OFFICE OF THE INDEPENDENT BUDGET ANALYST REPORT

Date Issued: September 15, 2006 **IBA Report Number:** 06-39

City Council Agenda Date: September 18, 2006

Item Number: 150

Item: In the Matter of Regulating Large Retail Development

OVERVIEW

On Monday, September 18, 2006, the City Council will be asked to take action related to the matter of regulating large retail development in the City. The Report to City Council that was originally issued on September 13, 2006 had a subject line entitled "Draft Ordinance Regulating Large Retail Development" and requested that no action be taken. This Report was reissued on September 14, 2004 with a revised subject line of "In the Matter of Regulating Large Retail Development" and requesting that the City Council direct the City Attorney to prepare an ordinance consistent with the Mayor's recommendation. As there was some confusion regarding the history and requested action for this item, this report is offered to explain the evolution of this item and frame the policy discussion.

The discussion of regulating large retail development was initiated at a meeting of the City Council's Land Use and Housing Committee (LU&H) on July 23, 2003. At that meeting, staff was directed to 1) develop an ordinance that would regulate all large retail development ("Large Retail Ordinance" or Big Box Ordinance") and 2) analyze a proposal for a Stock Keeping Unit Ordinance (referred to as the "SKU Ordinance") that was distributed at the Committee meeting by the Joint Labor Management Committee. The submitted SKU Ordinance would prohibit the establishment or enlargement of large retail stores if the following three criteria are met: (1) the facility is larger than 90,000 square feet; (2) contains more than 30,000 SKU's (stock keeping units); and (3) more than 10% of its revenue comes from non-taxable (e.g., grocery) items.

In August of 2004, the Economic Development Division of the City's Community & Economic Development Department released a thoughtful and well researched study entitled "Fiscal and Economic Impacts of Large Retail Establishments". The stated purpose of this study was to provide policymakers in San Diego with information about the fiscal and economic impacts of large retail developments on the local economy and the City treasury. This study is attached to the Report to City Council.

In response to the direction received at the LU&H meeting on July 23, 2003, City staff returned to LU&H on June 29, 2005 recommending a six-point draft 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. Citing concerns about the effect of large retail establishments on the City's strategies for revitalizing older commercial districts and neighborhoods, the LU&H Committee unanimously adopted three of the six recommendations within the draft ordinance and referred the other three to the full City Council without recommendation. Members of the LU&H Committee also expressed interest in a SKU Ordinance and requested the City Attorney to return with analysis related to that interest. On May 23, 2006, the City Attorney presented their SKU Ordinance analysis to the City Council in closed session.

Anticipating further City Council discussion on the six recommendations within the six-point ordinance presented to LU&H on June 29, 2005, there was no specific direction to City staff to amend the original draft ordinance. It is our understanding that the original Report to City Council dated September 13, 2006 recommended no action with this in mind. However, the Report was then revised on September 14, 2006 to reflect the Mayor's recommendation to adopt only three of the six previous City Manager recommendations. At this point, there was insufficient time for the City Attorney to amend the draft ordinance to accommodate the Mayor's recommendation prior to the City Council meeting on September 18, 2006. In order to allow for specific City Council action at the scheduled City Council meeting, City staff re-issued the Report with the subject line "In the Matter of Regulating Large Retail Development" and specifically requested action to adopt the Mayor's recommendation; however, there is no draft ordinance in the back-up materials to facilitate the Mayor's recent recommendation for the reasons discussed above.

If the City Council desires to support the Mayor's recommendation, they can adopt the recommendation with direction to the City Attorney to amend the existing draft ordinance. Alternatively, the City Council can adopt other actions or provide further direction to City staff and the City Attorney in the matter of regulating large retail development.

FISCAL/POLICY DISCUSSION

It is important to note that two different ordinances have been discussed relating to the proposed regulation of large retail development, the draft Large Retail Ordinance and a SKU Ordinance. The draft Large Retail Establishment Ordinance seeks to establish store size parameters tied to zoning, permit requirements dependent upon the size of a large retail store and design/landscape regulations for large retail establishments. The submitted SKU Ordinance has been designed to prohibit the development of large retail

establishments that sell both general merchandise and groceries (often referred to as Supercenters).

The Mayor has recommended adopting three of the six previous City Manager recommendations contained in the draft Large Retail Ordinance. The three recommendations supported by the Mayor would impose permitting processes and landscape and design regulations on large retail establishments. In terms of the degree of regulation, the City Manager's original recommended Large Retail Ordinance is the most restrictive, followed by the contemplated SKU Ordinance, with the Mayor's recommendation being the least restrictive of the three proposals recommended for City Council consideration.

In considering these or other possible options related to regulating large retail development, the IBA recommends a review of City Manager's Report No. 05-136 with particular attention to Attachment 4, the study prepared by the City's Community & Economic Development Department entitled "Fiscal and Economic Impacts of Large Retail Establishments" (C&ED Study). Although the IBA has not had the time to research all of the referenced information, we believe that City Manager's Report No. 05-136 and the attached C&ED Study thoughtfully evaluate benefits, concerns and economic impacts associated with large retail development. In reviewing the attached materials, we have prepared a few informational bullets below for discussion and consideration.

<u>Benefits</u>

- Large retail development may provide "one-stop-shop" convenience and typically provides lower prices for consumers.

- Large retail development may serve as a magnet attracting consumers to shop in other smaller nearby retail establishments located in the vicinity of the large retail establishment.

<u>Concerns</u>

- The proliferation of large format retailers contributes to the decline of the City's older commercial districts (e.g., El Cajon Boulevard or University Avenue) and neighborhood serving strip malls which often results in vacant storefronts and blighted conditions.

- Large retail development may work against the City's considerable fiscal and programmatic investment in revitalizing the City's older neighborhoods and commercial areas. The City utilizes fiscal resources (redevelopment tax increment, TransNet, DIF/FBA, CDBG, SBEP, etc.) and economic development programs (Storefront Improvement, BIDs, MADs, Enterprise Zones, Renewal

Community, etc.) to support small business enterprises and incentivize additional capital investment in the older urbanized areas.

- Large retail development may adversely impact traffic conditions and neighborhood character.

Economic Impacts

- It is unlikely that new large retail development projects will generate new net sales tax revenue as their sales are typically shifted away from other pre-existing retailers in the City. New net sales tax revenue growth will only be realized if proposed large retail development is located close to perimeter of the City and away from small locally-owned retailers.

- Profits from most large retail development projects are usually exported to shareholders outside of the City. Profits from small locally-owned retailers are often reinvested and recycled within our local economy which leads to real economic growth.

- The development of Supercenters poses a competitive threat to local grocery store chains which can ultimately result in trading unionized, livable wage jobs for jobs beneath the City's defined livable wage threshold. This trade-off reduces needed middle-wage job opportunities within the City and may lead non-livable wage employees to increasingly rely on other forms of government subsidy.

CONCLUSION

The development of large retail development, including Supercenters, can significantly impact consumers, small businesses and community conditions. Developing policy to regulate large retail development in the City warrants thoughtful research and discussion. The IBA believes that the City's Planning, Economic Development and City Attorney staff have done an excellent job of gathering pertinent information for consideration.

Irrespective of the type of policy, if any, that results from City Council action now or in the future, it would be our recommendation to consider requiring an economic impact report for any proposed large retail development. An economic impact report could assess the impact of the large retail development on the City's existing businesses, traffic, jobs, wages, public safety or other factors impacting the community. It is our understanding that the current draft Economic Prosperity Element of the General Plan update contains language requiring this type of economic impact analysis for large retail. On August 30, 2006, the California legislature passed Senate Bill 1523 which would mandate that all cities, including charter cities, require economic impact reports for large

retail developments exceeding 100,000 square feet. The Bill was sent to the Governor for approval on September 7, 2006.

There are several positive and negative impacts that can be arguably attributed to large retail development; however, it is reasonable to assume that the nature of those impacts will differ based on the type and location of each development. A project specific economic impact report can be a useful tool in making informed decisions and/or for negotiating mitigating measures. Economic impact reports could be used in conjunction with or absent a citywide ordinance for large retail development. In conclusion, the IBA recommends that information brought forward by City staff be utilized in contemplating any citywide ordinance and that developer funded economic impact reports be considered as an additional tool to comprehensively evaluate the impacts associated with proposed large retail development in the City.

[SIGNED]

Jeff Kawar
Fiscal & Policy Analyst

[SIGNED]

APPROVED: Andrea Tevlin
Independent Budget Analyst