

Richmond Heights Neighborhood Council

February 16, 2022

City of Richmond City Council
City of Richmond
450 Civic Center Plaza, 2nd Floor
Richmond, CA 94804

VIA E-MAIL: HECTOR_LOPEZ@CI.RICHMOND.CA.US

RE: RHNC Appeal: CUP for Proposed Dollar Tree Store (PLN21-129)

Thank you for hearing this appeal to consider some needed, doable corrections to the CUP for the proposed Dollar Tree store at Barrett and San Pablo Avenue.

East Richmond neighbors have communicated with the Dollar Tree store applicants, the Planning Department, and through Design Review Board and Planning Commission meetings about inadequately addressed impacts in the Conditional Use Permit (CUP) for an intensive retail operation within a residential block.

The Planning Commission addressed some concerns, but the Conditional Use Permit remains unbalanced when considering adjacent and nearby residents. As illustrated by this aerial photo, the proposed intensive retail use would occur within a residential neighborhood at a heavily-impacted intersection in Richmond. Not only do we wish to see the impacts to surrounding neighbors addressed adequately, but east Richmond neighbors also support the cohesive development of San Pablo Avenue with inviting, "walkable streets" that can help businesses thrive.



Seven conditions of approval are missing or are inadequate. These Conditions are not supported by substantial evidence in the record. This also represents an abuse of discretion to

the extent that the CUP does not yet adequately address the quality of life, public safety, and property value considerations of the surrounding Richmond neighborhood.

Therefore, we request that the City Council repair this lack of evidence and imbalance by including the following sensible, doable modifications or additions to the CUP:

1. Traffic safety at this location

The property's single parking lot entrance adjoins a congested, fast-moving, rapidly lane-changing block of San Pablo Avenue that is poorly designed for the 800-plus vehicles that the Applicants estimate will be entering and then existing the driveway location on San Pablo Avenue.

The evidence for collision risks from this many vehicles at this location comes not only from the public's written comments and testimony, but also from written or public comments from: a) the Planning Department, b) the Richmond Police Department, and c) the Planning Commission, as follows:

- Twice, Planning Department reports on this CUP stated that *"given the proximity of the site to a busy intersection, San Pablo and Barrett Avenues, which is congested at peak times (morning and afternoon), the proposed use may add to traffic backups. In addition, the relatively short distance of the driveway to the street intersection may present additional safety hazards, such as rear-end collisions."* (8/25/21 & 9/22/21, Design Review Board (DRB), and 11/4/21 Planning Commission, underlined by author).

The DRB and Planning Commission used their discretion only to include a "Right Turn Only" sign when exiting the driveway, which does not address the public's risk of being rear-ended when entering the site.

- Based on neighbor's comments revealing reports nationwide of crimes associated with Dollar Stores, RHNC requested that Richmond Police Department (RPD) conduct a crime prevention audit of this proposed retail use. We appreciate that the Planning Department contacted the RPD for this audit. In their report to the Planning Commission, RPD outlined some crime prevention measures and the following be considered: *"San Pablo Ave and Barrett Ave is a very congested intersection to the EB I-80 on-ramp located approximately 600 feet from Barrett Ave on San Pablo Ave. Traffic tends to back up here in the number 2 and 3 Lanes which is where your parking lot entrance/exit will be located,"*
- At the 11/4/21 public meeting of the Planning Commission, the Chair of the Planning Commissioner commented on the precarious traffic situation that has long existed on the block of San Pablo Avenue between Barrett and Roosevelt Streets.



Some major traffic behavior patterns on this block of San Pablo Avenue. Property driveway entry and exit in yellow. Store vehicles exit onto a dedicated freeway onramp-only lane (red circles), and have to cross lanes to go northward.

Despite repeated evidence of problems with traffic safety and the opportunity to address safety concerns in their studies, these issues remain unaddressed. The Applicant's response does not respond to this public safety issue. Instead, the Applicants continue to report on traffic volume impacts.

There is also no evidence in the approved CUP to suggest that a voluntary "Right Turn Only" sign will sufficiently mitigate the risk of hundreds of vehicles daily both entering this location and exiting to the fast-moving, lane-changing traffic on this section of San Pablo Avenue.

Resolution: Add Traffic Safety Condition - Due to the continued absence of an effective condition of approval to address traffic safety at this location, the RHNC requests that the CUP include a Traffic Safety Study that describes traffic measures to mitigate against collisions from a) entering and exiting this location, b) attempting to navigate one's desired direction given the speed, lane design, congestion, and lane-changing in this block of San Pablo, and c) to prevent traffic volume and safety impacts on surrounding residential streets (a direct result of choosing to locate a high-intensity retail use for this location. See #2 below).

The study, design, and construction of traffic safety mitigations could involve exit metering, a bulb-out at Barrett and San Pablo, a dedicated entry lane, a San Pablo Avenue median, etc. Safety improvements would need to be completed before the store opening. The only other alternative would be to trigger design and construction of traffic safety mitigations following a determined number of traffic collisions related to this operation at this location – hopefully, before there is physical harm to vehicle occupants.

Since the Applicants chose this location with its traffic safety challenges, rather than other unoccupied retail sites in Richmond with safer conditions, the design and construction of traffic safety mitigations should be at the Applicant's expense and under the supervision of the Public Works Department.

2. Control Traffic onto surrounding neighborhood streets

The peer-review traffic volume report by Fehr & Peers acknowledges that the right-turn-only sign can increase traffic on the adjacent neighborhood streets, such as Roosevelt Avenue and McLaughlin Street. Vehicles that would not be able to turn left out of the project site and would drive around the project site to access southbound San Pablo Avenue.

The Commission included condition #29 whereby "the Applicant shall work with the City to install a local traffic only sign at San Pablo and Roosevelt Avenue." There is no evidence that



Neighborhood traffic impact when Southbound patrons encounter a "Right turn only" at driveway exit

this sign will be complied with, and even the Planning Commission questioned how well it would be followed. Also, this condition of approval is not binding since it states only that "installation of the sign shall be pursued diligently but shall not be a condition of obtaining the certificate of occupancy for the use." Therefore, residents surrounding the property still need effective protection against a surge of vehicles that would use surrounding streets to compensate for the "right-turn-only" requirement when exiting the

property. The portion of the 800+ vehicles leaving the property daily whose direction is south on San Pablo Avenue will look for the most efficient means to do so. That will be mean looping around on the McDonald Street and other residential streets (see illustration).

Resolution: Add condition to control traffic onto surrounding residential streets.

We request that the Council add a condition that:

- Requires a baseline traffic count at different times and days for Roosevelt Ave., McLaughlin St. and Key Blvd. prior to store opening.
- Triggers a follow-up traffic count at streets affected by significantly increased traffic when requested by one-half the residents on any of these streets.
- If traffic increases by over 25% above current levels and is attributable to the Dollar Tree operation, construction of traffic control measures will take place within six months using the recommendations described in the Traffic Safety Study (#1 above), or through a separate study. Applicants would be required to fund the study, design, and construction with work overseen by the Public Works Department.

3. Store closing hour compatible with residential setting (note: Dollar Tree stores elsewhere have earlier closing hours)

Condition #20 states that "the store hours shall be between 9:00 a.m. to 9:00 p.m., with seasonal adjustments allowed for the holidays." This is incompatible with placing an intensive retail operation in a residential neighborhood. There is no limit on opening times for "seasonal adjustments" for any holidays. The evidence shows that even the Dollar Tree store in Martinez closes at **8:00 p.m.** Also, at one of the public meetings, corporate representatives commented that the early morning and late evening hours are the slowest. Google analytics also verifies that the peak store patron volume is between 3–6 p.m.

The Applicant's response cites Target, Grocery Outlet, Planet Fitness, and others as examples of businesses located "immediately *adjacent*" to residential properties that have longer hours. However, this statement is problematic because rear walls or streets separate these businesses from residences and the parking lots are not directly adjoining homes.

Resolution: *Modify Condition #20 - "Hours of operation shall be from 9:00 a.m. to 7:00 p.m. throughout the year." Or, if necessary, to 8 p.m.*

4. Time limit needed on delivery truck unloading at night

Condition #19 proposes that "All deliveries by Dollar Tree distribution trucks to the store shall arrive no earlier than 7:00 a.m. and no later than 9:00 p.m....."

Residents commented on the known noise associated with the truck door, metal rollers, and other noisy equipment used to unload delivery trucks. One Planning Commission member commented about complaints she had received in her position from the piercing backup alarms of delivery trucks. There is no evidence that this condition adequately addresses the noise impacts of truck unloading for immediately *adjoining* neighbors, one of whom is right next to the loading dock. There needs to be a limit on unloading activity at night.

Resolution: *Modify condition #19 - The truck delivery arrival time to be no earlier than 7:00 a.m. and leave no later than 9:00 p.m.....*

5. Timely, specific, and effective measures to control delivery dock & other noises to adjoining properties

In addition to timing concerns, neighbors and the Neighborhood Council asked that the Applicants provide a means of controlling the noise volume from parking lot activity and delivery unloading and other noise-producing machinery or activities. Several times a wooden fence was proposed, but a wooden fence is ineffective at controlling noise from neighboring operations. Again, the neighbor whose residence is immediately next to the delivery dock faces the highest impacts on their home property value and quality of life. One planning commissioner suggested building a sound-enclosing shed at the delivery dock. However, every residence whose lot line is shared with the parking lot may experience frequent noise impacts.

The Planning Commission approved a condition recommended by the Applicants: Condition # 26 "....An *acoustic absorbent material* shall be installed along the portion of this loading zone fence opposite to the loading dock to further reduce potential noise." However, not only are there no details provided on the nature and effectiveness of the *acoustic absorbent material*, but to the extent that this condition could be interpreted as having precedence over the sound control requirements of the Richmond Municipal Code ARTICLE 15.04.605 – NOISE, adoption of this condition would be an abuse of discretion.

Resolution: *Modify Condition #26 - Replace the above cited sentence from Condition #26 with a requirement to comply with the provisions of the Richmond Municipal Code ARTICLE 15.04.605 – NOISE, including a) conducting an ambient noise study prior to store opening, b) conducting a noise study after the opening at the store at the request of a neighbor(s), and c) implementing Noise Attenuation Measures as needed.*

This proposed language is needed to apply the Noise code to this situation.

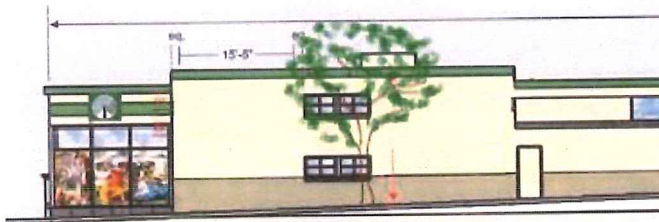
6. Oversized, overwhelming signage despite 24" signs at adjacent small businesses and another area Dollar Tree.

The excessive, oversized signage proposed in this CUP does not comply with Section 15.04.805.040 of the design review criteria that states that the project design should not "overwhelm or adversely impact adjoining properties." Visual evidence from the surrounding businesses and another area Dollar Tree indicates that the proposed excessive, oversized signage is out of scale with other signage in this small business area of San Pablo Avenue. Kentucky Fried Chicken, another large corporate business across the street from the proposed Dollar Tree, tastefully and simply signs the front of their building facing San Pablo Avenue with 24" letters, "KFC." The Dollar Tree on San Pablo Avenue at Gilman Street in Berkeley uses 24" letters on the side of the building facing San Pablo Avenue.



24" tall letters at Berkeley Dollar Tree facing San Pablo

Neighbors have been enthusiastic about the Planning Department's stated aim to develop attractive, inviting "walkable streets" on the San Pablo Avenue corridor. This major intersection property location is also a gateway to the San Pablo Avenue corridor and the surrounding residential neighborhoods. Therefore, we are requesting modifications to the exterior design that still advertises the business, but is more fitting with the corridor businesses and surrounding neighborhood.



Building South Elevation (rear view - faces Barrett ave)

Neighborhood-scaled signage with Dollar Tree logo proposed for the south side of the building facing Barrett Avenue. Instead, Applicants propose a 6' tall Dollar Tree sign with 30" letters with a huge green stripe.

The RHNC letter to the Planning Commission requested each of the three large signs to be scaled back slightly in size, as follows:

- a) 24" tall sign letters facing San Pablo Avenue (versus 28")
- b) 30" tall letters sign letters facing the parking lot (versus 7' tall sign with 36" tall letters)
- c) an unilluminated *Dollar Tree logo* and green stripe at the top left corner building section for the south side facing Barrett Avenue, but not across the whole side of the building (see illustration below). The Applicants propose a 6' tall DOLLAR TREE" sign with 30" tall letters.

The Applicants response has been that the proposed 6' tall sign on the Barrett side of the building is for patrons traveling north on San Pablo Avenue so they don't overshoot the entrance. However, the front building would have a large sign, and a 4'x4' "monument sign" is planned for the entrance driveway. The evidence from driving north San Pablo Avenue (see photo below) is that the front of the building and the proposed monument sign would indicate that there is a Dollar Tree store here.



View driving north on San Pablo Avenue

"DOLLAR TREE" sign

4'x4' illuminated sign with
"DOLLAR TREE" name and logo at driveway entrance

These two prominent signs amply inform drivers on San Pablo Avenue of the identity of the business here.

Resolution: Add new condition – That store signage consist of the following:

- b) 24" tall sign letters facing San Pablo Avenue,
- c) 30" tall letters sign letters facing the parking lot.
- a) an unilluminated *Dollar Tree* logo and green stripe at the top left corner building section on the south side of the building facing Barrett Avenue.

7. Total parking lot and sign brightness level (i.e. lumens) for parking lot, etc. were not made available

The Neighborhood Council has repeatedly asked for the total lumens (i.e. lighting brightness level) for the parking lot and signage. Lumen levels should have been reported and part of the public project review under Richmond Municipal Code, ARTICLE 15.04.604 - LIGHTING AND ILLUMINATION. Anyone who has visited a car sales lot at night knows how bright the lighting can be.

As a result of this appeal, the Applicant's response indicates that the night operation would result in approximately 47,000 lumens, whereas the brightness level for the adjoining residential neighborhood is about 80% less, or about 10,000 lumens. It is extremely important that the "glare" and "lighting spill" conditions in the CUP be tightly enforced.

Resolution: The Applicant's response to this appeal now includes the total estimated lumens for the project. It is extremely important that the "glare" and "lighting spill" conditions in the CUP be tightly enforced.

We desire that a business occupy the site in a way that fits, and does not devalue the immediate and surrounding neighborhoods, nor conflict with General Plan policies for good-paying employment, healthy products, and adding value to the city. This operation should not undercut surrounding small businesses that incur the expense associated with offering residents fresh fruits, vegetables, milk, proteins, and breads.

We also did not find substantial evidence in the record to support how the project complies with the selected General Plan goals and policies, design guidelines, and the Zoning Ordinance as applied to the issues cited in this appeal, including that the project

- comply with General Plan Use Goal LU-A and Land Use Policy LU-1 so that the project results in "an improved urban environment."
- be "compatible with and will not infringe upon the character of the surrounding neighborhood."

- *"The location, size, design, and operating characteristics of the proposed use will be compatible with and will not be adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood."*
- *adequately include measures "to reduce the potential adverse impacts to the surrounding area" and "the project design does not overwhelm or adversely impact adjoining properties" (Design review criteria in Section 15.04.805.040)*


The added or modified conditions in the report are intended to bring this CUP closer in compliance with the city's General Plan goals and policies, design guidelines, and the Zoning Ordinance.

There were also other relevant General Plan goals and policies that were not evaluated against this project (non-italics), such as:

- LU6 High-Quality and Sustainable Development and LU5.3 Land Use Compatibility
- Economic Development Goals and Policies
- Goal CR-3 – a Safe and Well-Maintained Circulation System
- Community Health and Wellness policy HW11 - Leadership in Building Healthy Communities, Policy HW11.1, and several additional and directly-related Health and Wellness goals and policies. Of note, the General Plan's Community Health and Wellness policy - HW11.1 states that of health criteria may be used "in reviewing and approving new development and redevelopment projects to maximize their health benefits and minimize or eliminate health impacts." At the 12/2 Planning Commission meeting, the members received a public comment on the product safety record for items Dollar Tree stocks in their stores (see "Dollar Tree Not Removing Toxic Chemicals Fast Enough," Healthy Children Project, Learning Disabilities Association of America). The national Campaign for Healthier Solutions and the [Retailer Report Card](#) are currently asking for a toxic product safety update from the Dollar Tree corporation (Target has an "A" grade; Dollar Tree has moved from a "D" to a "C+"). We hope the Council will simply ask the Applicants to inform the Council and residents of their progress in removing toxic chemicals from their product packaging.

We appreciate the Planning Commission's dedicated and patient work on this CUP and remain committed to a project at this location that works for our neighborhood, too. Therefore, we recommend the Council approve the added or modified Conditions of Approval in this appeal.

Sincerely,



Jim Hanson

President, Richmond Heights Neighborhood Council