



THE CITY OF SAN DIEGO

REPORT TO THE PLANNING COMMISSION

DATE ISSUED: April 2, 2004 REPORT NO. PC-04-014

ATTENTION: Planning Commission
Agenda of April 8, 2004

SUBJECT: Draft Ordinance Regulating Large Retail Development

REFERENCE: 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 Planning Commission recommend to the City Council adoption of an ordinance which would apply size limitations, landscape regulations, and a discretionary review process with additional design regulations to large single-tenant retail development?

Planning Department Recommendation – Adopt the staff-recommended ordinance which limits the size of single-tenant retail establishments to 150,000 square feet except in the Commercial Regional (CR) zone and the Centre City Planned District Ordinance (PDO); and establishes landscape regulations and a process 4 Conditional Use Permit with additional design regulations in the other applicable commercial zones.

Land Use and Housing (LU&H) Committee Recommendation – On July 23, 2003, LU&H directed staff to evaluate an ordinance proposal distributed at the meeting (SKU Ordinance) and to draft an ordinance regulating large retail development that includes design standards and economic/fiscal impacts.

Community Planning Group Recommendation - On February 24, 2004, the Community Planners Committee (CPC) voted 18-1-0 to deny a draft ordinance which, at the time, contained a size limit of 100,000 square feet.

Land Development Code (LDC) Monitoring Team Recommendation – On December 10, 2003, the LDC Monitoring Team recommended denial of the following options presented at the meeting:

1) An option which included the current staff recommendation plus a requirement for multi-story buildings, structured parking and discretionary review for stores between 100,000 and 130,000 square feet in size; 2) Option 1 plus a maximum of ten percent of the sales area devoted to non-taxable items; and 3) the SKU proposal. The LDC Monitoring Team provided general recommendations regarding the design standards which have been incorporated into the staff recommended ordinance.

Environmental Impact – The staff recommended ordinance is exempt from CEQA per Section 15061(b)(3) of the State CEQA guidelines.

Fiscal Impact - See Attachment 8 of this report for detailed analysis of the fiscal impact of regulating and limiting large retail establishments in the City of San Diego prepared by the Community and Economic Development Department.

Code Enforcement Impact – The staff recommended ordinance would result in an ongoing code enforcement impact to monitor building expansions. The SKU ordinance proposal would also result in a cumulative impact to Code Enforcement staff as additional stores are approved to determine compliance with the maximum Storekeeping Units (SKU) requirements contained in the proposal. A portion of this impact could be cost recoverable.

BACKGROUND

Manager's Report 03-151, dated July 16, 2003 (see Attachment 7), summarizes the prior actions by the Planning Commission, LU&H Committee, and City Council over the last several years with regard to regulating large retail development. The previous report discussed large retail establishment development trends, General Plan policies, and provided three potential options to be considered in an ordinance. On July 23, 2003, the LU&H Committee directed staff to analyze an ordinance proposal distributed at the meeting (the SKU ordinance proposal), develop an ordinance that included design standards for construction of single-tenant retail establishments over 50,000 square feet and a requirement for fiscal and economic impact analysis for stores over 75,000 square feet. (The item is tentatively scheduled to return to the LU&H Committee on March 24, 2004.)

The final LU&H Committee recommendation regarding the economic and fiscal impact component will be considered separately 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 that "major development projects" be defined to include all types of projects from residential to commercial and industrial which could result in community and citywide economic and fiscal effects. As indicated in Attachment 1, jurisdictions that have adopted or are considering economic assessment as a means of mitigating the impacts of large scale development include the states of Maryland and Vermont; Lake Placid, New York; and Bozeman, Montana.

DISCUSSION

The following discussion provides a summary of the potential impacts of large scale retail development relating to economic and fiscal effects, community character, design, and mobility based on the discussion in the previous report, Manager's Report 03-151, and new information in

the form of reports which have been released in the last six months. For purposes of the discussion, the term “big box” and large-single tenant retail establishment are used interchangeably. A summary of the policies contained in the City of San Diego General Plan, regulations considered or adopted in other jurisdictions, analysis of the previously distributed report and description of the staff recommended ordinance are included.

Summary of the Potential Impacts of Large Retail Establishments

Potential Economic and Fiscal Impacts

Physical blight can result from the failure of smaller retail stores which cannot compete with large scale retailing. Big boxes containing a grocery component or supercenters can contribute to the closure of anchor tenants comprising mainly grocery stores in existing shopping centers which cannot compete in the market. This can contribute to a high commercial vacancy rate for grocery stores and surrounding small businesses typically found in a community commercial center. The ensuing reduction in the value of the affected property and other surrounding properties could create blight. In addition, if a big box store contains a grocery component, it will tend to locate on its own parcel because smaller retail uses do not benefit from locating in proximity to the superstore.

Often, supercenters, or big box stores containing a grocery component, can result in the replacement of middle-income jobs typically associated with grocery employment with fewer lower wage jobs which lack benefits including comprehensive health care, thereby lowering the overall wage levels in a community. This can result in a lack of economic vitality in an area.

Big box development tends to be an inefficient use of land which favors large vacant parcels in outlying areas thereby potentially creating disinvestment in urban core areas.

Big box development can have beneficial effects on low income communities if they locate in a community that has a shortage of retailers to meet their needs.

Big boxes compete with other businesses for a fixed amount of sales determined by consumer spending in a community. A portion of any new tax revenues generated by a new large scale retail development simply reflects a shift in sales from existing businesses in the community. Therefore, the stores do not necessarily provide a net fiscal benefit. A more detailed analysis is provided by the Community and Economic Development Department’s memorandum contained in Attachment 8.

A map which indicates where big boxes could potentially locate in the future, based on current land use plans, both inside and outside of the city’s jurisdictional boundaries, is provided in Attachment 2. While the map indicates likely sites in the City of San Diego are not on the periphery of the city, some recent evidence suggests that some big box users will consider a wider variety of locations beyond what is allowed under current land use plans in the future. There are potential future sites outside the city’s jurisdictional boundaries which could capture a portion of the city’s sales tax revenue.

Community Character Impacts

Big boxes are often out of scale with existing development due to their sheer size. They are usually -architecturally uniform and sites are not designed to be pedestrian oriented, thereby creating a homogeneous landscape. This can weaken a sense of place and community cohesiveness. The effectiveness of design standards tends to diminish with increased store size. Design standards alone cannot address the visual and functional impacts of the largest of these stores.

Mobility Impacts

Large retail establishments tend to draw their customers from an expanded radius beyond the draw of the average retail business. The result can be localized congestion on streets that provide access. Due to various factors such as surrounding land uses, urban form, the length of trips and shopping loads, customers are more likely to use the automobile to travel to a big box store compared to the mode split of traditional community shopping centers which may be more conducive to trips by transit, walking, or bicycling.

Staff has reviewed published data and studies related to the trip generation of big box retailers, supercenters, and shopping centers, and found them to be unsuitable as the basis to draw specific conclusions about the comparative trip characteristics for these uses in San Diego. This is due to the fact that the studies do not comprehensively measure and assess the various factors that affect the trip generation and trip characteristics for these uses. These factors include size, capture areas, available market share, surrounding land use and urban form, retail business and stocking practices, and personal shopping practices. In light of the above, the information available was found to be inconclusive for the purposes of generally comparing the traffic impacts of these uses.

Summary of General Plan Policies

The Commercial Element of the General Plan states as its goal: “To develop an integrated system of commercial facilities that effectively meet the needs of San Diego residents and visitors as well as assuring that each new development does not impede the economic vitality of other existing commercial areas”. Specifically, one of the guidelines asks “does the development intrude upon the market area of other commercial activities?”

As part of the General Plan update, the Strategic Framework Element provides a strategy for guiding future development. In general, the element’s focus is to direct new commercial and residential growth into a series of unique “villages” integrated into San Diego’s existing communities. By focusing on sensitive redevelopment of underutilized sites with a combination of residential, commercial, employment, and civic uses, neighborhood revitalization will occur. Although the Element does not directly address big box development, there are several policies that do not support auto-oriented large scale development. Villages will be linked citywide by an excellent transit service integrated into the regional transit system. Villages should also be designed to be pedestrian scale, and convenient by foot, bicycle, and transit, as well as by car.

The Economic Prosperity section of the Strategic Framework Element recommends that retention of local businesses and attraction of new businesses that diversify the economic base

and offer high quality employment opportunities should be encouraged. These businesses also account for a majority of the local wealth creation, and, directly or indirectly, most of the tax revenues that pay for public investments and services. This section also contains policies to preserve land uses which generate middle-income employment.

Summary of Large Retail Establishment Regulations in other Jurisdictions

Over the past decade, jurisdictions throughout the country have adopted measures that control several aspects of large single tenant retail establishments including impact assessment, size, design, sale of nontaxable items, and releasing of vacated sites. Until recently, jurisdictions adopting these ordinances were typically small towns. However, these ordinances are beginning to be considered and adopted in larger cities.

Attachment 1 lists jurisdictions with various types of ordinance regulations. The most widespread type of regulation nationwide is a prohibition of stores over a certain size for example Cococino County in Arizona and Santa Fe, New Mexico. Several cities in California such as the City of Oakland, Contra Costa County, the City of Martinez have adopted similar ordinances banning supercenters. These ordinances contain a size limitation, a maximum percentage of sales floor area devoted to nontaxable items (5 to 10%), and an exclusion for membership wholesale clubs. The City of Los Angeles is the largest and most recent city to consider this type of ordinance. Last month, the Contra Costa County Ordinance was referended and failed at the ballot.

Staff has been unable to locate any examples of ordinances that reference the number of SKUs that a store stocks as proposed in the SKU ordinance. SKU is an acronym for stock keeping units, the series of numbers which a store uses to identify a product. When considering a ban on non-taxable items, to date most communities have utilized a percentage of building floor area to implement this objective.

In many of the ordinances, the size cap is linked to a lower size threshold for design regulations. The design regulations generally focus on pedestrian amenities, streetscape and incorporation of mixed use development. Jurisdictions that have adopted design guidelines include the cities of Portland, Oregon, Fort Collins, Colorado, and Somerset County, New Jersey. Design regulations have been applied to wide range of building sizes, some starting as low as 15,000 square feet. In some cases a mitigation fee is offered as an alternative to following the adopted design requirements.

The SKU Ordinance Proposal

Staff has conducted an analysis of the draft ordinance distributed at the LU&H Committee on July 23, 2003 contained in Attachment 4. This ordinance proposes to add a new category to the separately regulated retail sales use category of the LDC tables entitled "single tenant retail establishments greater than 130,000 square feet". This use would be permitted as a limited use where the underlying zone allows the use. Single tenant retail establishments greater than 130,000 square feet would not be permitted when revenue from non-taxable items exceeds 10 percent of gross sales revenue and the store stocks more than 30,000 SKUs.

Since the retailer would have to meet all three of the criteria to be affected by the proposal, the actual result would be a limitation of high-volume general merchandizing stores greater than 130,000 square feet which sell non-taxable grocery items only. Although there are many types of stores which are over 130,000 square feet, as indicated in Attachment 6, currently only Wal-mart supercenters and larger prototypes of K-Mart or Target stores would be specifically prohibited due to the non-taxable item restriction and the 30,000 SKU cap.

As stated above, the use of SKU's has not been utilized elsewhere due to code enforcement issues related to accurate reporting of data and the ability of staff to review and audit this type of data. If an ordinance which utilized SKUs were considered, provisions would have to be added to facilitate future enforcement. The provisions would require annual submission of SKU data to the City of San Diego and a deposit with the City to cover the cost of an independent audit should one be necessary as determined by the Code Enforcement Department.

These ordinance provisions specifically address impacts to grocery stores typically located in community shopping centers in close proximity of the residential neighborhoods in the City of San Diego. In many communities, these commercial centers are the dominant form of retail development and may also provide redevelopment potential for mixed use villages in the future. In centers where the anchor tenant grocery store would close as a result of increased competition, the supporting small businesses typically found in community shopping centers would also experience higher vacancy rates and potential blight.

Supercenters or big boxes with a grocery component would result in more "one-stop shopping" opportunities which could concentrate consumer traffic to fewer locations. The resulting land use pattern could create impacts which are not consistent with the adopted Strategic Framework Plan strategy of providing city-wide revitalization through the development of a series of neighborhood and community villages. The development of villages rather than larger but fewer shopping areas provide a greater opportunity for accessible retail opportunities within walking or transit distance to residents thereby supporting the adopted regional transit plan. Due to the regional nature of large scale retail development, longer automobile trips would be necessary to acquire everyday consumer goods.

This ordinance specifically addresses the lowering of wage rates in a community due to the gap in wages and differences in benefits between unionized grocery workers and supercenter employees. While not directly a land use issue, the replacement of middle-income jobs with lower wage jobs would be contrary to General Plan policies which encourage high quality employment opportunities in the city.

This ordinance does not fully address community character associated with large retail establishments. Since the size maximum of 130,000 square feet only applies to a limited number of stores, community character impacts could still occur even if design standards could be added to this ordinance similar to those provided in the staff recommended ordinance.

In addition, staff reviewed available data and studies on the trip generation of big box stores and found them to be inconclusive with regard to the potential traffic impacts of supercenters compared to free standing discount stores that do not contain a grocery component.

Staff Recommended Ordinance

Ordinance Description

The staff recommended ordinance, contained in Attachment 3, is designed to integrate with the existing structure of the code and enable streamlined implementation. A new definition is added to Chapter 11 of the LDC:

- *Large single tenant retail establishment* is defined as one retail establishment greater than 75,000 square feet, or adjacent retail establishments that combined is greater than 75,000 square feet of *gross floor area* and share common check stands, a controlling interest, storage areas, warehouses or distribution facilities.

Large single tenant retail establishments are added to the separately regulated retail sales use category of the LDC use tables and would be allowed as a Process 4 Conditional Use in all of the community commercial and most of the industrial zones. Large single tenant retail establishments are a permitted use in the Commercial Regional zones. Further ordinance provisions limit the size of large single tenant retail establishments to 150,000 sq. ft., outside of the Commercial Regional zones. Chapter 10 of the Land Development Code is amended to apply these provisions to all of the Planned Districts. The Centre City Planned District Ordinance is specifically exempted.

The proposed ordinance would also apply increased landscaping for these uses by adding single tenant retail establishments as a new category in the landscaping regulations table. In commercial zones, large single tenant retail establishments would be required to provide 100 % planting in a minimum eight-foot streetyard setback and façade planting nine feet in width along 50 percent of the street wall. The façade landscape regulations already apply in the industrial zones.

The establishment of a Process 4 Conditional Use Permit at 75,000 sq. ft most likely would not require major grocery stores to undergo discretionary review and would permit staff to obtain site specific traffic studies for a wider range of projects. The design regulations include a minimum of three materials changes on all street-facing walls, a minimum 8-foot street front and side setback, interconnected pedestrian pathways, and consideration given to multistory buildings and underground or structured parking. In addition, a menu of architectural features is provided which addresses transparency (in accordance with existing code language defining transparency), and a variety of other design features. The design regulations do not apply in the CR or industrial zones since the regulations already established in the CR and industrial zones are appropriate to the type of development which would occur in those zones given their location relative to surrounding uses.

This ordinance would not preclude all future big box developments in the City of San Diego. The previous staff recommendation to the CPC set the size limit at 100,000 square feet. At the CPC meeting of February 24, 2004, discussion focused on not limiting the establishment of large single tenant retail uses in a community. Based on their input, staff revised its recommendation to provide a discretionary review process and increase the size limit from a maximum of 100,000 square feet to a maximum of 150,000 square feet. This would permit big boxes at a higher range

of square footage such as home improvement stores which have difficulty operating in smaller stores due to the nature of the merchandise that they offer.

Also recognizing the desire for residents to have access to the goods provided in a large retail establishment, the proposed ordinance does not preclude retrofitting existing buildings for use as large retail establishments if there are no proposed expansions to over 150,000 square feet and the use is permitted in the underlying zone.

Permitted Locations for Large Single Tenant Retail Establishments

A single tenant retail establishment greater than 150,000 square feet is permitted without limitations in the CR zone. The CR zone is a new zone established by the LDC which has not yet been applied to all appropriate properties. A rezone to CR would most likely be appropriate on properties designated for Regional Commercial land uses in the community plan. These areas currently include Fashion Valley Shopping Center, Mission Valley Shopping Center, University Towne Center, Torrey Highlands, College Grove Center, the large commercial area in Carmel Mountain Ranch, and La Jolla Village Square as indicated in Attachment 5. There are other areas within the community plans with implementing planned district ordinances which contain text language encouraging regional commercial uses in specific locations. Although these areas may not always require Community Plan Amendments (CPA) in order to develop as large-scale retail establishments, under the current proposal, a rezone would be required. In other areas of the city, large retailers wanting to locate within the city have the option of obtaining a CPA for a Regional Commercial Use designation and a rezone to CR. Analysis and findings associated with the Process 5 CPA and RZ would have to be adopted by the City Council.

The Centre City Planned District is another area where big boxes could potentially locate and where limitations are not proposed. Since downtown is the center of the entire region with regard to employment, residential, civic/institutional, and commercial uses, regionally-oriented uses would be encouraged. The Centre City PDO would require large retail establishments only in combination with other uses, underground parking, minimum building heights of approximately 40 to 50 feet, and other design amenities to ensure an urban character.

Analysis of Staff Recommended Ordinance

This approach is recommended because the Strategic Framework Element directs new growth into village areas accessible to transit. This ordinance would reduce the possibility of inefficient use of underutilized infill sites for suburban, automobile-oriented development which does not support adopted General Plan policies. Because big boxes compete with other businesses for a larger share of a fixed market, it could hinder the market for new retail development in village areas thereby hindering the economic viability of future potential “villages”. Therefore, this proposal has the potential to realize benefits to community character and economic viability for both potential future “villages” and existing community shopping centers since competition with community-serving mixed-use and pedestrian-friendly villages would be reduced.

The protection of mixed-use villages reinforces the Strategic Framework policy to integrate land use and transportation planning as part of a strategy to improve mobility. If big boxes proliferate within the City of San Diego, support for the regional transit system could be lessened since

automobile usage increases with this large scale development relative to traditional community shopping centers.

Both the previously described SKU ordinance proposal and the staff recommended ordinance would protect existing commercial uses from market intrusion as recommended in the Commercial Element of the General Plan. However, the staff recommended ordinance would protect both grocers and provide direct protection to other local retailers selling only taxable items. The staff recommended ordinance (without the non-taxable limitation) may still preclude the development of supercenters since these are currently typically established at sizes greater than 160,000 square feet. However, there is some recent evidence which suggests these are being established at a lower size threshold. Therefore, the proposed ordinance would implement General Plan policies regarding the maintenance of a diverse economic base encouraging uses which generate middle-income jobs and protection to local businesses which have been key contributors to San Diego's local economy.

Alternatives were considered which would only permit big boxes in urbanized areas seeking revitalization or where communities may be underserved by commercial development. However, to the extent that big boxes would then locate in these areas particularly if they were limited in other areas, village development offering community revitalization could be hindered both within these communities and in less urbanized areas surrounding them. Negative community character and mobility impacts would also accrue to these areas.

The staff recommended ordinance goes further to mitigate the design impacts of large scale retailing to existing neighborhoods. Although design standards could be added to the SKU ordinance proposal, it would still allow very large retail stores not containing a grocery component the community character impact of which are difficult to mitigate. Options presented to the LDC Monitoring Team included requirements for multi-story buildings and structured parking in urbanized areas for stores over 100,000 square feet. Due to the varied character of individual communities the requirement for large two-story structures and structured parking may increase the visual effect of massing in certain communities. The LDC Monitoring Team did not support these design standards due to possible unintended design impacts and cost considerations.

Neither the staff recommended ordinance or the SKU ordinance proposal would preclude the development of large retail centers or "power centers" containing two or more "category killers" (stores under 100,000 square feet which sell only one category of goods) unless they contain a store over 150,000 square feet. The design impacts of smaller stores are slightly fewer due to the sheer size and scale of a big box in comparison. In addition, there is a possibility that these centers could later redevelop to become more village-like in character and function.

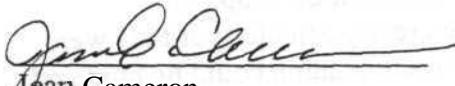
CONCLUSION

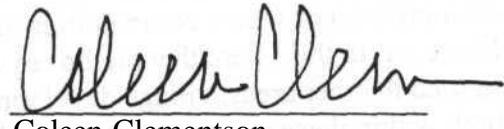
As San Diego has transformed from a growing city to a mature urban environment, the Strategic Framework Element, adopted by the City Council in 2002, responded by providing a new direction for the city's growth and development. The City of Villages strategy leverages new growth into community amenities in the form of villages while preserving single-family and open space areas of the City. It contains policies which link land use and transit resulting in a more compact and efficient development pattern where new growth will occur as sensitive infill

development. To date, no other land development trend has the same potential to inhibit or deter the community-oriented village development as envisioned in the plan as extensive big box retail development could.

The staff recommended ordinance supports the retention and strengthening of all local retail and neighborhood-serving commercial uses which are essential to village development. The SKU ordinance, by specifically protecting anchor tenant grocery and supporting uses, also addresses some economic impacts of large scale retailers and resultant land use impacts which have the ability to undermine the City of Villages Strategy. However, it's narrower scope does not fully address the community character impacts since, even with the addition of design regulations, stores over 150,000 sq. ft. would be permitted. The General Plan would support adoption of the staff recommended ordinance which contains more stringent limitations on large retail establishments required to mitigate their negative impacts.

Respectfully submitted,


Jean Cameron
Senior Planner


Coleen Clementson
Program Manager

CLEMENTSON/JEC

- Attachments:
1. Summary of Jurisdictions with Regulating Ordinances - Table
 2. Existing and Potential Big Box Locations - Map
 3. Draft Ordinance: 0-2004-105 (Citywide)
 4. Draft SKU Ordinance Proposal
 5. Existing Regional Commercial Land Use Designations - Map
 6. Store Size Survey - Table
 7. [Manager's Report 03-151](#) (without attachments)
 8. Analysis of Fiscal and Economic Impacts