



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.

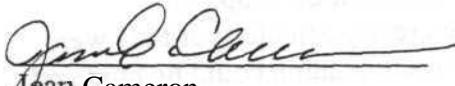
CONCLUSION

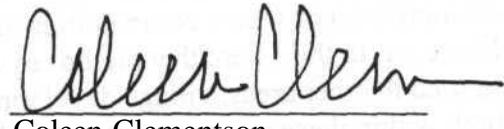
As San Diego has transformed from a growing city to a mature urban environment, the Strategic Framework Element, adopted by the City Council in 2002, responded by providing a new direction for the city's growth and development. The City of Villages strategy leverages new growth into community amenities 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,


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Senior Planner


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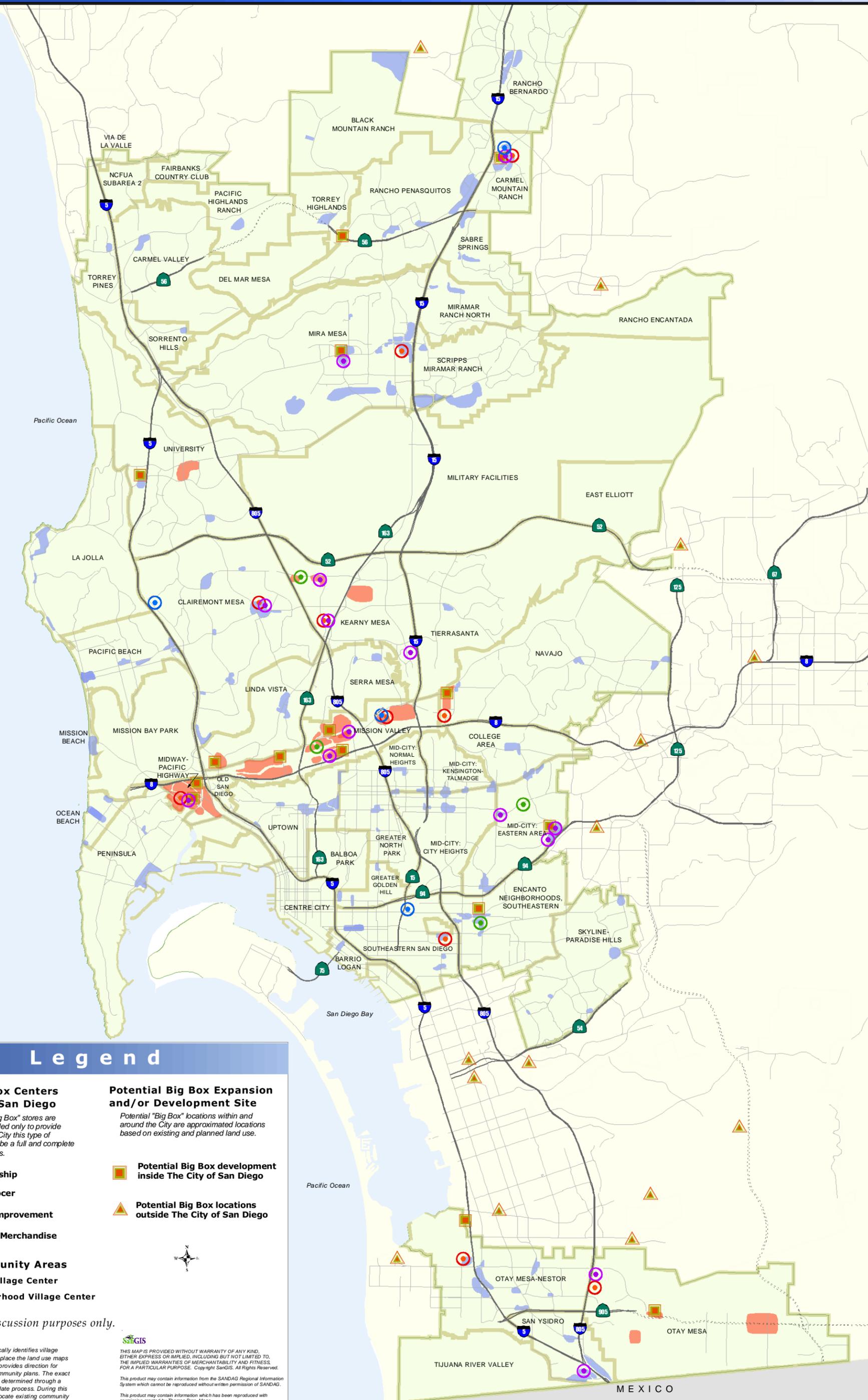
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- Attachments:
1. Summary of Jurisdictions with Regulating Ordinances - Table
 2. Existing and Potential Big Box Locations - Map
 3. Draft Ordinance: 0-2004-105 (Citywide)
 4. Draft SKU Ordinance Proposal
 5. Existing Regional Commercial Land Use Designations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

Examples of Jurisdictions with Regulating Ordinances

Cities	Adopted	Impact Assessment	Design Regulations (Size Threshold)	Size Limit (Threshold)	Size Limit Qualifications
Alameda County, CA	2003			100,000	Less than 10% of floor area for non-taxable items
Belfast, ME	2001			45,000	
Boxborough, MA	2000			25,000	
Bozeman, MT	2003	X (50,000)		75,000	
Buckingham, PA	-				
Cape Cod, MA	1990	X			
Carbondale, CO	Considered	X (20,000 or 1,000 ADT)		60,000	
Cococino County, AZ	2001			70,000	
Contra Costa County, CA	*2003 referended and failed			90,000	Less than 5 % of floor area for non-taxable items Membership stores exempted
Easton, MD	2000			65,000	
Evanston, WY	2001				
Fort Collins, CO	1995		X		
Gaithersburg, MD	-		X	80,000 footprint	
Greenfield, MA	1991	X (20,000 or 500 ADT)			
Homer, Alaska	2003	X (15,000)		20,000 (CBD) 40,000 (Other)	
Hood River County, OR	-		X	50,000 footprint	
Lake Placid, NY	-	X			
Los Angeles, CA	Under Consideration	X	X	100,000	Less than 10% of floor area for non-taxable items Membership stores exempted
Martinez, CA	-			90,000	Less than 5 % of floor area for non-taxable items Membership stores exempted
Northampton, MA	2002		X (20,000)	90,000	
Oakland, CA	2003			100,000	Less than 10% of floor area for non-taxable items Membership stores exempted
Peachtree, GA	-				
Portland, OR	1990		X		
Rockville, MD	2000		X (25,000)	65,000	
Santa Cruz, CA	2000	X (16,000)			
Santa Fe, NM	2001		X (30,000)	150,000	
Skaneateles, NY	1994		X (45,000)		
Somerset County, NJ	1998		X		
State of California	Not Adopted (1999)			100,000	Less than 15,000 sq ft for nontaxable items
State of Maryland	Under Study	X			
State of Vermont	1970	X			
Taos, NM	1999	X (30,000)		80,000	
Tuolumne County	2004		X (25,000)	60,000	
Walpole, NH	2000			40,000	

Existing and Potential Big Box Locations with Community Accessible to Transit *



Legend

Existing Big Box Centers within City of San Diego

Locations of existing "Big Box" stores are approximated and intended only to provide a sense of where in the City this type of retailer is located, not to be a full and complete accounting of such stores.

- Membership
- Bulk Grocer
- Home Improvement
- General Merchandise

Village Opportunity Areas

- Urban Village Center
- Neighborhood Village Center

Potential Big Box Expansion and/or Development Site

Potential "Big Box" locations within and around the City are approximated locations based on existing and planned land use.

- Potential Big Box development inside The City of San Diego
- ▲ Potential Big Box locations outside The City of San Diego



* Prepared for discussion purposes only.

The City of Villages map graphically identifies village opportunity areas. It does not replace the land use maps included in community plans. It provides direction for amendments and updates of community plans. The exact locations of village areas will be determined through a community plan amendment/update process. During this process, communities may reallocate existing community plan growth into village areas.

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April 2003

STRIKEOUT ORDINANCE

**OLD LANGUAGE: ~~STRIKEOUT~~
NEW LANGUAGE: UNDERLINE**

(O-2004-105)

ORDINANCE NUMBER O-_____ (NEW SERIES)

ADOPTED ON _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO AMENDING CHAPTER 11, ARTICLE 3, DIVISION 1, BY AMENDING SECTION 113.0103; AMENDING CHAPTER 13, ARTICLE 1, DIVISION 5, BY AMENDING SECTION 131.0522; AMENDING CHAPTER 13, ARTICLE 1, DIVISION 6, BY AMENDING SECTION 131.0622; AMENDING CHAPTER 14, ARTICLE 1, DIVISION 5, BY ADDING SECTION 141.0505; AND AMENDING CHAPTER 14, ARTICLE 2, DIVISION 4, BY AMENDING SECTION 142.0404, ALL PERTAINING TO SINGLE TENANT RETAIL ESTABLISHMENTS.

§113.0103 Definitions

Abutting property through Land use plans [No change.]

Large single tenant retail establishment is defined as one retail establishment greater than 75,000 square feet of *gross floor area*, 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.

Lateral access through Single dwelling unit [No change.]

[No change to remainder of section 113.0103.]

§127.0109 Expansion of a Previously Conforming Use

(a) [No Change.]

(b) [No Change]

(1) – (3) [No Change.]

4 Expansion of “*Large single tenant retail establishments.*”

§131.0222 Use Regulations Table for Open Space Zones

The uses allowed in the open space zones are shown in Table 131-02B

Legend for Table 131-02B [No change.]

**Table 131-02B
Use Regulations Table of Open Space Zones**

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator		Zones				
	1st & 2nd >>		OP-		OC-	OR ⁽¹⁾ -	OF ⁽¹²⁾ -
	3rd >>		1-	2-	1-	1-	1-
	4th >>		1	1	1	1	2
Retail Sales							
Building Supplies & Equipment	-	-	-	-	-	-	-
Food, Beverages and Groceries	-	-	-	-	-	-	-
Consumer Goods, Furniture, Appliances, Equipment	-	-	-	-	-	-	-
Pets & Pet Supplies	-	-	-	-	-	-	-
Sundries, Pharmaceuticals, & Convenience Sales	-	-	-	-	-	-	-
Wearing Apparel & Accessories	-	-	-	-	-	-	-
Separately Regulated Retail Sales Uses:							
Agriculture Related Supplies & Equipment	-	-	-	-	-	-	-
Alcoholic Beverage Outlets	-	-	-	-	-	-	-
<i>Large Single Tenant Retail Establishments</i>	=	=	=	=	=	=	=
Plant Nurseries	-	-	-	-	-	-	-
Swap Meets & Other Large Outdoor Retail Facilities	-	-	-	-	-	-	C ⁽⁷⁾

[No change to remainder of Table 131-02B.]

§131.0322 Use Regulations Table for Agricultural Zones

The uses allowed in the agricultural zones are shown in Table 131-03B.

Legend for Table 131-03B [No change.]

**Table 131-03B
Use Regulations Table of Agricultural Zones**

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones			
	1st & 2nd >>	AG		AR	
	3rd >>	1-		1-	
	4th >>	1	2	1	2
Retail Sales					
Building Supplies & Equipment		-		-	
Food, Beverages and Groceries		-		-	
Consumer Goods, Furniture, Appliances, Equipment		-		-	
Pets & Pet Supplies		-		-	
Sundries, Pharmaceuticals, & Convenience Sales		-		-	
Wearing Apparel & Accessories		-		-	
Separately Regulated Retail Sales Uses					
Agriculture Related Supplies & Equipment		C		C	
Alcoholic Beverage Outlets		-		-	
<i>Large Single Tenant Retail Establishments</i>		=		=	
Plant Nurseries		C		C	
Swap Meets & Other Large Outdoor Retail Facilities		-		C	

[No change to remainder of Table 131-03B.]

§131.0422 Use Regulations Table for Residential Zones

The uses allowed in the residential zones are shown in the Table 131-04B.

Legend for Table 131-04B [No change.]

**Table 131-04B
Use Regulations Table of Residential Zones**

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones																						
	1st & 2nd >>	RE-			RS-										RX-		RT-							
	3rd >>	1-			1-										1-		1-							
	4th >>	1	2	3	1	2	3	4	5	6	7	8	9	10	11	12	13	14	1	2	1	2	3	4
Sales																								
Building Supplies & Equipment		-																	-					-
Food, Beverages and Groceries		-																	-					-
Consumer Goods, Furniture, Appliances, Equipment		-																	-					-
Pets & Pet Supplies		-																	-					-
Sundries, Pharmaceuticals, & Convenience Sales		-																	-					-
Wearing Apparel & Accessories		-																	-					-
Separately Regulated Sales Uses																								
Agriculture Related Supplies & Equipment		-																	-					-
Alcoholic Beverage Outlets		-																	-					-
<i>Large Single Tenant Retail Establishments</i>		=																	=					=
Plant Nurseries		-																	-					-
Swap Meets & Other Large Outdoor Retail Facilities		-																	-					-

[No change to remainder of Table 131-04B.]

§131.0522 Use Regulations Table of Commercial Zones

The uses allowed in the commercial zones are shown in Table 131-05B.

Legend for Table 131-05B [No change.]

**Table 131-05B
Use Regulations Table for Commercial Zones**

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator		Zones																
	1st & 2nd >>		CC-																
	3rd >>		1-			2-			3-			4-			5-				
	4th >>		1	2	3	1	2	3	4	5	1	2	3	4	5	1	2	3	4
Retail Sales																			
Building Supplies & Equipment		P	P							P									P
Food, Beverages and Groceries		P	P							P									P
Consumer Goods, Furniture, Appliances, Equipment		P	P							P									P
Pets & Pet Supplies		P	P							P									P
Sundries, Pharmaceutical, & Convenience Sales		P	P							P									P
Wearing Apparel & Accessories		P	P							P									P
Separately Regulated Retail Sales Uses																			
Agriculture Related Supplies & Equipment		-	-							P									P
Alcoholic Beverage Outlets		L	L							L									L
<i>Large Single Tenant Retail Establishments</i>		<u>C</u>	<u>C</u>							<u>C</u>									<u>C</u>
Plant Nurseries		P	P							P									P
Swap Meets & Other Large Outdoor Retail Facilities		-	-							-									C

Table 131-05B

Use Regulations Table for Commercial Zones

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones									
	1st & 2nd >	CN ⁽¹⁾ -			CR-		CO-		CV-		CP-
	3rd >	1-			1-	2-	1-		1-		1-
4th >	1	2	3	1	1	1	2	1	2	1	
Retail Sales											
Building Supplies & Equipment		P			P	P	-		-		-
Food, Beverages and Groceries		P			P	P	P		P		-
Consumer Goods, Furniture, Appliances, Equipment		P			P	P	P ⁽³⁾		-		-
Pets & Pet Supplies		P			P	P	-		-		-
Sundries, Pharmaceutical, & Convenience Sales		P			P	P	P		P		-
Wearing Apparel & Accessories		P			P	P	-		P		-
Separately Regulated Retail Sales Uses											
Agriculture Related Supplies & Equipment		-			P	P	-		-		-
Alcoholic Beverage Outlets		L			L	L	L		L		-
<u>Large Single Tenant Retail Establishments</u>		=			P	P	=		=		=
Plant Nurseries		P			P	P	-		-		-
Swap Meets & Other Large Outdoor Retail Facilities		-			C	C	-		C ⁽¹⁰⁾		-

[No change to remainder of Table 131-05B.]

Footnotes to Table 131-05B

¹ through ¹⁰ [No change.]

§131.0622 Use Regulations Table for Industrial Zones

The uses allowed in the Industrial Zones are shown in Table 131.06B.

Legend for Table 131.06B [No change.]

**Table 131-06B
Use Regulations Table for Industrial Zones**

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone designator		Zones							
	1st & 2nd >>		IP-		IL-			IH-		IS-
	3rd >>		1-	2-	1-	2-	3-	1-	2-	1-
	4th >>		1	1	1	1	1	1	1	1
Retail Sales										
Building Supplies & Equipment	-	-	p ⁽⁶⁾	P	P	P	-	p ⁽⁶⁾	P	
Food, Beverages and Groceries	-	-	-	-	P	-	-	-	-	
Consumer Goods, Furniture, Appliances, Equipment	-	-	-	p ⁽²⁾	P	-	-	p ⁽³⁾		
Pets & Pet Supplies	-	-	-	-	P	-	-	-		
Sundries, Pharmaceuticals, & Convenience Sales	-	p ⁽⁵⁾	p ⁽⁵⁾	p ⁽⁵⁾	P	p ⁽⁵⁾	p ⁽⁵⁾	p ⁽⁴⁾		
Wearing Apparel & Accessories	-	-	-	p ⁽³⁾	p ⁽³⁾	-	-	p ⁽³⁾		
Separately Regulated Retail Sales Uses										
Agriculture Related Supplies & Equipment	-	-	-	P	P	P	P	P		
Alcoholic Beverage Outlets	-	-	-	-	L	-	-	-		
<i>Large Single Tenant Retail Establishments</i>	=	=	C	C	C	C	C	C		
Plant Nurseries	P	P	P	-	-	-	-	-		
Swap Meets & Other Large Outdoor Retail Facilities	-	-	C	C	C	C	C	C		

[No change to remainder of Table 131-06B.]

Footnotes to Table 131-06B

¹ through ¹⁴ [No change.]

§141.0505 Large Single Tenant Retail Establishments

Large single tenant retail establishments may be permitted with a Conditional Use Permit decided in accordance with Process 4 in the zones indicated with a “C” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones), subject to the following regulations. Where there is a conflict between the base zone regulations and these regulations, the more restrictive shall apply.

- (a) Large single tenant retail establishments must be a permitted Retail Sales Use in the underlying zone (as identified in Table 131.05B).
- (b) Large single tenant retail establishments shall not exceed 150,000 square feet in zones where a Conditional Use Permit is required.
- (c) Large single tenant retail establishments in the Community Commercial zones shall comply with the following design guidelines:
 - (1) A minimum of 3 material changes such as glazing, tile, stone or varied pattern/texture shall be provided in street (facing) wall surfaces, where no one material shall cover less than 10% of the wall area or more than 60% of the wall area.
 - (2) Each structure shall incorporate at least three architectural features from the following menu as major components of the design theme:
 - (a) Pilasters
 - (b) Trellises
 - (c) Awnings or extended covered entries
 - (d) Arcades
 - (e) Varied roof lines or roof cornices

- (f) A minimum of twenty-five percent of *street wall* area transparent in accordance with Section 131.0552
- (g) Clear story windows
- (3) Minimum street and front side setbacks of 8 feet shall be provided.
- (4) Multistory structures, structured and underground parking should be incorporated in areas where these would integrate well with the community character.
- (5) Pedestrian access and pathways should be designed to provide an interconnected network for pedestrian travel within the site.
- (6) See Section 142.0404, Table 142-04C.

§142.0404 Street Yard and Remaining Yard Planting Area and Point Requirements

[No change in first paragraph.]

Table 142-04C

Street Yard and Remaining Yard Planting Requirements

Type of Development Proposal	Type of Yard	Planting Area Required (Percentage of total <i>yard</i> area unless otherwise noted below) ⁽¹⁾	Plant Points Required (Number of plant points required per square foot of total <i>street yard</i> or <i>remaining yard</i> area) or required trees ⁽¹⁾
<i>Single Dwelling Unit Residential Development</i> in RM zones or <i>Multiple Dwelling Unit Residential Development</i> in any Zone	<i>Street Yard</i>	50% ⁽²⁾	0.05 points
	<i>Remaining Yard</i>	40 Square Feet per Tree	For single <i>structures</i> on a single <i>lot</i> , provide a minimum of 60 points, located in the <i>remaining yard</i> ⁽²⁾ For more than one <i>structure</i> on a single <i>lot</i> , provide one tree on each side and in the rear of each <i>structure</i> ⁽²⁾
Commercial <i>Development</i> in any Zone or Industrial <i>Development</i> in RM Zones or Commercial Zones	<i>Street Yard</i>	25% ⁽³⁾	0.05 points to be achieved with trees only ⁽³⁾
	<i>Remaining Yard</i>	30% ⁽³⁾	0.05 points
Industrial <i>Development</i> in any zone other than RM or Commercial Zones	<i>Street Yard</i>	25% ⁽⁴⁾	0.05 points
	<i>Remaining Yard</i>	See Section 142.0405 (d)	0.05 points
<u>Large Single Tenant Retail Establishments</u> in Community Commercial zones	<i>Street Yard</i>	<u>100%</u> ⁽⁴⁾ of minimum front and street side setback (except access points) <u>25%</u> ⁽⁴⁾ balance of <i>street yard</i>	<u>0.05 points, exclusive of palms</u> ⁽⁴⁾
	<i>Remaining Yard</i>	<u>30%</u> ⁽⁴⁾	<u>0.05 points</u>

Footnotes to Table 142-04C [No change.]

§142.0405 Additional Yard Planting Area and Point Requirements

(a) through (c) [No change.]

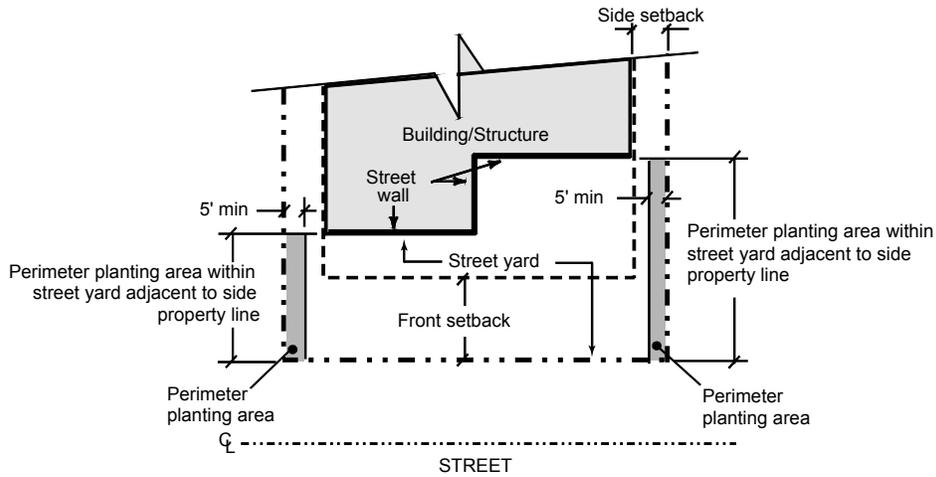
(d) Additional industrial and large single tenant retail establishments yard requirements:

- (1) Perimeter Planting Area. Within the *street yard* for industrial zones or industrial *development*, a 5-foot-wide perimeter planting area

adjacent to each side *property line*, as shown in Diagram 142-04A, shall be provided for the full depth of the *street yard* except where vehicular access (maximum 25 feet) and pedestrian access (maximum 6 feet) points cross perpendicular to a side *property line*. This planting area shall be planted with a combination of trees and shrubs that achieves 0.2 points per square foot of the required area. Where loading docks are placed along more than 25 percent of the *street wall* length in the IL and IH zones, the perimeter planting area points required shall be increased to 0.5 points per square foot of area. This requirement shall not apply to *large single tenant retail establishments* in commercial zones.

Diagram 142-04A

Industrial Perimeter Planting Area [No change.]



(2) Facade Planting Area. Within the *street yard*, a facade planting area, as shown in Diagram 142-04B, shall be provided that abuts the *street wall* and is at least equal to 50 percent of the length as determined by adding the lines connecting the outermost points of the structure along the street wall as shown in Diagram 142-0C, and that has a width of at least 9 feet measured perpendicularly to the building.

Diagram 142-04B

Industrial Facade Planting Areas

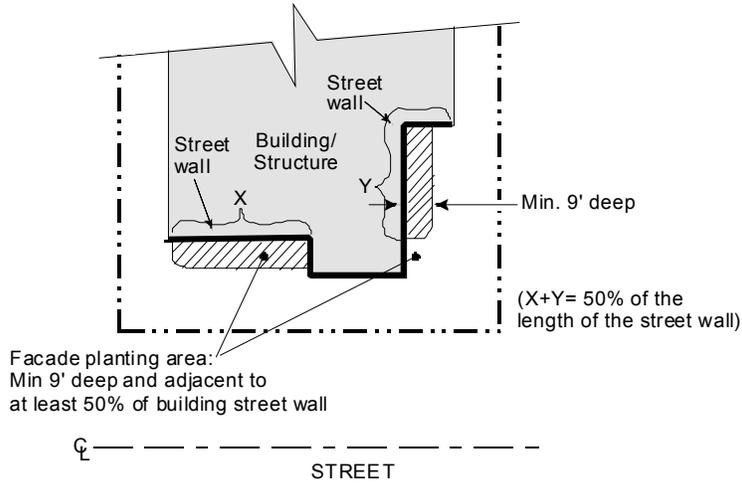
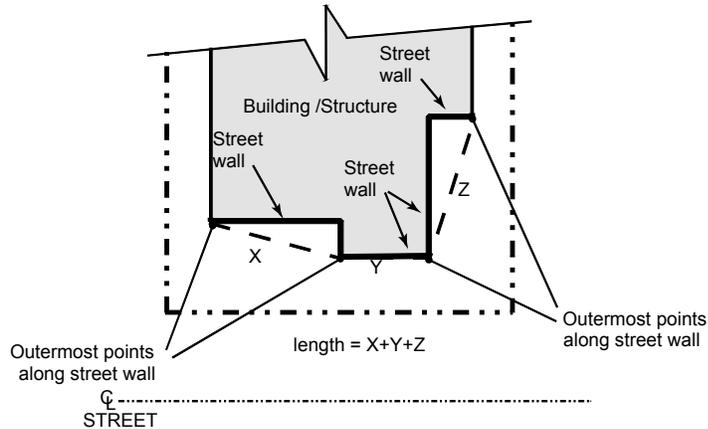


Diagram 142-04C

Industrial Facade Area Street Wall Length



The facade planting area shall be planted with a combination of trees and shrubs that achieves 0.5 points per square foot. Trees within this area must have a typical growth rate that can achieve a height of at least 20 feet within 8 years of being planted. Shrubs at maturity shall achieve a minimum height of 4 feet. In lieu of

meeting the facade planting area and point requirements, the *applicant* may do one of the following:

(A) [No change.]

(B) Except for *large single tenant retail establishments* in commercial zones, place a minimum 6-foot-high solid wall between the *setback* line and the front of the *structure* that shall extend along the full width of the property, except at access points. The applicant shall provide tree plantings equal to one half of the required facade area planting points between the wall and the building street wall.

(3) and (4) [No change.]

(5) Where *large single tenant retail* establishments in commercial zones abut a residential zone, a 5 foot wide area along the entire abutting *property line* shall be planted with trees, exclusive of palms, to achieve a minimum of .05 points per square foot of area in addition to the points required in the *remaining yard*.

MJL:cdk
Draft: 02/24/04
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O-2004-105

§142.0406 Vehicular Use Area Planting Area and Point Requirements

- (a) When new *vehicular use areas* are subject to this section in accordance with Table 142-04A, the planting area, the plants necessary to achieve the number of plant points, and the trees required in Table 142-04D shall be provided. The required planting area is determined by multiplying the square footage of the *vehicular use area* located within the *street yard* and outside the *street yard* by the percentage shown in Table 142-04D. The required plant points are determined by multiplying the square footage of the *vehicular use area* located within the *street yard* and outside the *street yard* by the points shown in the Table 142-04D. The required area, points, and trees shall be located within the *vehicular use area* unless listed otherwise in the table.

**Table 142-04D
Vehicle Use Area Requirements**

Size of Proposed Vehicular Use Area	Planting Area Required ^{(1), (2), (4)}		Plant Points Required ^{(1), (2)}		Tree Distribution Requirement ⁽¹⁾
	<i>Street yard</i>	Outside the <i>street yard</i>	<i>Street yard</i>	Outside the <i>street yard</i>	
Less than 6,000 square feet	40 Square Feet per Tree	40 Square Feet per Tree	0.05 points	0.05 points	1 tree within 30 feet of each parking space ⁽³⁾
6,000 square feet or greater	5% of vehicular use area located in the street yard	3% of vehicular use area located outside the street yard	0.05 points	0.03 points	

Footnotes to Table 142-04D

- 1 See Section 142.0407(a)
- 2 See Section 142.0407(b)
- 3 See Section 142.0407(c)
- 4 See Section 142.0407(d)

- (b) All planting areas and plants in or adjacent to a *vehicular use area* shall be protected from vehicular damage by providing a raised curb or wheel stop of at least 6 inches in height. Where the end of parking spaces abut a planting area that is less than 5 feet in width, 6-inch-high wheel stops or curbs shall be placed within the parking spaces, 2 feet from the edge of the planting area.
- (c) Except for large single tenant retail establishments in community commercial zones (see Section 141.0505 and Table 142-04C) aA *vehicular use area* located within the *street yard* shall be separated from the curb in the *public right-of-way* by a required planting area totaling at least 8 feet in width, measured perpendicularly to the *public right-of-way*. This planting area shall meet the following requirements:

- (1) The planting area shall extend along, and directly abut, the entire length of the *vehicular use area* except at vehicle or pedestrian access points.
- (2) The planting area shall be planted to screen the *vehicular use area* with densely foliated, evergreen species that achieve a minimum height of 30 inches within 2 years of installation over at least 80 percent of the length of the required planting area. The *screening* may also be achieved through the use of berms, solid fencing, walls, plant material, or any combination of these that provides an equivalent *screen*.
- (3) The width of this planting area may be reduced to 3 feet if a solid wall of at least 3 feet in height is provided for the entire length of the *vehicular use area*. The remaining planting area shall be located between the wall and curb within the *public right-of-way* and planted with the equivalent of 1 shrub for every 10 feet of wall length. These shrubs shall achieve at least 18 inches in height of maturity.
- (4) A point score in excess of that required for a *vehicular use area* may be used to reduce the planting area required for that *vehicular use area* at a rate of one square foot of area reduction for each excess point provided. The maximum planting area reduction allowed by this section is 25 percent of the total *vehicular use area* required.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

MJL:cdk
Draft: 02/24/04
Or.Dept: Planning
O-2004-105

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§103.0105 Uses Permitted in the Planned Districts

(e) Conditional Use Permits/Process Four

Except as otherwise provided in the Planned District, the following uses may be permitted with a Conditional Use Permit decided in accordance with Process Four, subject to the location restrictions and the Land Development Code section specified for each use.

- (1) Camping parks in commercial zones, industrial zones except IP-1-1, and agricultural zones, subject to Land Development Code Section 141.0605.
- (2) Cemeteries, mausoleums, and crematories, except in the agricultural zoned areas of the Coastal Overlay Zone that are in the 100-year floodplain, subject to Land Development Code Section 141.0403.
- (3) Correctional placement centers in any zone except residential zones, neighborhood commercial zones, agricultural zoned areas of the Coastal Overlay Zone, or in the beach impact area of the Parking Impact Overlay Zone subject to Land Development Code Section 141.0406.
- (4) Exhibit halls and convention facilities, except in the agricultural zoned areas of the Coastal Overlay Zone, subject to Land Development Code Section 141.0409.
- (5) Golf courses, driving ranges, and pitch and putt courses, subject to Land Development Code Section 141.0609.
- (6) Hazardous waste research facilities in any agricultural or industrial zone, subject to Land Development Code Section 141.1003.
- (7) Homeless facilities in any zone that permits residential use subject to Land Development Code Section 141.0412.
- (8) Hospitals, intermediate care facilities, and nursing facilities, except in the agricultural zoned areas of the Coastal Overlay Zone that are in the 100-year floodplain, subject to Land Development Code Section 141.0413.
- (9) Junk yards in any agricultural or industrial zone, except in the Coastal Overlay Zone, subject to Land Development Code Section 141.0902.
- (10) Large single tenant retail establishments shall not exceed 150,000 square feet, subject to Land Development Code Section 141.0505, except in the Centre City Planned District.
- (11) ~~(10)~~ Marine-related uses in the Coastal Overlay Zone in any commercial zone except the CO and CN zones, subject to Land Development Code Section 141.1005.
- (12) ~~(11)~~ Mining and extractive industries, subject to Land Development Code Section 141.1001.
- (13) ~~(12)~~ Museums, except in the agricultural zoned areas of the Coastal Overlay Zone, subject to Land Development Code Section 141.0415.
- (14) ~~(13)~~ Nightclubs and bars over 5,000 square feet, except in the agricultural zoned areas of the Coastal Overlay Zone, subject to Land Development Code Section 141.0614.
- (15) ~~(14)~~ Privately operated recreational facilities over 10,000 square feet in size in zones that permit similar uses under 10,000 square feet in size,

except in the agricultural zoned areas of the Coastal Overlay Zone, subject to Land Development Code Section 141.0618.

(16) ~~(15)~~ Residential care facilities for 12 or more persons in any zone that permits residential use, subject to Land Development Code Section 141.0312.

(17) ~~(16)~~ Social service institutions, except in the agricultural zoned areas of the Coastal Overlay Zone that are in the 100-year floodplain, subject to Land Development Code Section 141.0417.

(18) ~~(17)~~ Theaters that are outdoor or over 5,000 square feet, except in the agricultural zoned areas of the Coastal Overlay Zone, subject to Land Development Code Section 141.0623.

(19) ~~(18)~~ Transitional housing facilities for 12 or more persons in any zone that permits residential use, subject to Land Development Code Section 141.0313.

(20) ~~(19)~~ Wrecking and dismantling of motor vehicles in any agricultural or industrial zone, except in the Coastal Overlay Zone, subject to Land Development Code Section 141.1008.

§126.0303 When a Conditional Use Permit Is Required

An application for the following types of uses in certain zones may require a Conditional Use Permit. To determine whether a Conditional Use Permit is required in a particular zone, refer to the applicable Use Regulation Table in Chapter 13. The decision process is described in Section 126.0304.

(b) Conditional Use Permits Decided by Process Four

Botanical gardens and arboretums

Camping parks

Cemeteries, mausoleums, and crematories

Correctional placement centers

Exhibit halls and convention centers

Golf courses, driving ranges, and pitch and putt courses

Hazardous waste research facilities

Homeless facilities

Hospitals, intermediate care facilities, and nursing facilities

Interpretive centers

Junk yards

Large single tenant retail establishments

Marine-related uses in the Coastal Overlay Zone

Mining and extractive industries

Nightclubs and bars over 5,000 square feet in size

Privately operated recreational facilities over 10,000 square feet in size

Residential care facilities for 13 or more persons

Social service institutions

Theaters that are outdoor or over 5,000 square feet in size

Transitional housing for 13 or more persons

Wrecking and dismantling of motor vehicles

DRAFT SKU Ordinance Proposal

Ordinance Number XXX

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO
AMENDING CHAPTER 13 BY AMENDING ARTICLE 1, DIVISION 5, AND BY
AMENDING ARTICLE 1, DIVISION 5, AND BY AMENDING CHAPTER 14 BY
AMENDING ARTICLE 1, DIVISION 5, RELATING TO THE LAND
DEVELOPMENT CODE**

WHEREAS, the City Council finds that development in San Diego of the sort of “superstores” built in other areas of the nation would undermine the existing plans for encouraging small businesses and encouraging pedestrian-oriented development; and

WHEREAS, grocery sales generate more vehicle trips than any other kind of retail use, yet the existing Land Development Code allows such facilities to be built on an unlimited scale, thereby threatening to cause traffic congestion; and,

WHEREAS, the City already has a significant number of retail vacancies, so to allow massive new superstores is likely to cause the deterioration or abandonment of existing stores, especially neighborhood-oriented stores; and,

WHEREAS, the lack of sales tax revenues from grocery sales leaves the City with no assurances that superstore development would generate sufficient City revenues to offset the negative impacts of such stores on the surrounding community; and,

WHEREAS, adoption of the proposed code amendment would not have a significant affect on the environment, as action on the regulatory amendment is categorically exempt from CEQA pursuant to State Guidelines Section 15061(b); now therefore,

BE IT ORDAINED by the Council of the City of San Diego as follows:

Section 1. That Chapter 14, Article 1, Division 5, of the San Diego Municipal Code is amended by adding Section 141.0505, to read as follows:

DRAFT

Sec. 141.0505 Food, Beverage, and Groceries

Food, Beverages and Groceries are permitted as a limited use in the zones indicted with an "L" in the Use Regulation Tables in Chapter 13, Article 1 (Base Zones), subject to the following limitations:

- (a) No Food, Beverage, or Groceries facility shall be established or enlarged if such facility would contain more than 130,000 square feet and more than 30,000 Stockkeeping Units (SKU) and more than 10 (ten) percent of its gross sales revenues would come from non-taxable items.
- (b) The owner of a Food, Beverage, or Groceries facility containing more than 130,000 square feet and 30,000 SKU's approved on or after October 15, 2002 shall annually file a report with the City specifying the percent of gross sales from non-taxable merchandise during the previous year.

Section 2. That Chapter 13, Article 1 (Base Zones) be amended by amending the Use Regulations Table thereof to redesignated Food, Beverage, or Groceries as a limited use ("L") instead of a permitted use ("P").

Section 3. Should any provisions or application of this Ordinance be invalidated by a court of law, it shall be severed and have no impact on the remainder of the ordinance. In the event of any legal challenge to this ordinance the courts are hereby authorized to reform the terms of this Ordinance, including, if necessary, substituting "groceries" for "non-taxable items" in Section 1. To the extent any provisions or application of this Ordinance are deemed inconsistent with any prior provisions of the Code, the latter are hereby amended to eliminate such inconsistencies, and to such end the courts shall have the power to reform the prior provisions.

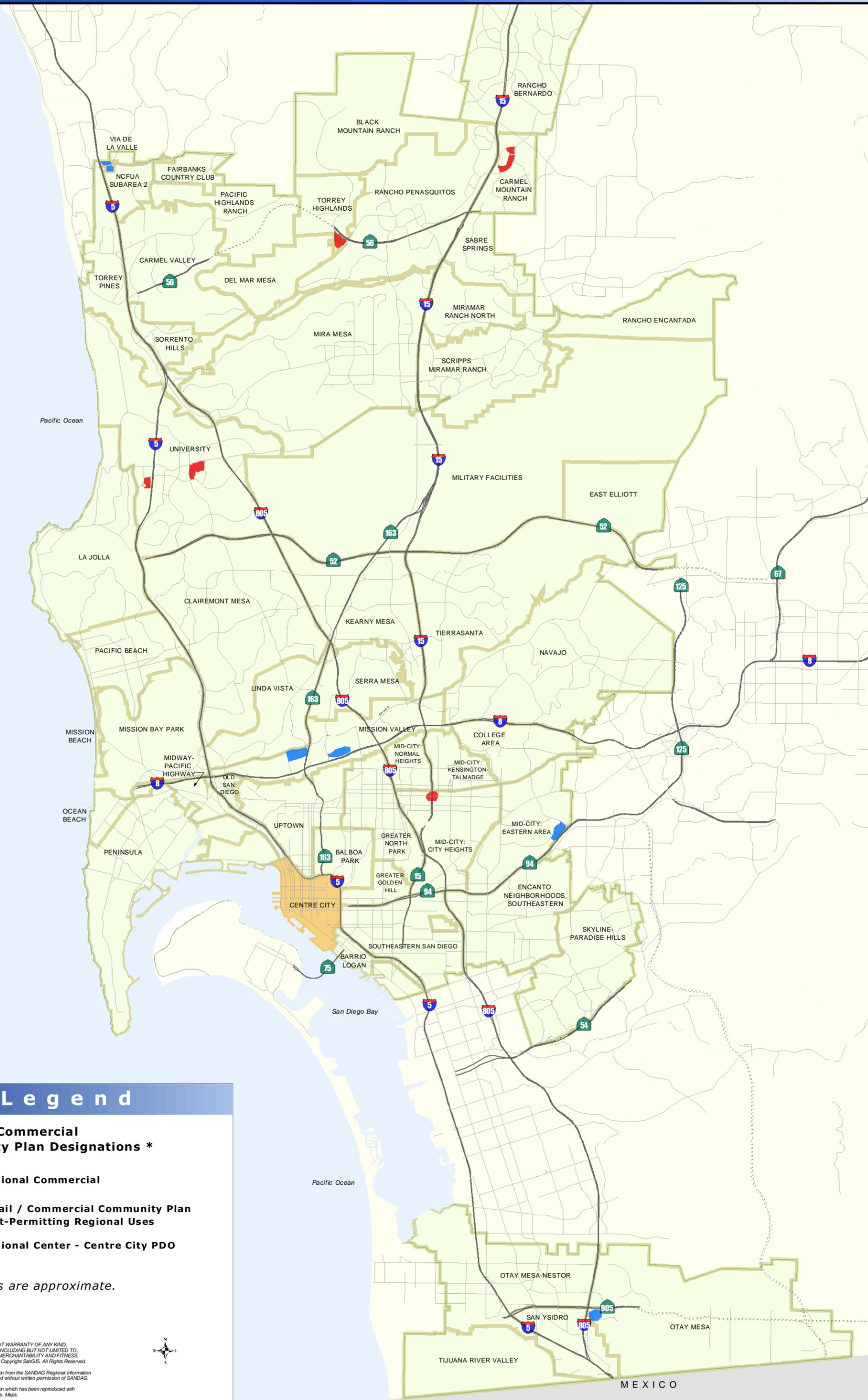
Section 4. That a full reading of this Ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 5. This Ordinance shall take effect and in force on the thirteenth day from and after its passage.

APPROVED: CASEY GWINN, City Attorney

By _____

Existing Regional Commercial Land Use Designations



Legend

Regional Commercial Community Plan Designations *

- Regional Commercial
- Retail / Commercial Community Plan Text-Permitting Regional Uses
- Regional Center - Centre City PDO

* Locations are approximate.

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Store Size Ranges

	Square Footage Range
Drug Store	10,000 - 18,000
Office Supply Store	20,000 - 45,000
Home Furnishing Store	30,000 - 45,000
Supermarket	45,000 - 75,000
Home Improvement Store	45,000 - 150,000
Membership Store	70,000 - 160,000
General Merchandise Store	80,000 - 180,000
Super Store	150,000 - 250,000

Analysis of Fiscal and Economic Impacts

Big box development projects without question impose economic changes on a community. Those changes must be measured against the underlying assumption of a free market economy, that competition is fundamentally good for the consumer. Competition is assumed to drive prices down and to stimulate improvements and diversity in product design, performance, and availability. Big box competition in the retail sales sector clearly has been a successful competition strategy, as evidenced by Wal-Mart becoming the number one “Fortune 500” company in 2002, supplanting industrial firms for the first time. Consumers often support land use decisions allowing big box projects, despite their size, traffic demands, and other concerns, because big boxes economies of scale have driven consumer prices for many goods to historic lows (as measured in constant dollars), and consumers like low prices. The question, thus, is whether the economic benefit of big box development - lower cost and increased availability - is outweighed by the economic costs imposed on the community.

Big boxes are not a new phenomenon. Economies of scale were the primary feature in the growth of department stores in the early 20th century. Stand-alone Sears stores and their competitors aggressively sought market share from traditional “mom and pop” retailers, eventually eliminating them from the market. Name brand hardware stores and, later, the Home Depots and their ilk eliminated independent hardware stores from the market. And “supermarkets” have all but eliminated the corner grocery store.

Big box projects are essentially the next step in a half century trend toward suburbanization and shopping centers. Shopping centers, with their automobile-serving design, competed aggressively with more compactly designed urban businesses and, along with freeway construction and the home mortgage deduction, caused investment to flee from the inner-city. In San Diego’s case, and in many cities, this disinvestment led to large public expenditures to redevelop downtown and other older commercial areas. In hindsight, shopping centers perhaps should have been strictly regulated because of their contribution to disinvestment and the consequent public costs of redevelopment.

It has been argued that big box projects destroy small businesses, eliminate the wealth creation opportunities that small businesses provide, and drive down wage rates. It is certainly true that Wal-Mart’s growth in rural areas closed down businesses in small-town main streets, taking the private wealth tied up in the small businesses that lost in that competition. The growth of big boxes in rural communities, however, was simply a belated battle in the war for market share that shopping centers in urban and suburban America had previously fought. In urban and suburban areas, shopping centers have long since eliminated the small purveyors of basic retail goods and commodities. But the competition fought back: While small businesses no longer compete in basic retail sales, they now compete – aggressively and successfully - in niche markets, providing boutique goods and serving neighborhood and other limited clientele needs overlooked by mass market retailers. Regarding wage rates, few “mom and pop shops” of a former era or the current niche market businesses have a much better record than their big box counterparts in providing full time jobs with wages at a livable rate or with health and retirement benefits. What differentiates current big box development from shopping center predecessors is the combination of sheer size, market reach, and design. Big boxes now compete primarily with each other and with shopping centers. While the competition is played out at a corporate level,

the economic impacts are felt locally. For example, Wal-Mart's success contributed to K-Mart's bankruptcy, forcing hundreds of K-Mart outlets to close while the company restructured. The local economic impacts included thousands of job losses for K-Mart employees, service dislocations and their ripple effects, and, if the empty K-Mart box did not find another user, a blighting influence for the surrounding businesses or neighborhood. Some big box retailers are beginning to sell groceries, competing aggressively with supermarkets (the big box "category killers" of two generations ago). Supermarkets operate at a narrow profit margin, and big box retailers can exploit that with their greater economies of scale and lower distribution costs. A single big box project could effectively force several community-serving supermarkets to close, while a big box chain's concerted campaign could force a supermarket chain out of business. Supermarkets have largely stabilized their employee costs through union representation or middle-income wage rates coupled with health and retirement benefits. Thus, a supermarket's closure would result in lost full-time jobs at middle-income wage rates with benefits. There is already a society-wide erosion of middle-income jobs, and in periods of high unemployment, a supermarket's job losses would be difficult to replace elsewhere and would have numerous social impacts. With regard to service losses, most Californians have automobiles, and for them the lower costs coupled with the convenience of access to many other goods may outweigh the higher costs of driving further to a big box for groceries. However, neighborhood residents who do not have access to transportation (who in most cases have low incomes) will likely be forced to shop at higher-cost niche markets. A solution for them is public transportation connecting residents to big boxes, but this simply transfers the cost impact to government. It is unclear whether the longer trips to big boxes result in increased air pollution impacts, or whether consumers instead save up their purchasing needs to combine food purchase trips with other trips. Finally, regarding blighting influences, supermarkets are the most common anchor tenant at neighborhood-serving shopping centers, so when they leave for whatever reason, they leave behind the slow and painful closure of all the surrounding businesses. The anchor site is often the wrong size for an alternative user, and the shopping center becomes a blighting influence for an entire community. San Diego has experienced this trend in several neighborhoods.

While big box development can have a strongly negative impact on a community, it can be a valuable component to revitalizing an older community. Just as Horton Plaza anchored San Diego's downtown revitalization, a big box project in a strategic location can anchor community revitalization efforts. It can make dormant sites attractive to shoppers, thereby encouraging other business investment, providing new and desired services in the community, and contributing to property tax increases. However, because the costs of building in the inner-city are inherently much higher than at "Greenfield" sites on a city's periphery, big box developers seldom consider such sites despite population densities, preferring instead to rely on consumers' willingness to drive long distances on freeways. In the mid-1990's, New York City learned that it was leaking substantial retail sales (and tax revenues) to suburban big box sites. The city revised its regulations to encourage big boxes to move into metropolitan areas. The strategy was successful, with new retail projects returning sales to the city. In many cases, the big boxes were designed with multiple stories consistent with community design characteristics and some even re-used existing older buildings. Thus, San Diego might consider regulations to encourage big box development at selected inner-city sites.

While the economic impacts of big box retail development can be complex and variable, the fiscal impacts are straightforward. Big box projects do not offer new and previously unavailable goods. Rather, they compete with other businesses for a larger share of a fixed amount of sales.

Individual items may be at a lower cost, so consumers may purchase more items from a big box, but the overall sale amounts remain relatively fixed. With tax revenues tied to sales, the local jurisdiction's tax returns remain the same.

There are two exceptions to this. As noted above, big box developers prefer to build at low cost "Greenfield" sites which are likely located at a city's periphery. To the extent that this location choice precludes lower income purchasers from driving long distances, then this market segment may remain unserved on discretionary purchases. In the event that the big box competes successfully with businesses offering sales for this segment, forcing them out of business, then tax revenues from this segment will decline. This argues in favor of strategies to encourage big box projects in denser inner-city areas.

The second exception, as happened in New York City, if the big box is located at a periphery site across a jurisdiction's corporate boundary, then the taxes paid by the city's residents will flow to the suburban jurisdiction. This may be the unintended result of developers preferring "Greenfield" sites, but in many cases cities compete with one another for big box retailers to increase their sales tax revenues, changing land use regulations and providing financial incentives to attract big boxes. In a 1999 study by Public Policy Institute of California, 72 percent of California cities ranked generating new sales tax revenue as the most important factor motivating their decisions about developing vacant land. Some large retailers use this "fiscalization of land use" to play one community against another, asking local officials for subsidies to relocate within the same market area, transferring sales tax revenues from a "sending" community to a "receiving" community. The receiving community gets new revenue but spends some of it on the retailer; the subsidy to the retailer lowers its costs; and the sending community suffers the revenue loss. The public as a whole loses because the costs of goods remain the same while net public revenues to provide public services are diverted. State law now prohibits a community from giving financial assistance to a big box retailer or auto dealer to relocate in the same market area unless the receiving agency shares the resulting sales tax revenues (after subtracting the value of the assistance) with the sending community for the first 10 years (Government Code Sec. 53084; Health & Safety Code Sec. 33426.7).

In San Diego's case, an effort to compete for tax revenue from outlying jurisdictions is not likely to be successful. Planning Department staff reviewed maps of periphery areas and determined only two sites can accommodate a big box project, and of those one is a long-developed shopping center that already includes a big box retailer (College Grove), and the other is beyond the market range of attracting sales from outside the city limits (Carmel Mountain Ranch). On the other hand, at least five sites just outside San Diego's limits could support big box projects and compete for sales taxes from San Diego residents (Chula Vista, Poway, Santee, and two sites in the County).