THE CITY OF SAN DIEGO

# MANAGER'S REPORT

DATE ISSUED: June 22, 2005 REPORT NO. 05-136

ATTENTION: Land Use and Housing Committee
Agenda of June 29, 2005

SUBJECT: Draft Ordinance Regulating Large Retail Development

REFERENCES: Planning Commission Memorandum, dated December 9, 2004;
Planning Commission Report PC-04-138;
Planning Commission Memorandum, dated May 7, 2004;
Planning Commission Report PC-04-014;
Manager's Report 03-151; Manager's Report 01-126;
Manager's Report 00-205; Planning Commission Report P-96-180;
Planning Commission Report P-96-080

## SUMMARY


Issue – Should the Land Use and Housing (LU&H) Committee adopt the City Manager's recommendation and recommend to the City Council adoption of an ordinance that would apply a building size limitation, discretionary review at specified thresholds, additional design and landscape regulations, and incentive-based requirements to large retail development in some areas of the City?

Manager's Recommendations – Adopt the City Manager's recommended ordinance (see Attachment 1), which proposes:

(1) No building size limit in areas designated for Regional Commercial uses;
(2) Limiting the size of large retail establishments to 150,000 square feet except in the CR (Commercial-Regional) zones and the Centre City Planned District Ordinance (CCPDO);
(3) Establishing a Process 2 Neighborhood Development Permit (NDP) at 50,000 square feet of building size in the CC (Commercial-Community) zones, CR zones, IL-2-1 (Industrial-Light) zone, IL-3-1 zone, and planned districts, except in the CCPDO;
(4) Establishing a Process 4 Site Development Permit (SDP) at 100,000 square feet of building size in the CC zones and planned districts;

(5) Including incentive-based requirements; and
(6) Establishing additional design and landscape regulations in the CC zones, CR zones, IL-2-1 zone, IL-3-1 zone and planned districts.

LU&H Committee Recommendation – On July 23, 2003, LU&H directed staff to evaluate an ordinance proposal distributed at the meeting [Stockkeeping Units (SKU) Ordinance] (see Attachment 6), and to draft an ordinance regulating large retail development that includes design standards.

Planning Commission Recommendation – On December 16, 2004, the Planning Commission made a motion to recommend to the City Council that they approve staff's recommendation with the exception of item no. 2 as submitted in staff's memorandum, dated December 9, 2004 (see Attachment 2) which limits the size of large retail establishments to 150,000 square feet except in the CR zones and the CCPDO. The Planning Commission also recommended the inclusion of the design requirements as illustrated in Table 1 of the memorandum, dated December 9, 2004, with two exceptions: 1) the economic impact report should not be included as part of the ordinance, and 2) requirement that 25% of required parking be provided in parking structures for buildings over 150,000 square feet apply to the CC zones only. This motion passed by a 6-0 vote.

Community Planners Committee (CPC) Recommendation – On September 28, 2004, CPC voted 21-2-0 (one recusal) to support staff's recommendation presented to CPC with modifications as follows:

(1) Eliminate the 150,000 square feet building size limitation;
(2) Establish discretionary review (SDP Process 4) at 75,000 square feet instead of 100,000 square feet recommended by staff in the CC zones and planned districts;
(3) Require a discretionary review (NDP Process 2) instead of Process 1 recommended by staff at 50,000 square feet of building size.

Three separate motions failed regarding re-leasing. More specifically, the first motion was to have staff return at a later date with a staff report on re-leasing issues; it failed with a vote of 1-17-2. The second motion was to have City Council recognize CPC's concerns about vacant buildings creating blight, public nuisance and contributing to lack of services; it failed with a vote of 10-12-1. The final motion stated that a re-leasing requirement, not involving demolition, should be added to the ordinance to require the vacating leaseholder to actively pursue re-leasing of the property and to prohibit leases from tying up vacant properties; it failed with a vote of 5-16-1.

Technical Advisory Committee (TAC) – On September 8, 2004, TAC made a series of motions summarized as follows:

(1) Maintain current regulations as they are without adding further regulations (vote of 5-0-2);
(2) Recommend an incentive-based approach so that if new regulations are added, they should be incentive-based (vote of 6-0-1);

(3) Require traffic analysis for a change in retail user for buildings over 100,000 square feet in size (vote of 5-0-2);
(4) Support 100,000 square feet threshold for discretionary review via an SDP Process 4 (vote of 5-0-2); and
(5) Deny any form of re-leasing requirements in the City (vote of 5-0-2).

Land Development Code Monitoring Team (CMT) Recommendation – On September 8, 2004, CMT voted 7-0 to express opposition to any re-leasing requirements and support all items covered in the Planning Department recommendation with the following two exceptions:

(1) Eliminate the building size limitation of 150,000 square feet; and
(2) Require a Process 1 at 50,000 square feet of building size.

San Diego Business Improvement District (BID) Council – On December 16, 2004, the BID Council made a motion to support a large retail development ordinance which precludes the development of superstores in San Diego, with a superstore defined as a store with over 90,000 square feet, over 30,000 SKU, and over ten percent of gross sales revenues coming from sales of non-taxable items.

Small Business Advisory Board (SBAB) – The SBAB serves as an advocate of the small business community and advises the Mayor, City Council and City Manager on relevant issues among other duties. On January 26, 2005, the SBAB made two motions as follows:

(1) Support the BID Council's proposal for a large retail development ordinance which precludes the development of superstores in San Diego, with a superstore defined as a store with over 90,000 square feet, over 30,000 SKU, and over ten percent of gross sales revenues coming from sales of non-taxable items. If any of the above three criteria is exceeded, an economic impact report would be required; and
(2) Support the Planning Department's recommendation, which specifies the criteria for design and development of large retail stores. Both motions were voted upon and unanimously approved (9-0).

Other Recommendations – Other groups and organizations have considered recommendations including the American Institute of Architects (AIA), the San Diego Council of Design Professionals, the San Diego County Building Industry Association's (BIA) Metropolitan Legislative Committee, and the San Diego Regional Chamber of Commerce (see Attachment 3). A matrix comparing all of the recommendations against the Manager's Recommendation is included as Attachment 1A.

Fiscal Impact – The City of San Diego Community and Economic Development department has prepared a detailed analysis of the fiscal and economic impacts of large retail establishments (see Attachment 4).

Environmental Determination – This activity is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15305 of the state CEQA

guidelines. California Environmental Quality Act determinations in other jurisdictions were discussed at the May 13, 2004 Planning Commission Workshop (see Attachment 5 for additional information).

Code Enforcement Impact – The SKU ordinance proposal would result in a cumulative impact on Code Enforcement staff to determine compliance with the maximum SKU requirement contained in the proposal. A portion of this impact could be cost recoverable.

## BACKGROUND

On July 23, 2003, the City Council's LU&H Committee directed Planning Department staff to develop an ordinance that would regulate large retail development and to analyze an ordinance proposal distributed at the meeting (see Attachment 6).

Planning Commission Report PC-04-014, prepared for the April 8, 2004 Planning Commission hearing (see Attachment 7), summarized the potential impacts of large retail establishments, relevant policies and their relationship to large retail development, regulations in other jurisdictions, and it also described both the SKU ordinance proposal and staff's recommended ordinance. Since the April 8, 2004 hearing, Planning Commission held three public workshops to discuss economic development trends, existing code regulations, land use, traffic, environmental, fiscal and economic issues related to large retail development. Public testimony was provided by a number of interest groups, including representatives from the Center for Policy Initiatives, Costco, Home Depot, the Joint Labor Management Committee, the San Diego BID Council, the San Diego Council of Design Professionals, the National Association of Industrial and Office Properties (NAIOP), the San Diego County BIA, the San Diego Regional Chamber of Commerce, and Wal-Mart among others.

Since July of 2004, and throughout the month of August, Planning Department staff reconsidered all technical studies, reviewed previous Planning Commission meeting tapes and previous staff reports. Staff met individually with the various interest groups previously mentioned above and others, including Lowe's, John Ziebarth, and the SBAB, to better understand their concerns and to obtain input. Staff established an e-mail interest list to provide updates on upcoming meetings and copies of reports.

On July 27, 2004, staff presented CPC with several possible alternative regulations for discussion. Staff attended the August and September meetings of the Land Development CMT and TAC to obtain formal recommendations from these two groups. Based on the outcome of these various meetings, staff drafted an ordinance to be presented to CPC in September of 2004. CPC also established a subcommittee to review and discuss the issue in more detail and provide a recommendation to the larger CPC at the September meeting. A summary of the two subcommittee meetings held on September 13 and 14, 2004 is included with this report (see Attachment 8).

On September 28, 2004 (see Attachment 9), CPC voted 21-2-0 (one recusal) to support staff's recommendation with modifications as follows:

(1) Eliminate the 150,000 square feet building size limitation;
(2) Establish discretionary review (SDP Process 4) at 75,000 square feet instead of 100,000 square feet recommended by staff in the CC zones and planned districts; and
(3) Require a discretionary review (NDP Process 2) instead of Process 1 recommended by staff at 50,000 square feet of building size.

Three separate motions failed regarding re-leasing. More specifically, the first motion was to have staff return at a later date with a staff report on re-leasing issues; it failed with a vote of 1-17-2. The second motion was to have City Council recognize CPC's concerns about vacant buildings creating blight, public nuisance and contributing to lack of services; it failed with a vote of 10-12-1. The final motion stated that a re-leasing requirement, not involving demolition, should be added to the ordinance to require the vacating leaseholder to actively pursue re-leasing of the property and to prohibit leases from tying up vacant properties; it failed with a vote of 5-16-1.

During the period from October 2004 through January 2005, several interest groups met to formulate their specific recommendations with regards to the proposed ordinance. These groups include the following: the San Diego BID Council, the SBAB, the San Diego County BIA's Metropolitan Legislative Committee, the San Diego Council of Design Professionals and the San Diego Regional Chamber of Commerce.

On December 2, 2004, Planning Commission had an opportunity to hear staff's recommendation and consider the staff report (see Attachment 10) prepared to address this matter of a proposed ordinance regulating large retail development in the City. Public testimony by all the different interest groups and stakeholders was heard and the Planning Commission made a series of motions as follows:

A. <u>First motion</u> was made to support the following items from the staff's recommendation:

(1) No building size limit in areas designated for Regional Commercial uses;
(2) Limit the size of large retail establishments to 150,000 square feet except in the CR zones and the CCPDO;
(3) Establish a Process 2 NDP at 50,000 square feet of building size in the CC zones, CR zones, IL-2-1 zone, IL-3-1 zone, and planned districts, except in the CCPDO; and
(4) Establish a Process 4 SDP at 100,000 square feet of building size in the CC zones and planned districts.

PLUS

(7) Require an economic impact analysis for 100,000 square feet and larger establishments.

It was decided that the design-related requirements would be dealt with under a separate motion.

(First motion failed – vote of 3-4)

B. <u>Second motion</u> was made to support the following items from the staff's recommendation:

(3) Establish a Process 2 NDP at 50,000 square feet of building size in the CC zones, CR zones, IL-2-1 zone, IL-3-1 zone, and planned districts, except in the CCPDO;
(4) Establish a Process 4 SDP at 100,000 square feet of building size in the CC zones and planned districts; and
(6) Establish additional design and landscape regulations in the CC zones, CR zones, IL-2-1 zone, IL-3-1 zone and planned districts.

PLUS

(7) Require an economic impact analysis for 100,000 square feet and larger establishments;
(8) Establish additional design requirements for 50,000 square feet and larger establishments (building massing and distinct masses at 50,000 square feet via offsetting planes and rooflines; parking in smaller bases with landscaping in between areas; major pedestrian linkages between buildings and public transit; 5,000 square feet of public plaza for every 50,000 square feet of building);
(9) Incorporate as part of the ordinance and/or resolution the purpose and intent of the ordinance that is directly associated with the City of Villages strategy and Strategic Framework Element; and
(10) Convert incentives under staff's recommendation into standards or requirements that apply starting at the base line of 150,000 square feet of building size.

(Second motion carried – vote of 5-2)

C. Third motion was made to continue the item to December 16, 2004, and for staff to return with information reflecting design suggestions discussed on December 2, 2004.

(Third motion carried – unanimously)

On December 16, 2004, the Planning Commission made a motion to recommend to the City Council that they approve staff's recommendation with the exception of item no. 2 as submitted in staff's memorandum, dated December 9, 2004 (see Attachment 2) which limits the size of large retail establishments to 150,000 square feet except in the CR zones and the CCPDO. The Planning Commission also recommended the inclusion of the design requirements as illustrated in Table 1 of the memorandum, dated December 9, 2004, with two exceptions: 1) the economic impact report should not be included as part of the ordinance, and 2) requirement that 25% of required parking be provided in parking structures for buildings over 150,000 square feet apply to the CC zones only. This motion passed by a 6-0 vote.

In response to Planning Commission's design recommendations per Table 1 of the memorandum, dated December 9, 2004, please see Attachment 11, which includes these design recommendations with accompanying ordinance text and an explanation of where this text would be inserted if LU&H gives direction to add it to the staff's recommended ordinance.

The issue of pedestrian connection to transit in Table 1, as brought up by the Planning Commission, is already being addressed by City staff. Staff is currently working on recommendations for updating the Land Development Code that will include addressing pedestrian

paths and pedestrian site design requirements as well as other items including the location of bicycle and carpool/vanpool parking facilities on a site. Recommendations include language about the path system (width and location requirements) and connecting all buildings on the premises, as well as connecting transit facilities, plazas, and trails. These proposed requirements will help implement the City's Strategic Framework Element and mobility goals and actions outlined in its Action Plan by enhancing personal mobility.

## DISCUSSION

This section of the report will cover several areas. First, it will address the benefits and concerns of large retail development that have been brought up and discussed during the various public meetings and workshops. Secondly, it will address other ordinances, including the SKU ordinance, by discussing their intent and content. Thirdly, it will cover the outcome of analyses that were done regarding traffic, environmental determination and fiscal and economic impacts, and provide information on sizes of existing large retail establishments. Finally, the proposed regulations and justifications for these regulations under the recommended ordinance will be addressed.

### Benefits and Concerns of Large Retail Development

- **Recognizing the Benefits of Large Retail Development**

  Throughout the development of this ordinance, much discussion has taken place regarding the benefits and concerns associated with large retail development. As stated in the "Fiscal and Economic Impacts of Large Retail Establishments," prepared by the City of San Diego Community & Economic Development department, large format retailers impose economic changes on a community and they must be measured against the underlying assumption of a free market economy, that is, that competition is fundamentally good for the consumer. Competition presumably drives prices down and stimulates efficiencies and other improvements in product design, performance, and availability. While City staff has previously identified potential adverse effects and concerns associated with large retail developments as they relate to the Strategic Framework policy, staff acknowledges that large retail developments can offer a wide selection of products in larger quantities at discounted prices as well as convenience to the consumers of a "one-stop-shop." Also, older neighborhoods and underserved areas in need of revitalization and economic reinvestment may benefit from a large retail establishment that could help meet the retail needs of residents in these areas. Large retail may also serve as a "magnet" attracting consumers to shop in other smaller nearby stores located in the vicinity of the large retail establishment. But it is important to recognize that the outcome and impacts of large retail development, whether positive or negative, are largely dependent on the existing socio-economic conditions of an area.

- **Potential Concerns and the Relationship with the City of Villages Strategy**

Aside from the benefits that can be associated with large retail development as previously described above, there are also potential concerns as this type of development relates to further implementation of the City of Villages strategy and the Strategic Framework policy adopted by the City Council. Some of these concerns relate to the fact that vacant land is becoming scarce in the City of San Diego, and therefore, new growth strategies need to be implemented to ensure continued opportunities for mixed-use development and a diversity of uses that can promote pedestrian scale environment, walkable communities, and transit-oriented development. Today, buildings have a tendency to get larger which is another concern that can also affect community character. Therefore, it is important to address building bulk and scale of large retail establishments as they relate to the creation of pedestrian scale environments.

**Other Ordinances**

- **SKU Ordinance Proposal**

As discussed in previous staff reports to Planning Commission, the SKU ordinance would not allow a food, beverage, or groceries facility to be established or enlarged if such facility would contain more than 90,000 square feet, and more than 30,000 SKU and more than ten percent of its gross sales revenues would come from sale of non-taxable (grocery) items. This proposal could protect some existing neighborhood scale grocery stores from competition; however, its scope does not fully address the community character aspects associated with large retail development. On the other hand, the staff recommended ordinance goes further to mitigate the design impacts of large scale retailing. Although design standards could be added to the SKU ordinance proposal, it would still allow other types of large retail stores of an unlimited size that do not sell groceries or that sell groceries under the proposed threshold of ten percent. In addition, the effectiveness of design standards and regulations may diminish as store sizes increase without limitation throughout the city. As such, the ordinance poses a concern towards implementing the Strategic Framework City of Villages policy and preventing inefficient use of underutilized infill sites near transit for auto-oriented development. This could in turn work against policy strategies that promote an integrated transit system and guide future development to focus on walkability and less dependence on the automobile.

- **How Other Cities Address Large Retail Development**

Staff has been able to identify several adopted municipal ordinances, which address development of large retail establishments in their respective jurisdictions (see Attachment 12). Staff understands that there are no ordinances adopted up to this date that apply the method of SKU as part of the ordinance language.

## Analyses

- **Fiscal and Economic Impact Analysis**

A fiscal and economic impact analysis was conducted by City staff from the Community and Economic Development department to consider the potential impacts of large retail establishments on the local economy. This analysis considered methodologies from other similar studies conducted by other agencies, such as the Orange County Business Council, the Bay Area Economic Forum, and the Los Angeles County Economic Development Corporation. The different methodologies used by these agencies considered the potential negative and positive impacts associated with supercenters and what the benefits would be to consumers. The conclusion that was arrived at by staff indicates that there would be no net gain for the local economy, and that there is a greater likelihood for a negative fiscal impact since supercenters can reasonably be expected to contribute towards increased urban blight in older areas of the City by causing higher vacancies in older, smaller retail stores which are rendered "functionally or economically obsolescent" by the construction of the larger stores. This urban blight is then typically mitigated through redevelopment projects carried out by the City's Redevelopment Agency.

- **Traffic Analysis**

Traffic impact analysis will be conducted during the discretionary review process for the development of actual large retail establishments. While localized traffic impacts are anticipated with future development of large retail establishments, CEQA does not require traffic impacts to be quantified at this time because this action involves a policy decision and, in and of itself, will not result in any development project. It should also be noted that further restrictions on size and location of large retail buildings per the proposed ordinance would not cause greater future traffic impacts than are already anticipated per the adopted community plans.

Although initially, representatives of Wal-Mart indicated that a study conducted by Kimley-Horn and Associates, Inc. regarding trip generation was available, staff was later told by both Wal-Mart and Kimley-Horn that the study should not be used. In May of 2004, staff was informed that Wal-Mart intended to commission a current study, but was not clear on how long it would take to produce this study.

At the December 2, 2004 Planning Commission hearing, Wal-Mart representatives provided to the Planning Commission a traffic study, dated November 20, 2003, prepared by TJKM, a transportation engineering and planning consulting firm. Staff had an opportunity to review this traffic study and conclude that the study does not present any information that would counter staff's position that it is not possible to quantify at this time how the ordinance would affect traffic because of the complexity and all the inter-related factors (as summarized in the Planning Commission Report PC-04-014 issued April 2, 2004 and discussed in more detail in the memorandum to the Planning Commission dated May 7, 2004).

- **Environmental Determination**

Adoption of this ordinance has been determined to be exempt from CEQA pursuant to Section 15305 of the state CEQA guidelines. The standard of review for using this categorical exemption is that the ordinance has no reasonable possibility of resulting in an adverse effect on the environment (CEQA Guidelines Section 15300.2). Had the ordinance not included the addition of development regulations, staff would not have subjected ordinance approval to CEQA pursuant to sections 15060(c)(3) and 15378 of the CEQA guidelines.

The CEQA standard of review used to determine whether an action is a "project" and subject to CEQA [CEQA Guidelines sections 15060(c)(3) and 15378] is whether the action has the "potential to result in a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment." Staff has found that the addition of development regulations via the ordinance meet this standard even though the implementation of the development regulations would result in positive, not adverse, effects on the environment. Therefore, the ordinance as a whole is a "project" and is subject to CEQA.

However, staff rejects the argument that large retail establishment siting restriction provisions of the ordinance have "the potential to result in a direct physical change in the environment or a reasonably foreseeable indirect change in the environment." Instead, staff believes that any assessment of possible future impacts would be remote and speculative. Ordinances banning large retail establishments, but not including the addition of development regulations, have been determined not to be "projects" and therefore not subject to CEQA by other jurisdictions.

Staff originally made the determination that adoption of this ordinance was a project that was addressed by CEQA under the "General Rule" [Section 15061(b)(3) of the CEQA Guidelines], which states that

> CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment the activity is not subject to CEQA.

Given the arguments presented, that the project would have a significant impact in testimony to the Planning Commission, staff now finds that adoption of the ordinance is categorically exempt per section 15305 of the CEQA Guidelines.

- **Size Survey of Existing Large Retail Establishments**

Please see below for a partial listing of some large retail establishments and grocery stores in San Diego.

- Home Depot at Imperial Marketplace – 107,920 square feet (sq. ft.) with a 23,920 sq. ft. garden center
- Mervyn's at Sports Arena – 93,590 sq. ft.
- Ralph's in Downtown San Diego – 43,000 sq. ft.
- Costco in Mission Valley – 147,000 sq. ft.
- IKEA at Fenton Marketplace – 190,522 sq. ft.
- Lowe's at Fenton Marketplace – 142,000 sq. ft.
- Wal-Mart at College Grove – 131,000 sq. ft.
- Target at College Grove – 120,000 sq. ft.
- Food-4-Less at Market Creek Plaza – 59,000 sq. ft.
- Home Depot at Genesee Plaza – 98,961 sq. ft. with a 23,304 sq. ft. garden center

Data obtained from contacting the following corporations or visiting their websites is as follows:

Home Depot ranges from 45,000 to over 100,000 sq. ft.
Costco ranges from 120,000 to 160,000 sq. ft.
Target average size is 122,280 sq. ft.
Lowe's prototype store is 116,000 sq. ft.
Vons ranges from 65,000 to 75,000 sq. ft.
Ralphs prototype store is 58,000 sq. ft.
Wal-Mart: Neighborhood Market ranges from 42,000 to 55,000 sq. ft.
Discount Store ranges from 40,000 to 125,000 sq. ft.
Supercenter ranges from 100,000 to 220,000 sq. ft.
Sam's Club ranges from 110,000 to 130,000 sq. ft.

**Proposed Regulations**

- **Supporting the City of Villages Strategy**

The Council-adopted Strategic Framework Element directs new growth into mixed-use village opportunity areas accessible to transit. Additionally, the Strategic Framework Element promotes walkable communities and transit-oriented developments in the City of San Diego. The subject ordinance would help reduce the possibility of inefficient use of land near transit for auto-oriented development that does not support adopted General Plan policies. In essence, the purpose of the ordinance and its regulations is to provide standards for the evaluation of large retail establishments that will address the design, bulk and scale of these establishments. The intent of the regulations is to preserve community character, create a more pedestrian scale environment, promote walkable communities, transit-oriented developments and diversity of uses within potential future village areas in the City of San Diego per the City Council adopted General Plan Strategic Framework Element and City of Villages strategy.

- **Proposed Regulations and Justifications for the Staff's Recommendations**

Within the context of the City of Villages strategy as well as taking into account input from the various interest groups, staff developed specific regulations for large retail development that propose the following:

(1) No building size limit in areas that allow or are designated for Regional Commercial uses

Areas that allow and are designated for Regional Commercial uses are intended to accommodate large-scale and high-intensity regional serving type developments. Examples of these areas include the large commercial area in Carmel Mountain Ranch, University Towne Center, La Jolla Village Square, Fashion Valley Shopping Center, Mission Valley Shopping Center, Centre City planned district area, and College Grove Center. Therefore, no building size limit is proposed in these areas.

(2) Limiting the size of large retail establishments to 150,000 square feet except in the CR zones and the CCPDO

The intent of the proposed regulations is to preserve community character, create a more pedestrian scale environment, and promote walkable communities, transit-oriented developments and diversity of uses per the adopted General Plan Strategic Framework Element and City of Villages strategy. The 150,000 square feet building size limitation reflects and covers the sizes of the large majority of large retail establishments as they exist in our communities today. Furthermore, it is important to recognize that land is becoming a scarce element these days, and that we must all apply new methods to accommodate future growth and fulfill adopted policy strategies, such as the Strategic Framework Element. Therefore, a building size limitation of 150,000 square feet is being proposed by staff in order to prevent these types of establishments from getting larger and to help preserve community character while creating more pedestrian-oriented environments.

(3) Establishing a Process 2 NDP at 50,000 square feet of building size in the CC zones, CR zones, IL-2-1 zone, IL-3-1 zone, and planned districts, except in the CCPDO

This addresses the smaller formats of large retail establishments with sizes starting at 50,000 square feet, and it also addresses CPC's recommendation to involve the communities in the review process at this size threshold. It should be noted that the Centre City Advisory Committee for the Centre City planned district area is currently involved in the review of retail stores to be located on 10,000 square feet or greater lot sizes, and that more strict urban design requirements already exist in the CCPDO, therefore the Process 2 NDP at 50,000 square feet of building size would not be fulfilling a new purpose and it would not be required as part of the CCPDO. However, because stores over 100,000 square feet may have additional and more complex design considerations due to unique loading and/or other service related

requirements, large retail establishments at 100,000 square feet of building size in the downtown area would be subject to a higher level of review via the Process 4 SDP.

(4) Establishing a Process 4 SDP at 100,000 square feet of building size in the CC zones and planned districts

The 100,000 square feet size threshold is reflective of the size of a community shopping center that can include a large retail establishment as defined in the City's trip generation manual (May 2003), SANDAG's traffic generation rates guide for the San Diego region, and by the International Council of Shopping Centers (ICSC). The 100,000 square feet threshold eliminates previous concerns of arbitrariness brought up by various interest groups and stakeholders at the April 8, 2004 Planning Commission hearing and subsequent workshops with the Planning Commission.

(5) Including incentive-based requirements

When meeting with the TAC, CMT, and various interest groups, comments were made about providing incentives rather than just applying additional regulations as part of the ordinance. Therefore, these incentive-based requirements would allow for additional square footage above the 150,000 square feet building size limitation in exchange for additional site design features.

(6) Establishing additional design and landscape regulations in the CC zones, CR zones, IL-2-1 zone, IL-3-1 zone and planned districts

The proposed design and landscape regulations address large retail development by incorporating elements that emphasize pedestrian-scale environment and address the bulk and scale issue of these large structures. The proposed regulations are a result of working together with various interest groups, such as the CMT, and regulations were developed so that they are reasonable, practical, and allow for design flexibility with options within certain requirements.

The proposed ordinance is not intended to target any specific user, but instead it is intended to regulate all new large retail establishments that have a gross floor area of 50,000 square feet or more. Overall, the purpose of the ordinance is to address planning aspects associated with size, location and design of new large retail establishments through a series of regulations. The expansion or enlargement of existing structures to 50,000 square feet or greater and not to exceed 150,000 square feet (excluding a contiguous unenclosed area such as a garden center) except in the CR zones and Centre City planned district is addressed in the proposed ordinance.

After careful consideration of the types of permits and processes available to potentially regulate large retail establishments, staff reached a consensus that development permits, such as NDP Process 2 and SDP Process 4 are in fact the appropriate mechanisms to process these types of developments since the goal is to address and regulate the development of these establishments rather than the use itself. Therefore, all additional design regulations for large retail development are found under the "Supplemental NDP

and SDP Regulations" portion of the LDC. Also, all of the 19 planned districts currently include a reference to the Supplemental Development Regulations (Article 3) found under General Regulations (Chapter 14) of the LDC.

The idea of requiring an economic impact report as part of the proposed ordinance was most recently raised by the San Diego BID Council as evidenced by their recommendation. This type of report will be considered separately and not as a part of this proposed ordinance because it is a part of a larger Strategic Framework Action Item to prepare a format for a "community impact report" to be applied citywide for major development projects. This will require major development projects to be defined to include all types of projects (residential, commercial, and industrial), which could result in community and citywide economic and fiscal impacts. Jurisdictions that have adopted or are considering economic assessment as a means of mitigating the impacts of large retail development include the states of Maryland and Vermont, Lake Placid (New York), Bozeman (Montana), and Los Angeles. The Planning Commission discussed the issue of requiring the economic impact report as part of the proposed ordinance and concluded that it should be dealt with as a separate item and not as a part of this ordinance based on staff's explanation.

The staff recommended ordinance may still preclude the development of supercenters in certain areas of the city since these are currently typically established at sizes greater than 170,000 square feet. However, there is some recent evidence that suggests supercenters can exist in smaller buildings. Neither the staff recommended ordinance nor the SKU ordinance proposal would preclude the development of large retail centers or "power centers" containing two or more large retail establishments. In addition, these centers could be developed to be more village-like in character and function.

The majority of stakeholders that staff has met with during the past few months believes that there should not be a building size limitation as part of the ordinance. Options previously presented to CMT included requirements for multistory buildings and structured parking in urbanized areas to allow stores without a building size limitation. Due to the varied character of individual communities, the requirement for large multistory structures and structured parking may increase the visual effect of massing in certain communities. The CMT did not support these design standards due to possible unintended design impacts and cost considerations. Staff's recommendation still includes a building size limitation, except in the CR zones and CCPDO, in order to help protect and promote existing and future village areas; create more walkable communities; and reduce the likelihood of future auto-oriented developments near transit in the City of San Diego.

## CONCLUSION

Based on analysis of various proposals and numerous meetings with various interest groups and stakeholders during the past several months, the Planning Department recommends the ordinance included as Attachment 1. The staff recommended ordinance supports the retention and strengthening of local retail and neighborhood-serving commercial uses that are essential to village development by establishing a building size limitation for large retail establishments in CC zones, IL-2-1 and IL-3-1 zones, and planned districts and with the exception of CR zones

and CCPDO. The proposed ordinance also allows for community input and participation in the decision-making process through the discretionary review processes. And finally, it incorporates additional design and landscape regulations with options within certain requirements to promote design flexibility and creativity. However, the LU&H Committee of the City Council may consider alternatives as identified in the following section of this report.

ALTERNATIVES

- Approve City Manager's recommendation with modifications; or
- Deny City Manager's recommendation and keep existing regulations as they are currently found in the Land Development Code; or
- Deny City Manager's recommendation and support the SKU Ordinance.

Respectfully submitted,

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| S. Gail Goldberg, AICP<br>Planning Director | Approved: Ellen Oppenheim<br>Deputy City Manager |

OPPENHEIM/CC/PC/ah

Attachments:
1. Draft Large Retail Development Ordinance
1A. Matrix Comparison of all Recommendations against Staff's Recommendation
2. Memorandum to Planning Commission (dated December 9, 2004)
3. Other Recommendations
4. Fiscal and Economic Impact Analysis of Large Retail Establishments
5. Summary of CEQA Determinations in Other Jurisdictions
6. SKU Ordinance Proposal
7. Planning Commission Report PC-04-014 (without attachments)
8. Community Planners Committee (CPC) Subcommittee – Meeting Summary
9. Memorandum to CPC – dated September 21, 2004 (without attachments)
10. Planning Commission Report PC-04-138
11. Additional Requirements for Consideration – per Planning Commission's Recommendation
12. Other Ordinances Addressing Large Retail Development