

March 16, 2017

By U.S. Mail and E-mail

Chair Mitch O'Farrell and Members of the
Arts, Parks and Rivers Committee
c/o City Clerk, Room 395
200 North Spring Street
Los Angeles, CA 90012-4801

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**Re: Target Project at Sunset and Western, Childcare Fee
City Council File No. 16-0033
March 20, 2017 Agenda**

To the Chair and Members of the Committee:

This firm represents Target Corporation, the applicant for the above-entitled project. Before you today is an appeal by the La Mirada Avenue Neighborhood Association challenging the Board of Recreation and Parks Commissioners' decision to set a fee in lieu of requiring on-site childcare for this project. The only issue before you is La Mirada's claim that setting the fee requires environmental review. La Mirada's appeal lacks merit.

The project — a Target store above a parking structure, with a pedestrian and transit-oriented plaza and small retail shops at street level — has received the City Council's unanimous support every time it has been on the Council's agenda (more than half a dozen times). At street level and Level 3, the parking structure will be hidden by the retail and the Target stores. On Level 2, the parking structure will be screened by the building's architecture. The plaza, a place for pedestrians to stroll, will have a kiosk with transit information and the street-level retail stores will offer enticing destinations for

local residents. The project was designed this way at the request of the City's decision-makers, including the current Mayor, to give the community more than just a store.

The local specific plan (SNAP) requires that large commercial projects such as this provide either an on-site childcare facility or pay a fee to be used by the City toward providing a childcare facility. Every time the City Council approved this project, it granted Target's request to pay a fee. The Recreation & Parks Board, after receiving input from Target's consultant and a City-retained peer reviewer, set the fee at about \$1.2 million. Because the sole basis of La Mirada's appeal is that the determination of the amount of the fee is an "environmental determination" under the California Environmental Quality Act (CEQA), this appeal is untimely by several years and meritless for other reasons as well.

First, payment of a fee was part of Target's application and thus was included in the environmental impact report (EIR) the City Council approved in 2012 and 2013. La Mirada's claim that more analysis should have been done of the supposed impacts of the fee is an untimely challenge to the EIR. (Pub. Resources Code, § 21167 [providing a 30-day period of limitations].) Moreover, when La Mirada challenged the EIR in court, its challenges were rejected in 2014, and its appeal was dismissed by the Court of Appeal in 2016. Clearly, La Mirada cannot again challenge the EIR.

Second, the Recreation & Parks Board did not consider, let alone approve, the use of the fee for a specific facility, meaning the environmental impacts of the City's use of the fee are entirely speculative. There is nothing to evaluate, environmentally or otherwise, at this time. (*Kaufman & Broad-South Bay, Inc. v. Morgan Hill Unified School District* (1992) 9 Cal.App.4th 464.)

Third, as the City Council knows, La Mirada has filed three lawsuits against the Target project, none of which challenged the use of a fee or suggested this aspect of the project required environmental review — the most La Mirada had to say about childcare was an allegation that a change to the childcare condition — one that did not affect whether a fee could or would be paid — had been adopted by an improper process. That claim was rejected by the trial court and La Mirada's appeal was dismissed.

Target's project will bring over 200 jobs to the City and millions of dollars in taxes, and it will provide affordable goods to local consumers. La Mirada's untimely and meritless appeal should be soundly rejected.

Chair Mitch O'Farrell and Members of APR Committee

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Thank you for your consideration. Representatives of Target will appear at your hearing.

Very truly yours,



Richard A. Schulman

HECHT SOLBERG ROBINSON GOLDBERG & BAGLEY LLP

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Enclosures:

- (1) Excerpts from Target's original application (AR1 4255-4256, 8578)
- (2) Final EIR, page IV-18 (AR1 1075)
- (3) Addendum, pages 39-40 (AR2 17400-17401)

cc (w/encls., by e-mail):

Valerie Flores, Deputy City Attorney
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Client
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low walls and would be mostly open on all 4 sides of the building. Along Sunset Boulevard this level incorporates a roof terrace with plantings connecting to the vertical circulation core.

Signage

Project signage will consist of combination of letter, logo signs and small projecting pedestrian oriented signs along the retail buildings that are architecturally integrated into the project design. Monument and pylon signs are not proposed for the project.

Landscaping

Raised planters, plants in containers and green walls would be arranged to accentuate the building. Proposed plant materials would be drought tolerant and native California species.

Mechanical Equipment

Roof top and ground mounted mechanical equipment, including satellite dishes, would be screened from adjacent street level views by raised building parapet walls or other screening materials. The transformer would be located at the corner of St. Andrews Place and De Longpre at the rear, and would include landscaping to the extent permitted by the Los Angeles Department of Water and Power.

Operations

The Project would employ approximately 400 full and part-time employees, primarily from the local community. The average peak shift is approximately 100 - 150 employees. Cleaning crews are typically inside each store all night, every night when the stores are not open to the public.

Security

Building security lighting operated by an energy management system is used at all entry / exits and remains on from dusk to dawn. Installation of burglar and fire sprinkler alarm systems (fire alarm system only when required) an early fire warning system for specific areas in the store would be incorporated... These systems are connected to a UL-listed 24-hour monitoring station and, when required, with local police and/or fire departments. Closed circuit television (CCTV) cameras are mounted on the building exterior that record activity on the property. Implementation of an Assets Protection Department with 4 - 6 full-time staff person to minimize shoplifting and theft and installation of a check authorization system to minimize bad checking passing are other security measures proposed for the Target store. Lighting for all parking areas will remain lit 1/2 hour after store closing. Reduced site lighting will remain lit 1 1/2 hours after store closing and for employees conducting overnight stocking. Security lighting will remain lit from store closing to store opening. Wall mounted security lighting remains lit all night at each exit door but will be designed to prevent glare onto adjacent properties.

Childcare Facilities

(1)

The Applicant is proposing the payment of in lieu fees to meet the Childcare Facility Requirements contained in the SNAP.

Design Approvals

Additional Project presentations will be made before the Hollywood Studio District Neighborhood Council and the project will require the approval from the City's Community Redevelopment Agency (CRA).

III. SITE PLAN REVIEW FINDINGS

1. The project complies with all applicable provisions of the Los Angeles Municipal Code, Planning and Zoning Section and any applicable Specific Plan.

a. Zoning

The Project Site is located in the Hollywood Redevelopment Project area and is zoned C2-1 as set forth in the Los Angeles Municipal Code ("LAMC"), and designated for Highway Oriented Commercial land uses in the Hollywood Community Plan. The C2-1 zone permits a variety of neighborhood and community serving retail uses proposed by the Project. The Site is currently developed with a shopping center and after receiving the requested entitlements, the Project would comply with all applicable provisions of the LAMC.

b. Vermont/Western Transit Oriented District Specific Plan – Station Area Neighborhood Specific Plan.

The Site is located within Sub Area "C" Community Center of the Vermont /Western Transit Oriented District Specific Plan/ Station Neighborhood Area Plan ("SNAP"). The Project proposes a commercial shopping center located on a single parcel of land with a lot area of 3.77 acres after dedications for street and sidewalk purposes. The Project would provide total of approximately 194,749 square feet of retail uses located within 3 levels. A Target store would serve as the anchor tenant and would contain a floor area of 163,862 square feet. 30,887 square feet of neighborhood serving pedestrian oriented retail uses are proposed on the ground level along West Sunset Boulevard and Western Avenue. The Project would provide a FAR of 1.15:1.0, approximately, which complies with SNAP requirements that allows for a maximum FAR of 1.5:1.

The Project complies with the development standards of the SNAP and requests exemption from the following: (1) Section 6 (N): Relief from the requirement that 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 the 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; (2) Section 9 (B) (1): Projects comprised exclusively of commercial uses (not hospital and medical uses) shall not exceed a maximum building height of 35 feet and a maximum Floor Area Ratio (FAR) of 1.5, provided however, that roofs and roof structures for the purposes specified may be erected up to 10

Building security lighting operated by an energy management system is used at all entry / exits and remains on from dusk to dawn. Installation of burglar and fire sprinkler alarm systems (fire alarm system only when required) an early fire warning system for specific areas in the store would be incorporated... These systems are connected to a UL-listed 24-hour monitoring station and, when required, with local police and/or fire departments. Closed circuit television (CCTV) cameras are mounted on the building exterior that record activity on the property.

Implementation of an Assets Protection Department with 4 – 6 full-time staff person to minimize shoplifting and theft and installation of a check authorization system to minimize bad checking passing are other security measures proposed for the Target store. Lighting for all parking areas will remain lit ½ hour after store closing. Reduced site lighting will remain lit 1 ½ hours after store closing and for employees conducting overnight stocking. Security lighting will remain lit from store closing to store opening. Wall mounted security lighting remains lit all night at each exit door but will be designed to prevent glare onto adjacent properties.

Childcare Facilities

The applicant is proposing the payment of in lieu fees to meet the Childcare Facility Requirements contained in the SNAP

Design Approvals

Additional project presentations will be made before the Council District 13 Design Review Committee and the Hollywood Studio District Neighborhood Council and the project will require the approval of the Community Redevelopment Agency (CRA).

III. SITE PLAN REVIEW FINDINGS

1. The project complies with all applicable provisions of the Los Angeles Municipal Code, Planning and Zoning Section and any applicable Specific Plan.

a. Zoning

The Project site is located in the Hollywood Redevelopment Project area and is zoned C 2-1 as set forth in the Los Angeles Municipal Code (LAMC), and designated for Highway Oriented Commercial land uses. The C2-1 permits the kind of retail uses proposed by the project. The site currently functions as a shopping center and after receiving the requested entitlements, the project would comply with all applicable provisions of the zoning code.

b. Vermont/Western Transit Oriented District Specific Plan – Station Area Neighborhood Specific Plan.

The subject property is located within the boundaries of the Sub Area “C” Community Center of the Vermont /Western Transit Oriented District Specific Plan/ Station Neighborhood Area Plan (SNAP) and part of the Hollywood Community Plan Area in the Hollywood Studio District.

The proposed project is a commercial shopping center located on a single parcel of land of 3.69 acres after providing dedications for street and sidewalk purposes. The Project would

**Table IV.G-8
Vermont/Western Specific Plan Consistency Analysis ***

<p>Section 6.G. Childcare Facility Requirements: In Subareas B, C and D, all commercial and Mixed Use Projects, which total 100,000 net square feet or more of non-residential floor area shall include child care facilities to accommodate the child care needs of the Project employees for pre-school children, including infants, and shall meet the following requirements:</p> <ol style="list-style-type: none"> 1. Calculation of Childcare Facility Requirement. The size of the child care facility necessary to accommodate commercial, Mixed Use, Unified Hospital Development Site or Replacement In-Patient Facilities Project employees' child care needs shall be: one square foot of floor area of an indoor child care facility or facilities, for every 50 square feet of net, usable non-residential floor area; or to the satisfaction of the Commission for Children, Youth and their Families consistent with the purpose in Section G. <ol style="list-style-type: none"> a. Ground Floor Play Area. In addition to the requirements specified in Subsection G 1 above, the Applicant shall provide outdoor play area per child served by the child care facility as required by the California Department of Social Services, Community Care Licensing Division, Title 22. b. Setback and Throughways. The child care play area at a child care facility provided as required by this subsection, on- or off-site, or as an in lieu cash payment, shall count on a one-for-one square foot basis toward either any building setback requirements of Section 6 L or pedestrian throughways as required in Section 9 G 2. 	<p>Not Consistent. This guideline is primarily a community amenity guideline, not directly related to environmental impacts. The proposed project is requesting an exception from this requirement as the major tenant, Target, typically does not provide childcare. Many of the 250 employees that would be brought on by the proposed project would be part time employees and would not necessitate the usage for childcare. If childcare services are needed, individual employees could utilize available providers in the immediate area, including the Learning Center for Young Children and the Children's Club facilities associated with the Assistance League of Southern California and located immediately south of the project site. The proposed project will pay the in-lieu cash payment as set forth in SNAP Section 6.G.4 to satisfy the Childcare Facility requirements.</p>
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23) Table IV.G-8 (Vermont/Western Specific Plan Consistency Analysis), on page IV.G-71 of the Draft EIR has been revised to read as follows (refer to Response to Comment 8-45):

**Table IV.G-8
Vermont/Western Specific Plan Consistency Analysis ***

<p>Section 9.B. Height and Floor Area:</p> <ol style="list-style-type: none"> 1. <i>Commercial Only Project.</i> 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 	<p>Consistent Regarding FAR; Not Consistent Regarding Height. The proposed project is within the allowed FAR range for a commercial-only project, proposing an FAR of approximately 1.15:1. The height requirement for commercial only developments is not directly related to environmental impacts associated with building height. It is intended to encourage and accommodate mixed-use projects. The SNAP would allow the height proposed by the project if the project included housing. Therefore, the commercial-only height requirement is</p>
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The remaining exceptions to the SNAP that are requested by the proposed project are related to design features (upper floor setback, roof line, transparent building elements) and operating hours. The reduction in transparent building elements would occur on the building's St. Andrews Place frontage, which faces Home Depot, and would not detract from the pedestrian orientation of the building on Sunset Boulevard and Western Avenue. Further, the operation of loading facilities beyond the hours set forth in the SNAP would not result in significant impacts to adjacent uses. Overall, the granting of the requested exceptions to the SNAP would not substantially conflict with the principles, intent, and goals of the SNAP.

Revised Project & Changed Circumstances

The Revised Project includes the same land uses and square footage as the Original Project. Accordingly, the Revised Project would be consistent with the land use designations set forth for the project site in the General Plan Framework, Hollywood Community Plan, Hollywood Redevelopment Plan, and the City of Los Angeles Planning and Zoning Code. Since the location of the Revised Project would not change, the Revised Project would be consistent with the regional growth policies of SB375 and the SCAG Regional Comprehensive Plan to concentrate future development in transit station areas. Since the Revised Project would reflect the same overall design as the Original Project, it would implement the City's Walkability Guidelines to a similar degree as the Original Project.

The Revised Project would be consistent with allowed land use for the project site per the Vermont/Western SNAP. The Revised Project would include the proposed Specific Plan amendment. Accordingly, since the Revised Project has been designed to be compliant with the requirements contained in the proposed Specific Plan amendment, no exceptions to the Vermont/Western SNAP would be required to implement the Revised Project.

The proposed Specific Plan amendment would modify the requirement that an Applicant for any project containing 40,000 square feet or more of retail commercial floor area provide free delivery of purchases made at the site by residents living within the Specific Plan Area, by eliminating this requirement for projects in Subarea F. By definition, retail projects in Subarea F would consist of over 100,000 square feet on existing sites over 3.5 acres in size, which would limit such project to major national retailers. For these users, the existing requirement is potentially redundant, since such large uses are likely to offer some form of free delivery through their websites. Accordingly, the proposed Specific Plan amendment would not be inconsistent with the intent of the SNAP to promote neighborhood integration. By coordinating such deliveries within existing extensive delivery networks, such as FedEx, UPS and USPS, the removal of this requirement could actually reduce potential environmental impacts by eliminating the overlapping delivery services that could occur if each qualifying user were to maintain its own delivery service. This provision would not result in new environmental impacts.

When the original Project was approved, the City had not yet decided what in-lieu childcare fee to levy. Although timing cannot be guaranteed, it is likely that the Board of Commissioners of the City's

Department of Recreation and Parks will decide on an appropriate fee before the City Council approves the Revised Project.

The proposed Specific Plan amendment would establish transitional height requirements between uses located adjacent to Subarea A of the SNAP. As shown in Figure 5 above, the proposed boundaries of Subarea F would not be adjacent to any part of SNAP Subarea A. Thus, this requirement would not apply to the Revised Project.

The Revised Project would be consistent with the development standards and design guidelines that would be established for Subarea F under the proposed Plan Amendment. No variations from these requirements are being requested.

The proposed General Plan amendment is necessary to establish the street standards for the Revised Project. The proposed General Plan amendment would accommodate the Revised Project's main entry plaza, which converges at the corner of Sunset Boulevard and Western Avenue, and is oriented towards a transit station. The plaza would incorporate enhanced architectural, landscape and hardscape elements to provide an urban streetscape and a vibrant place for pedestrians to gather. The proposed General Plan Amendment is required to accommodate new dedications and easements that would accommodate 15 foot wide sidewalks along Sunset Boulevard and Western Avenue. The project would provide new street trees, benches and other amenities, thereby enhancing the pedestrian experience to the transit station and bus stops located near the project. In the main entry plaza, the proposed project will provide a kiosk for transportation information that will include current routes and schedules, maps, and other information for the Metro Red Line subway and for the Metro and DOT bus lines operating in the project area.

The City had already approved the modified road standards in the Hollywood Community Plan Update (HPCU), and the court's rejection of the HPCU was unrelated to these modified road standards. The proposed update to the Citywide General Plan Transportation Element (called "Mobility Plan 2035") was approved by the City Planning Commission on May 28, 2015, and was adopted by the City Council on August 11, 2015. Mobility Plan 2035 changed the designation of Sunset Boulevard and Western Avenue from "Major Highway – Class II" to "Avenue I". The Avenue I designation requires a 35-foot half-width roadway on a 50-foot half-width right-of-way. The proposed redesignation that would occur under the Revised Project would preserve the 15 foot sidewalks adjacent to the project site and would thus not conflict with the proposed modifications to the Mobility Element.

Consequently, the Revised Project would not represent a new significant impact or substantial increase in the severity of previously identified impacts with respect to land use.