the five general findings for each of the four non-delineated requested exceptions are replaced by 20 specific findings, the City has no legal right to grant their approval.

Lack of Independent Planning Department Judgment – Target's lack of separate findings for its requested exceptions from SNAP's Development Standards is either an intentional effort to hide the fact that the exceptions cannot be justified, or this large corporation is merely trying to save money by not paying its consultant to do what is required by the Zoning Code. The justification for either is inadequate, and the City Planning Department has no legal basis for accepting such generalized findings. The department has compounded the error by adopting such incomplete findings as "their" own findings.

The Planning Department is an independent governmental decision-maker, and it must therefore make an independent evaluation of each requested exception. By using the applicant's language as their own, the unbiased decision-making process and judgment of the Planning Department is seriously called into question. Furthermore, the Planning Department's determination to approve the four subject exceptions by adopting Target's generalized findings also makes the Planning Department at fault for not following their own Zoning Code requirements and more than 50 years of Planning Department policy, which has always required separate findings for each separate exception request.

It's bad enough that Target submitted inadequate findings for its requested exceptions from SNAP's Development Standards, but the Planning Department is even more at fault for basing their approvals on incomplete findings that confuse the public. Issues of approval or denial must be made by the Planning Department based on a complete set of facts that the general public and decision-makers can clearly understand and evaluate. That situation did not occur when the Planning Department approved the four exceptions based only on the applicant's incomplete findings and not on their own independent judgment. Some might say that this situation looks like the Planning Department was working for Target.

Corrective Planning Department Action – The Planning Department's decision to approve the four Development Standards exceptions requested by Target that are based on generalized findings cannot legally be justified because the findings are incomplete. Therefore, the Planning Department must redo the findings so that every request for an exception has the five required

findings clearly and separately numbered with adequate justification for each. Finally, all planning staff working on this case should be reminded that it is their clear responsibility to uphold the legal requirements of the Los Angeles Municipal Code and City Charter, which requires that five findings for any exception or variance shall be separately made for each applicant request.

2. The Commission's approval of 8 Specific Plan Exceptions is a serious indicator of a poorly designed project that is inappropriate for this site.

To request more than just several discretionary changes from the Specific Plan shows the project is too large, too tall, and out of scale with what the by-right building standards allow. The limitations on height, setbacks and parking, and even a requirement for free delivery to area residents, are all being disregarded and the amount of non-compliance with the Specific Plan is huge.

The problem with the project's current design is that the applicant started with the project he wanted and dismissed the Specific Plan requirements for what was required. What the unequaled amount of 8 exceptions from the Specific Plan requested for this Sunset Blvd. project shows is a complete disregard for the protective provisions and standards of good quality development that the Zone Code creates and maintains. What is most insulting in this Commission decision is that Target's "big box" is asking for so much of a deviation in height. The original request for a building height of 80 feet, reduced to a token 74 feet, is over twice the Specific Plan height limit of 35 feet. This is a **profound** increase and it is **totally beyond the scope and spirit of the Specific Plan**. Exceptions from the Specific Plan are not intended to be "blank checks" where the applicant can ask for anything he wants. The intent of any granted exception is to preserve the major parts of the Specific Plan while permitting minor deviations or adjustments that are limited in nature so as to keep the "integrity" of the Specific Plan requirements, and a height increase grant of 5-9 feet would be within the range of a reasonable Exception request based on a roof design feature or a sloping lot where Building and Safety defines height measurements as five feet from the lowest part of the project. The approved 74-ft height request makes a total **mockery** of the Specific Plan. To double the height makes even having a Specific Plan height limit worthless if it can be exceeded by such a large amount. This approved height sets a **terrible precedent** for other projects in the local community to cite. The height limit was perhaps the **single most important justification to creating the Specific Plan in the first place** and this grant makes the Specific Plan **meaningless**.

If it is City policy to totally disregard their Specific Plans, the City should just be more honest and revoke the Specific Plan and let the applicants play "let's make a deal" with every new project. Is it any wonder that neighborhood councils feel that city adopted planning documents and ordinances are worth very little in the way of neighborhood protection when the City requirements and standards are so routinely violated without legal justification and at a scale never contemplated by the original planning documents? This Commission's determination is just one more City decision to invalidate the goals of a Specific Plan and one of the worst recent examples of the City not enforcing its own planning standards and goals.

3. There is no commensurate Public Benefit to justify 8 discretionary Specific Plan Exceptions.

The Specific Plan's standards are not being protected and implemented because the Central Area Planning Commission's findings do not explain how granting the exceptions to the Specific Plan's standards help implement the Specific Plan's goals. How does granting an Exception allowing the

applicant to adhere less to the requirements of the Specific Plan help meet the goal of the Specific Plan that was put in place for developers to do **more**? Doing less in the past was unacceptable to the local residents of the subject area and the justification for adopting the Specific Plan was to better define the quality of new construction that would occur. A massive 74-foot-tall building with a roofline allowed to come out to the very sidewalk creates a "Berlin Wall" effect that is not pedestrian friendly, and yet creating a better pedestrian atmosphere was one of the primary goals for creating the Specific Plan in the first place.

Furthermore, there is no Commission or applicant proof that **any other exception was granted** in the local area for another **commercial project** to exceed the permitted height by over double the City limit, so that particular grant cannot be approved. Similarly, the Commission and applicant never provided any justification explaining why this subject lot is significantly different in zoning, size or topography than the similar commercial properties on the same street, so the "special circumstances" finding is clearly not justified. By not even addressing this crucial issue, the Commission and applicant indicate there is really no justification to support the required findings.

4. There is a better project design that the applicant should provide the City.

The vast majority of recent development in Hollywood have requested only a few discretionary exceptions to the Zone Code, and the applicant for Target should redesign his project so that it meets the Specific Plan requirements in as many areas as possible, particularly in conformance to height limitations and setbacks. Most of the exceptions requested by the applicant don't mean that the Specific Plan requirements **can't be followed**, but that the applicant doesn't want to because he **won't change** the design of his current project. The applicant doesn't limit what the City can consider for the design of a project at this site. As a Zoning Administrator acting on these same types of issues for 20 years, I often asked the applicant or architect to change the project design, and that is exactly what the City should require. Make the applicant show you a project within the Specific Plan's 35-foot height limitation and with all or almost all of the Code requirements followed and then evaluate that project as an alternative to this design. **The City, not the applicant, controls the final design.**

Summary – The Central Area Planning Commission's approval of the eight Specific Plan exceptions for the Target project lacks supporting evidence to justify the required findings. The Commission's justifications for the findings are not born out of reality, and Target's approved building design would totally redefine the skyline for the local community for no valid reason while opening up the community to future similar tall buildings in the area. If challenged in the courts, it is my professional opinion that case law precedents show that the City will lose an appeal of this request, and this project, as proposed, will not be built. Do the right thing now and ask the applicant to design a better project that is consistent with the Specific Plan.



Jon Perica
Retired Zoning Administrator

EXHIBIT 8

DEPARTMENT OF
CITY PLANNING

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AND
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INFORMATION
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August 25, 2010

Dietrich Haar
Director of Real Estate
Target Corporation

Via MAIL
Via FAX
Placed in CASEFILE

**RE: City Planning Case No. APCC-2008-2703-SPE-CUB-SPP-SPR-1A,
5520 W. Sunset Boulevard**

Ms. Haar,

Pursuant to your correspondence received dated August 17, 2010, this letter constitutes the Department of City Planning's acceptance of your withdrawal and surrender of all development rights granted under the above referenced case.

A copy of this letter will be placed in the subject case file, which will be terminated as of today's date.

If you have any questions on this matter, please contact me at (213) 978-1211.

MICHAEL LOGRANDE
Director of Planning


Kevin J. Keller, AICP, Senior City Planner

CC: Kelli Bernard, Council District 13
Bill Delvac, Armbruster Goldsmith & Delvac