

**CITY OF SAN DIEGO
MEMORANDUM**

DATE: May 7, 2004

TO: Members of the Planning Commission

FROM: Coleen Clementson, General Plan Program Manager

SUBJECT: Agenda of May 13, 2004- Workshop on Regulating Large Retail Establishments

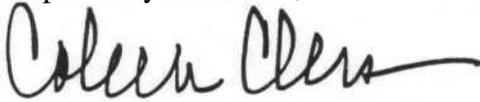
On April 8, 2004, the Planning Commission considered a draft ordinance which would regulate large single tenant retail establishments by; applying a maximum size requirement of 150,000 sq. ft. except in the Centre City Planned District and Commercial Regional zones; establishing a discretionary review process for stores over 75,000 sq. ft. in size with additional design regulations; and revising the landscape ordinance to establish additional requirements.

The Planning Commission requested that additional issues be discussed in a separate informational workshop on May 13, 2004. The following is an outline of the issues which will be presented at the workshop. Additionally, information on the issues to be presented are attached for you reference. This item is scheduled for a public hearing on June 10, 2004.

1. Land Use Issues: Jean Cameron, Planning Department
 - A. Preservation of industrial lands (Attachment 1)
 - B. Re-leasing requirements (Attachment 2)
2. Traffic Issues: Maureen Gardiner, Planning Department, Transportation
Analysis of existing traffic reports and other data (Attachment 3)
3. Existing Land Development Code Regulations: Scott Donaghe, Development Services Department
 - A. Review of existing use regulations and processing requirements (Attachment 4)
 - B. Review of existing design requirements (Attachment 5)
4. Additional Design Regulations: Jean Cameron, Planning Department
 - A. Analysis of design and landscape issues in letter dated April 5, 2004 from John Ziebarth (Attachment 6)
 - B. Analysis of additional design requirements (Attachment 7)

5. Environmental Issues: Chris Zirkle, Development Services Department
Review of environmental determinations in other California jurisdictions
(Attachment 8)
6. Fiscal and Economic Issues: Russ Gibbon, Community and Economic
Development Department
 - A. Fiscal analysis (Attachment 9)
 - B. Economic dynamics of large retail establishments (the function of small
business, repatriation, economic scenarios)

Respectfully Submitted,



Coleen Clementson
General Plan Program Manager

JEC/je

Attachments:

1. Strategic Framework Element pgs. 45-46
2. Re-leasing requirements
3. Analysis of existing traffic reports
4. Existing LDC use and processing regulations
5. Existing LDC design requirements
6. Letter from John Ziebarth and analysis of issues
7. Analysis of additional design regulations
8. Environmental determinations in other jurisdictions
9. Fiscal analysis

7. *Economic Prosperity and Regionalism*

To address the shortage of available land used for employment, the land appropriate for future employment uses should be designated in key areas throughout the City, including recognizing underutilized land that could be redeveloped for employment uses. Subregional Districts and Urban Village Centers (further defined in Part C of this section) will play an important role in the City's economic prosperity strategies by providing the appropriately designated land and infrastructure needed to support business development and a variety of employment and housing opportunities.



Key strategies to increase economic prosperity include:

Use Employment Lands Efficiently

- Increase the allowable intensity of employment uses in Subregional Districts and Urban Village Centers that will be better served by transit. This can be achieved by increasing the permitted floor area and lot coverage standards.
- Identify other underutilized employment lands that could also intensify where transit exists or is planned.
- Locate regional employment uses in the Downtown area or in Subregional Districts.
- Identify areas in Subregional Districts where collocation of employment and residential uses could occur.
- Concentrate commercial development in areas best able to support those uses such as urban and neighborhood centers and mixed-use corridors. Subregional Districts and Transit Corridors may also limit the amount of retail commercial in favor of industrial or residential uses.
- Make available underutilized City-owned land where transit exists or is planned and that has the potential for use as employment land.
- Limit the redesignation of employment land except where it will mitigate existing land use conflicts, or when it meets specific criteria to be established with the adoption of the Economic Prosperity Element. These criteria should relate to the availability of land to meet the City's economic development goals, parcel characteristics, adjacency to transit, and urban design.

Increase Middle-Income Employment Opportunities

- Preserve areas for middle-income employment uses including manufacturing, research and development, distribution, and wholesale trade by limiting or excluding multiple tenant office uses and corporate headquarters that do not have a research and development or manufacturing component.
- Identify additional areas for the location of middle-income uses.
- Encourage high technology business facilities in locations that are more broadly geographically distributed throughout the City.

Retain and Expand Business

- Most of the region's economic growth comes from the expansion of existing businesses and from entrepreneurial innovation rather than from attracting other businesses to the area. Establish land use policies and regulations that are sufficiently flexible to meet the needs of a mixed, diverse, and rapidly changing economy.
- Evaluate economic conditions on an ongoing basis and identify the industry clusters that are key to both the growth and stability of the local economy. The goal is to provide a diverse economic base, maintain environmental quality, and provide high quality employment opportunities.
- Develop business incentives that encourage reuse and infill for key employment clusters in existing urban areas.
- Continue and expand, where appropriate, Redevelopment Areas and Enterprise Zones.

Promote Education and Job Training

- Provide equitable access to educational opportunities, which result in a highly qualified and productive labor force.
- Develop public/private partnerships and pursue local, state, and federal grants to provide high technology education and job training at all levels.

Lead Regional Collaboration

- Assume an active leadership role in planning and implementing infrastructure investments on a collaborative regional basis.
- Collaborate with state and federal agencies to implement alternate investment policies that support growth in urban locations.



Review of Re-leasing Requirements

Retailers move for a variety of reasons; increases in relative costs, needing a larger space, changes in the market, etc. Some retailers have employed a practice of preventing competitors from moving into vacated premises. Large vacant stores, with the attendant parking lots, can contribute to a variety of problems including crime, vandalism, decreasing property values, and blight. There are numerous vacant big box stores in California and throughout the country. Because large retail establishments have not yet fully established themselves in San Diego, vacant large retail stores have not been an issue.

Where this has occurred in other areas, there are several options for reuse: cutting up the space for multiple smaller boxes, retrofitting the building for a single other user, or demolishing the structure to build new uses such as schools or residential units. One method of addressing these issues proactively is to require a developer/large retailer to agree to a re-leasing procedure. These are most appropriate in smaller communities where retail sites may not be in high demand. San Diego's retail environment differs from these communities because of its limited land supply and high demand for larger retail sites. Our research has indicated that three jurisdictions in other states utilize re-leasing requirements: Buckingham Township (PA), Peachtree City (GA) and Evanston (WY). Each jurisdiction took a slightly different approach. Buckingham Township passed an ordinance requiring developers to put money into an escrow account to cover demolition costs in case the superstores they build become vacant. Peachtree City requires that big box tenant contracts state that the tenant may not vacate the building and prevent the landlord from leasing to another tenant. Evanston reached an agreement with a big box retailer that it must assist the city in finding another tenant if the retailer ever leaves.

The City of Los Angeles is also considering re-leasing requirements and identified two situations that need to be addressed: big box retailers that lease space and retailers that own their stores. The Rodino Report on the Los Angeles Superstore Ordinance recommends that tenants' lease should clearly state that once the space is vacated, the owner has full discretion in choosing a subsequent occupant and the vacating retailer is responsible for payments until a new occupant is legally responsible for occupying the space. The report also recommends that retailer-owners be required to turn over the property to an independent agent with full autonomy for re-leasing or sale, failure to comply being punishable by fines and restrictions on occupancy of other sites by the retailer.

An important consideration is that re-leasing requirements have not been adopted to date in California. Therefore, the legal ramifications of any re-leasing provisions have not yet been established.

Prepared by the Planning Department on 5/14/04: JEC/LB

Large Retail Establishment Traffic Analysis

Staff has reviewed published data, studies, and reports related to the trip generation and traffic impacts of big box retailers, supercenters, shopping centers and other retailers. A list of references appears at the end of this section. At the Planning Commission meeting on April 8, 2004 staff was asked to review a study by Kimley-Horn and Associates related to big box traffic. We have since been informed by representatives of Walmart and Kimley-Horn and Associates that the 1999 study is probably outdated and should not be used.

We found the documents we reviewed to be unsuitable as the basis to draw specific conclusions about the comparative trip generation or traffic impacts of big box stores in San Diego. To compare the overall trip generation and traffic impacts of big boxes versus other retail stores, several factors should be considered. We have summarized some of these factors below.

1. **Size and Trip Generation.** Different big box stores have different typical sizes and varying trip generation characteristics. The table below shows the average sizes of several categories of stores for which daily weekday data has been compiled in the Institute of Transportation Engineers (ITE) Trip Generation, 7th Edition.

Code ¹	Land Use	Avg. Size ²	Trip Rate ³	Weekday Trips ⁴
813	Free-Standing Discount Superstore	160,000	49.22	7,875
815	Free-Standing Discount Store	106,000	56.02	5,938
854	Discount Supermarket	77,000	96.82	7,455
861	Discount Club	112,000	41.80	4,682
862	Home Improvement Superstore	129,000	29.80	3,844

As shown, the average sizes of the stores in these land use categories vary from 77,000 s.f. to 160,000 s.f.. The following graph plots the daily weekday trip generation versus size for the ranges of sites that were studied. As shown, that the range of store sizes varies significantly by type of big box store. Additionally, the trip generation for these use categories varies significantly from each other for the same store size. Furthermore, the trip generation for these uses also varies from each other by time of day, by weekend day, and seasonally. Because of these differences in vehicle trip generation characteristics, big box stores cannot be grouped together in a single category for comparison purposes.

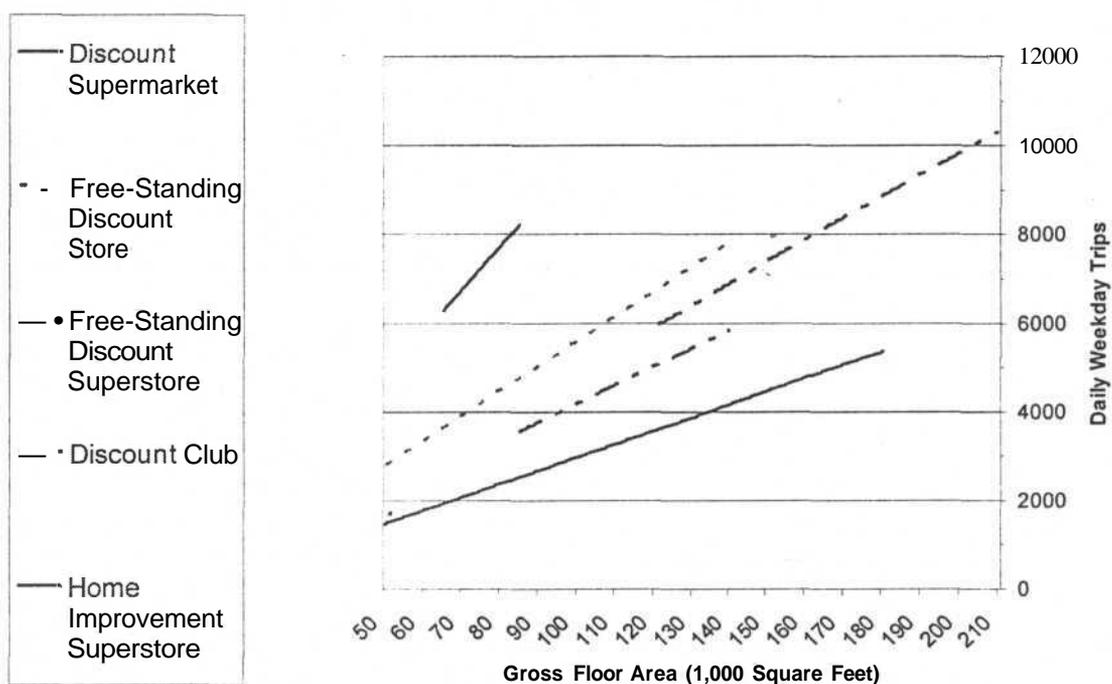
¹ Land use code number from ITE's Trip Generation, 7th Edition

² Average square feet of gross floor area of sites studied in Trip Generation, 7th Edition

³ Average weekday daily trip generation rate per 1,000 square feet of gross floor area, Trip Generation, 7th Edition

⁴ Average daily weekday trip generation for the average size store: Average Size x Trip Rate

Big Box Weekday Trip Generation vs. Size



2. **Trip Length and Frequency.** Big Box store spacing varies by type, but they tend to be spaced farther apart and serve a larger catchment area than smaller local stores. Therefore, the average trip length to a big box store is likely to be longer than the average trip length to a smaller, more locally-serving store. Similarly, the frequency of trips to big box stores varies by type, but is likely to be less than the frequency of trips to alternative local stores. We have not found any study that measures and compares the trip length and trip frequency for big boxes to those of smaller local stores.
3. **Internal Capture.** The issue of internal capture or cross-shopping does not apply to all big box stores. Some big box stores offer a greater variety of products and services, raising the question of the affect of cross-shopping on traffic. In the example of a superstore which typically contains groceries, general merchandise, lawn and garden center, pharmacy, banking facilities, fast-food restaurant, minor automotive repair facility and various smaller services such as photo center, portrait studio and hair salon, one could argue that one trip to this type of store could replace multiple separate trips to other locations. We have not found any study that attempted to quantify this relationship.
4. **Pass-by Trips.** If a store is placed in a location that already experiences a high volume of traffic, a higher percentage of its trips will be pass-by trips as opposed to newly attracted traffic. In addition, if desirable shopping opportunities are close to home,

shopping trips to those establishments are more likely to be pass-by trips or less "out-of-the-way" than trips to stores that are farther from home. The studies we reviewed do not address this issue.

5. **Transportation System.** The adequacy of the surrounding transportation infrastructure and access points to handle the traffic generated by a project are as important as the amount of trips that are generated in determining whether the facilities will become congested. If all traffic must pass through a single roadway, intersection or driveway to access the site, this may be a constraint as compared to if access were provided from several public streets and driveways. If there is sufficient excess capacity on the surrounding streets, intersections, and access points, a proposed project may not cause congestion, even if it generates a lot of traffic.
6. **Location/Land Use.** The land uses surrounding a proposed big box store will have an affect on its traffic impacts. If a big box store is in a regional shopping center it will have different traffic impacts than if it is in an industrial area or residential area. The studies we reviewed do not address this issue.
7. **Urban Form/Mode Share.** The surrounding urban form and availability and convenience of transit service can also strongly influence the travel mode split (percentage of customers driving, taking transit, biking and walking to the store). If the store is in a less dense, more auto-oriented area where adjacent uses are not within reasonable walking distance, the mode split would be dominated by auto trips. By comparison, if it is in a pedestrian-friendly, more walkable area nearby dense residential uses, human-scale buildings and shops, and with desirable transit service, then alternative modes of transportation would play a greater role.
8. **Market Share.** The presence (or lack thereof) of other shopping opportunities in an area that provides the same products and services as a proposed big box competitor will affect the potential traffic impacts. If other local stores already exist that provide the proposed big box competitor's products/services, the proposed big box may attract some of their customer base and result in longer average trips. If a proposed big box store is going to serve a market that is currently underserved, it may reduce the length of trips that customers must make for those same products/services. The studies we reviewed do not take these affects into consideration.
9. **Trip-making Behavior.** In addition to many factors affecting vehicle trip generation, many factors affect our personal shopping and trip-making behavior. Consumers' choice of one store over another may be based on the availability of the use of a car or ease of access by transit, and one's preferences and priorities with respect to potential cost savings (economic factors), convenience, the value they place on their time, the distance from their home, work or other destination, marketing, and other factors.

Summary

Due to the complex nature of the subject, the data, studies, and reports we have reviewed are inconclusive in terms of quantifying the effects of regulating big box development on traffic in San Diego. Although the traffic impacts cannot be quantified, there are mobility benefits to the City's proposal to regulate big box development. The City of Villages strategy addresses growth and improves existing communities by combining housing, commercial, employment centers, schools and civic uses together in areas where a high level of activity already exists. Connecting villages with an improved transit system, such as MTDB's proposed Transit First initiative would help villages reach their full potential. Regulating big box development within the City will help sustain existing and encourage more community and neighborhood shopping opportunities which in turn will help foster our growth as multimodal City as opposed to an auto-dominated City.

References:

Institute of Transportation Engineers, Trip Generation, 7th Edition. Washington, DC: Institute of Transportation Engineers, 2003

San Diego Association of Governments, San Diego Traffic Generators, San Diego, CA.: San Diego Association of Governments, April 2002.

City of San Diego, Trip Generation Manual, San Diego, CA: City of San Diego, May 2003

Jha, Manoj K. and David J. Lovell, "Trip Generation Characteristics of Free-Standing Discount Stores: A Case Study," ITE Journal on the Web (May 1999): 85-89.

Bay Area Economic Forum, Supercenters and the Transformation of the Bay Area Grocery Industry: Issues, Trends and Impacts. Bay Area Economic Forum, January 2004.

Prepared by the Planning Department on 5/04/04: SH:MG

Land Development Code Review of Existing Use Regulations and Processing Requirements

Zones Where Large Retail Development is Currently Permitted

Under the Land Development Code, a use is identified as belonging to a use category and use subcategory based upon the proposed facility needs and operational characteristics of the use including type, intensity, and development characteristics of the use. Large retail development users would be classified within the retail sales category, which includes uses involving the sale, lease or rental of new or used goods to the general public. There are six subcategories defined within the retail sales category that distinguish the type of use provided on the site. When a particular use could meet the description of more than one use subcategory, the subcategory with the most direct relationship to the specific use shall apply. In the case of large retail development, the subcategory consumer goods, furniture, appliances, and equipment is typically applied. This subcategory includes uses that provide goods, large and small, functional and decorative, for use, entertainment, comfort, or aesthetics. Other retail sales subcategories include building supplies and equipment; food, beverages, and groceries; pets and pet supplies; sundries, Pharmaceuticals, and convenience sales; and wearing apparel and accessories.

The Use Regulations tables are used to determine in which base zones a particular use is permitted. The consumer goods, furniture, appliances, and equipment use is permitted by right in the CN (Commercial-Neighborhood), CR (Commercial-Regional), CC (Commercial-Community) and IL-3-1 (Industrial-Light) Zone. The commercial zones where large retail establishments are currently permitted comprise the vast majority of commercial areas in the city. The IL-3-1 zone permits both industrial and commercial uses. Generally, it is located in the central areas of the city. For example, it comprises approximately two-thirds of Kearny Mesa, the Grantville area in Navajo, the Morena Blvd. area in Linda Vista, portions of the Midway and Barrio Logan communities, portions of Mira Mesa on Miramar Rd., and Torrey Pines on Sorrento Valley Rd. The use would not be permitted within any open space, agricultural, or residential zone or within the CV (Commercial-Visitor), CO (Commercial-Office), CP (Commercial-Parking), IP (Industrial-Park) or IH (Industrial-Heavy). There are some zones such as the IL-2-1 and IS-1-1 (Industrial-Small Lot) where the use could be permitted with specified limitations.

Types of Discretionary Permits

There is currently no requirement for a discretionary permit for a large retail development based on citywide zoning requirements. The retail use is either permitted by right or is not a permitted use in a particular base zone based on the Use Regulations Table. However, the use may require a discretionary permit if environmentally sensitive lands are present on the site, if the site is located within a Planned District Ordinance, or if the site is located within an overlay zone such as the Coastal Overlay Zone or Community Plan Implementation Overlay Zone.

Site Development Permits (SDP) are required for new development projects in many of the Planned Districts. An SDP would also be required for commercial development of a site with Environmentally Sensitive Lands. The purpose of the SDP is to establish a review process for proposed development that, because of its site, location, size, or some other characteristic, may have significant impacts on resources or on the surrounding area, even if developed in conformance with all regulations. These types of SDP's are typically process three decisions. There are three findings for all Site Development Permits (Section 126.0504).

1. The proposed development will not adversely affect the applicable land use plan.
2. The proposed development will not be detrimental to the public health, safety, and welfare.
3. The proposed development will comply with the regulations of the Land Development Code.

Coastal Development Permits (CDP) would likely be required for a big box development in the coastal overlay zone. Although there is currently no specific requirement for a CDP for a large retail development use, a CDP would be required to construct the structural improvements or where the proposed use would be considered an intensification of use. The decision process would be Process Two in the nonappealable area and Process Three in the appealable area of the Coastal Overlay Zone. There are four required findings for all Coastal Development Permits (Section 126.0708).

1. The proposed coastal development will not encroach upon any existing physical accessway that is legally used by the public or any proposed public accessway identified in the Local Coastal Program land use plan; and the proposed coastal development will enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Program.
2. The proposed coastal development will not adversely affect environmentally sensitive lands.
3. The proposed coastal development is in conformity with the certified Local Coastal Program land use plan and complies with all regulations of the certified Implementation Program.
4. For every Coastal Development Permit issued for any coastal development between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone the coastal development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act.

Planned Development Permits (PDP) may be requested to allow greater flexibility from strict application of the regulations in order to achieve the purpose and intent of the applicable land use plan. PDP's are typically decided through Process Three, or Four.

Section 126.0602 lists which commercial development requires a PDP in conjunction with another discretionary action. There are five required findings for all Planned Development Permits (Section 126.0604).

1. The proposed development will not adversely affect the applicable land use plan.
2. The proposed development will not be detrimental to the public health, safety, and welfare.
3. The proposed development will comply with the regulations of the Land Development Code.
4. The proposed development, when considered as a whole, will be beneficial to the community.
5. Any proposed deviations pursuant to Section 126.0602(b)(1) are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone.

Conditional Use Permits (CUP) may be established as a requirement where a review of the proposed use is desired on a case-by-case basis to determine whether and under what conditions the use may be approved at a given site to protect the public health safety and general welfare of the community. To provide this protection, conditions may be applied to address potential adverse effects associated with the proposed use. The decision maker may impose reasonable conditions as deemed necessary and desirable to protect the public health safety and general welfare of the community. Examples of conditions include making any applicable regulations of the zone more restrictive such as increasing setback distances between neighboring land uses or limiting hours of operation or duration of operation. CUP's may be decided through a Process Three, Four or Five level decision. There are four required findings for all Conditional Use Permits (Section 126.0305).

- a) The proposed development will not adversely affect the applicable land use plan.
- b) The proposed development will not be detrimental to the public health, safety, and welfare.
- c) The proposed development will comply to the maximum extent feasible with the regulations of the Land Development Code.
- d) The proposed use is appropriate at the proposed location.

Prepared by the Development Services Department: SD:AL

Land Development Code Review of Existing Design Regulations

The Land Development Code contains the following design requirements for commercial development in the Commercial Regional and Community Commercial zones which currently apply to Large Single Tenant Retail Establishments.. If a provision is not applicable in some zones, that is noted.

Pedestrian paths - required in the Commercial Regional and Community Commercial zones. Paths shall be continuous, 4-foot wide, and unobstructed." Paths up to a maximum of 3 paths, must be provided from improved street frontages where the grade is less than 4 feet.

Transparency - required in the Community Commercial 4 and 5 zones, not applicable in the Commercial Regional or Community Commercial 1, 2, and 3 zones. A minimum of 50 percent *of street wall* area between 3 and 10 feet above the sidewalk shall be transparent, with clear glass visible into a commercial or residential use.

Building Articulation - required in the Commercial Regional and Community Commercial zones. All building elevations *fronting a public right-of-way* shall be composed of offsetting planes that provide relief in the *building facade* by inseting or projecting surfaces (planes) of the building. The minimum number of offsetting planes and the minimum horizontal separation between planes is based on the length of the new *building facade*. *Building facades* longer than 100 feet must provide 6 planes: 2 with a minimum separation of 3 inches, 2 with a minimum separation of 8 inches, 2 with a minimum separation of 3 feet, plus 1 additional plane for each 50 feet *of building facade* length over 100 feet (maximum of 3 additional planes required with a minimum separation of 5 feet). The size of the planes varies based on the required offset.

Parking Lot Orientation - required in the Commercial Regional and Community Commercial 1, 2 and 3 zones, not applicable in the Community Commercial 4 and 5 zones. Proposed *development* with over 100,000 square feet *of gross floor area* and more than one *street frontage* shall locate no more than 50 percent of the *vehicular use area* between the longest *street frontage* providing public access to *the premises* and a building or buildings.

Height Limits - limited to 30 feet in the Coastal Overlay Zone

Truck Traffic - the use of local streets for delivery truck traffic is evaluated in the discretionary permit process.

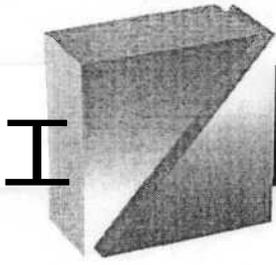
Loading Docks - screening from the public right of way is required

Landscaping Regulations - new structures over 1,000 square feet in Commercial Zones or *Commercial Development* are subject to sections 142.043-142.0407, 142.0409 and 142.0413 of the landscaping regulations. A summary of some of the key points follows:

Commercial Development is required to plant twenty-five percent of the street yard with trees that provide 0.05 plant points. The remaining yards must be thirty percent planted and provide 0.05 plant points. All of the required *street yard* planting area located outside the *vehicular use area* for commercial zones or commercial development except for auto service stations, may consist of *hardscap* or unattached unit pavers. Where commercial *development* abuts a residential zone, a 5-foot wide area along the entire abutting *property line* shall be planted with trees to achieve a minimum of .05 points per square foot of area in addition to the points required in the *remaining yard*.

Parking lots 6,000 square feet or greater must landscape 5% of vehicular use area located in the street yard, providing 0.05 plant points and 3% of vehicular use area located outside the street yard providing 0.03 plant points. At least one-half of the required plant points must be achieved with trees. The minimum tree size is 24-inch box or if palm trees are used they must be 8-foot brown trunk height. Street trees are required at a rate of one 24-inch box tree for every 30 feet of *streetfrontage*, this may vary depending on type of tree and site configurations.

Prepared by the Planning Department 5/04/04: JC:LB



Ziebarth Associates

April 5, 2004

Mr. Anthony Lettieri
 Chairman, San Diego Planning Commission
 City of San Diego
 202 C Street
 San Diego, CA 92101

Dear Chairman Lettieri and San Diego Planning Commissioners:

Through my 6 years on the Citizen's Advisory Committee for the Zoning Code Update and 4 years on the Code Monitoring Committee, I have tried to work with staff on constructive ways to improve our regulations and encourage the type of development that will benefit the city. I have met several times with staff and have made suggestions regarding the draft ordinance on the *large single tenant retail establishments*. I have also had discussions with some of the *large single tenant retail establishments*. I believe that there are several misconceptions in the early Manager's and Staff's Reports pertaining to the problems with the "Big Boxes." However, I agree with staff's goals to make sure that these uses are placed in appropriate areas of the community. I also support staff's effort to improve quality of design and community character. Like the Code Monitoring Committee which voted unanimously against staff's earlier proposal in December and CPC's vote of 18 to 1 against a revised proposal in February, I still have some concerns with how this is being accomplished. I have attached a revised draft ordinance with proposed changes which I believe address staff's concerns of appropriate community location and design criteria for *large single tenant retail establishments*.

Staff currently proposes to regulating *large single tenant retail establishments* over 75,000 sf with a Process 4 CUP in Community Commercial Zones and by right in Regional Commercial Zones. No buildings would be allowed over 150,000 sf. I propose establishing additional design criteria for retail buildings over 50,000 sf with a process 4 CUP for *large single tenant retail establishments* over 100,000 sf in Community Commercial Zones and by right in Regional Commercial Zones. Buildings over 150,000 sf. would be allowed.

Staff proposes establishing design criteria for *large single tenant retail establishments* as Regulations under Chapter 14, Article 1, Division 5 Retail Sales Use Category--Separately Regulated Uses. I propose that the design criteria for building articulation, pedestrian pathways, landscaping be included in the appropriate code sections. This allows additional design criteria to be imposed on retail buildings between 50,000 sf and 100,000 sf through Process 1. I also propose additional regulations under Separately Regulated Uses for consideration in approving a CUP for *large single tenant retail establishments*

Architecture / Planning

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The following is a justification for the reformatting and modifications that I propose to the staff proposal. Staff's proposal calls for "interconnecting pedestrian pathways within the site." Instead of limiting this requirement to *large single tenant retail establishments* as part of the Supplemental Development Regulations for a CUP in Section 141.0505, this requirement should be required of all commercial projects in Section 131.0550. This is especially true of commercial projects with multiple buildings.

Staff initially suggested design criteria for single tenant retail buildings over 50,000 square feet. For me, the main issue was what the design criteria were and if they were practical to implement. Attached proposed ordinance adds language in Section 131.0554(e) based on a similar concept that was used in the Central Urbanized Planned District Ordinance for additional building articulation. These are items, which staff has listed in Section 141.0505. It is suggested that textural change be part of the alternatives versus a mandatory requirement so as not to preclude the design styles of Irving Gill or a "southwestern style that relies on massing and shading versus texture. I propose that they be relocated to Section 131.0554(e) applied to single tenant retail establishments between 50,000 sf and 100,000 sf with a Process 1 and to *large single tenant retail establishments* with a Process 4 CUP.

If the additional design criteria begins at 50,000 sf, it is recommended that the threshold for *large single tenant retail establishments* in Section 131.0103 be raised from 75,000 sf to 100,000 sf to be consistent with the minimum size established by SANDAG for a community commercial center. If *large single tenant retail establishments* are to be limited to community commercial or regional commercial zones as is proposed by staff in Section 131.0522, then the size that a CUP is required to review should reflect a community commercial center.

In Section 103.0105, staff proposes restricting the size of *large single tenant retail establishments* to 150,000 sf unless it is in a regional commercial zone. It is my contention that this is an unnecessary level of regulation. Knowing that the six existing regional commercial zones are already built-out, staff intends for this regulation to require an applicant to process a community plan amendment and a rezone. I believe that this particular issue was one of the main objections of the CMT and CPC -- requiring a certain size *large single tenant retail establishments* (whether it was 100,000 sf, or 130,000 sf, or 150,000 sf) to be restricted to regional commercial centers and require a community plan amendment and rezoning. The city and the communities are already protected by the CUP process, which can prevent this use anywhere that it is not appropriate based on community input and environmental analysis.

I support staff's proposed regulations to require *large single tenant retail establishments* to have a minimum 8' building setback though I propose that this be handled with Footnote 5 in Tables 131-05D and 131-05ED for allowable CC and CR Zones respectively versus as a supplemental design regulation for a CUP.

I also support staff's proposed regulation not allowing the perimeter vehicular landscape buffer to be reduced below 8' for *large single tenant retail establishments*.

The goal of the staff to require facade landscaping for *large single tenant retail establishments* is a worthy one, but it should reflect the building articulation that is already required and not

impose industrial facade planting standards. Industrial facade planting standards were established because no building articulation standards were required of industrial buildings. It is not practical to require 50% of the length of the building to be landscaped for a distance 9' out from the building. The attached proposed ordinance reflects the goal of providing facade planting at large *single tenant retail establishments*, while incorporating the practical needs of circulation in front of the building. It allows for facade planting to be integrated into the building articulation while requiring a minimum percentage of trees based on the city's current point system.

I believe that the attached draft ordinance achieves the goals of community and city control over the locations of *large single tenant retail establishments* through the Conditional Use Permit Process and of establishing additional design criteria to fit their aesthetics into the community character. It also allows for the appropriate development of *large single tenant retail establishments*, which are a benefit to the city and its communities.

Respectfully,

A handwritten signature in black ink, appearing to read "John C. Ziebarth". The signature is written in a cursive, flowing style with a prominent initial "J".

John C. Ziebarth, AIA, CMT

Analysis of Ordinance Proposals identified in Letter dated 4/5/04 (John Ziebarth)

1. Proposes a two-tiered regulatory process which would include:

A Process 1 for buildings between 50,000 sq. ft. and 100,000 sq. ft. to establish additional design standards in the code;

A Process 4 CUP for *large single tenant retail establishments* over 100,000 sq. ft. in Community Commercial Zones. The threshold for discretionary review of *large single tenant retail establishments* should be raised from 75,000 sq. ft. to 100,000 sq. ft. to be consistent with the minimum size established by SANDAG for a community commercial center. They would be permitted by right in Regional Commercial Zones.

The draft ordinance presented to CPC in February, 2004, proposed a ministerial process for large retail establishments over 50,000 sq. ft. in size with the goal of streamlining the development review process and providing greater certainty in review for the developer. Comments by some CPC members focused on providing an opportunity for public input for these types of commercial uses. An additional issue with the ministerial regulations was the qualitative nature of the design standards and the difficulty that a plan checker could encounter providing consistent review given the lack of empirical standards and measurable definitions.

To simplify the review process, it was decided to convert the design standards to guidelines and provide a discretionary review process at 75,000 sq. ft. and higher. The provision of additional design criteria as part of a discretionary review process allows the applicant greater flexibility to design to the site characteristics and community preferences.

The establishment of 75,000 sq. ft. as a threshold was chosen for several reasons: first, to provide an opportunity to obtain site-specific traffic studies more often which currently may only occur when a Planned Development Permit is required for a traditional community shopping center at 100,000 sq. ft. and above; second, because grocery stores are now being developed at sizes exceeding 50,000 sq. ft. and additional review for these community serving uses should not be required especially if locating in stand-alone locations in urban areas; and finally, the 75,000 sq. ft. definition is utilized in State legislation adopted last year which prohibits redevelopment agencies from poaching big box retailers from adjacent jurisdictions and in proposed state legislation which would require business impact reports for these uses.

2. Proposes that buildings over 150,000 sq. ft. be allowed.

The establishment of a maximum threshold for size of stores (except in CR zones and CCPDO) was determined based on the analysis provided in the staff report. Without a maximum size threshold, community character, land use, economic, and mobility impacts would accrue and the implementation of a regional growth strategy as adopted in the Strategic Framework Element would be significantly compromised. Staff has already increased the recommended threshold from 100,000 sq. ft. to 150,000 sq. ft. in size to reflect the desire of some community members to have a wider variety of retail uses available in the community.

3. Proposes that the requirement for 3 textural/materials changes be listed as one of the menu alternatives versus a mandatory requirement so as not to preclude the design styles of Irving Gill or a "southwestern style that relies on massing and shading versus texture.

The texture/materials changes requirement was suggested by the Code Monitoring Team and John Ziebarth as a means to visually break up large facades. Most of the previous design criteria which were originally requirements were changed to menu items at John Ziebarth's request. The fact that one criteria was retained as a requirement rather than a choice of alternatives overall would encourage higher quality design and would not preclude Gill-inspired architecture.

4. Proposes that the facade landscaping provisions for *large single tenant retail establishments* not be required due to the building articulation that is already required in the code for all commercial buildings.

The building articulation requirements already in the code which require from 3 inches to 5 feet do not provide adequate depth for the provision of larger planting materials including trees to be planted next to the structure. The requirement for a minimum of 9 feet would accomplish this. The façade planting requirement is designed to complement existing building articulation provisions necessary to mitigate the visual effect of large building walls.

Prepared by the Planning Department on 5/03/04: JC

Analysis of Additional Design Regulations for Consideration for Large Retail Development

The options presented below are among many which been identified in various publications and articles including *Belling the Box: Planning for Large-Scale Retail Stores*; APA Proceedings, 1998.

1. a) **Structured Parking: Require that 50% of all parking be located in a parking structure or in sub-grade parking for structures over 75,000 sq. ft. in size.**
- b) **Multi-Story Buildings: The maximum coverage for the principal building structure shall not exceed 75,000 sq. ft. in size.**

As land becomes increasingly scarce, developers of big box retail will find it necessary to provide multi-level structures. In some communities, the provision of a large two-story structure, up to 150,000 sq. ft. with a ground floor area of 75,000 sq. ft. would visually intrude on surrounding lower scale or single-family neighborhoods. The appropriateness of multi-level development should be based on site-specific considerations and community preferences. In addition, the proposed Urban Design Element will provide policy guidance for scale and massing for based on locational and functional factors rather than use considerations.

2. Liner Buildings/Upholstered Structures

The presence of smaller retail stores gives a friendlier appearance by creating variety, breaking up large expanses, and expanding the range of the site's activities. The visual impact of big box stores could be lessened if liner buildings were placed along part of their perimeter or placed directly adjacent to the primary retail establishment. This design configuration could require that developments with single-tenant retail uses greater than 75,000 sq. ft. provide additional tenant spaces whose total gross sq. ft. is equal to or exceeds 25% of the primary tenant and which shall not be occupied by tenants larger than 30,000 sq. ft. in size. A similar alternative currently in effect in the City of Carlsbad which precludes development of stores over 75,000 sq. ft. in size unless it is part of a shopping center. Either alternative presents difficulties to large retail establishments given the lack of adequately sized commercial parcels available in the city for their development. In addition, certain types of users such as supercenters or home improvement stores do not normally support adjacent tenants.

3. Multiple Street Entrances

Multiple street entrances also reduce the effect of unbroken walls and facilitate pedestrian access to public streets. A potential design regulation could require that all sides of the building that directly face an abutting public street shall feature at least one customer entrance. When the building directly faces more than two abutting public streets, this requirement shall apply only to two sides of the building. However, unless the site is predominantly pedestrian-oriented with the building required to be located at the street, multiple street entrances can disrupt store function and effect inventory control. To date, large retail establishments have functioned as automobile-oriented uses. As previously noted, the proposed urban design element will address pedestrian design standards in appropriate types of locations.

4. Potential for Mixed-Use Development

Nationally, staff has not located any examples where large retail development has incorporated residential uses. Discussions with architects have indicated that, although "power centers" containing smaller stores may eventually redevelop with residential uses, large retail establishments are unlikely to do so.

5. Public Spaces/Community Identity

Regulations could be established to require that large retail establishments contribute to the identity of a community. The following guideline could be established: each retail establishment subject to these standards shall contribute to the establishment or enhancement of community and public spaces by providing at least two of the following: patio/seating area, pedestrian plaza with benches, transportation center, window shopping walkways, outdoor play area, kiosk area, water feature, clock tower, steeple, or other such deliberately shaped area and/or focal feature or amenity that, in the judgement of the decisionmaker, adequately enhances such community and public spaces. Any such areas shall have direct access to the public sidewalk network and such features shall not be constructed of materials that are inferior to the principal materials of the building and landscape.

Although these features and spaces have the potential to integrate large scale retail establishments into the community if part of a pedestrian-oriented commercial or mixed use center, they are less effective when applied to a stand alone store or automobile-oriented shopping center such as a regional mall or power center. Large scale retail developments do not develop as part of mixed-use centers and generally do not support alternative modes of transportation. Therefore, this type of guideline would be more appropriate in areas which would develop as villages.

SUMMARY

Some of the additional design regulations could result in an improved relationship to the surrounding community. However, large retail establishments are not appropriate in pedestrian-oriented commercial and mixed-use centers due to their scale and function. The Land Use and Urban Design Elements of the General Plan will establish appropriate locations, uses, and design guidelines for neighborhood and urban villages which serve as a focal point for pedestrian-oriented community activity and identity. Other design policies will be established for commercial functions in other locations such as regional malls, power centers, and strip and neighborhood commercial uses. Additional design criteria can be more comprehensively addressed in the General Plan on a policy basis, not in regulations for a specific type of use.

Prepared by the Planning Department on 5/02/04: JC

Attachment 8

CEQA Process for California Big Box Ordinances

Staff contacted six jurisdictions that have passed or are considering ordinances regulating large retail establishments to determine what type of environmental review was used. Five of the jurisdictions determined the ordinances to be exempt from environmental review and one jurisdiction performed a negative declaration. Wal-Mart has sued two of the jurisdictions, Alameda County and City of Turlock, for CEQA violations, among other issues. Alameda County chose to repeal its ordinance and submit it to the Planning Commission for review, re-adoption is likely. Turlock does not have plans to repeal or alter its ordinance.

Alameda County's ordinance employed a size cap and a limit on the percentage of sales floor area dedicated to non-taxable goods. The County used General Rule 15061(b)(3) to exempt the ordinance from CEQA.

Turlock's ordinance prohibits large-scale retail business stores that exceed 100,000 square feet of gross floor area from devoting more than 5% of that floor area to the sale of non-taxable (food/grocery) merchandise. The City used CEQA Guidelines Sections 15378, 15168(c)(2), 15183, 15061(b)(3), and 15305 to exempt the ordinance.

Contra Costa County's ordinance prohibited retail businesses that exceeded 90,000 square feet from devoting more than 5% of floor area to non-taxable items. The County used exemption 15305 for minor alterations in land use limitations. The ordinance was repealed in a referendum in March.

City of Los Angeles' ordinance is not yet adopted. Los Angeles has different CEQA guidelines from other California jurisdictions. The City is planning to use an exemption that corresponds to 15061(b)(3).

Santa Maria's ordinance, passed in 1997, prohibited commercial uses exceeding ninety thousand (90,000) square feet of gross floor area, from devoting more than 8% of the total gross floor area to non-taxable merchandise. The City filed a negative declaration for the ordinance.

The City of Oakland's ordinance prohibits retail stores over 100,000 square feet using more than 10% of their sales floor area for non-taxable items in some zones and requires a conditional permit in other zones. Our information indicates that General Rule 15061 was used to exempt the ordinance from CEQA process.

Prepared by the Development Services and Planning Department on 4/30/04: CZ:LB

Fiscal Impacts of Large Retail Establishments

Retail Site Selection

Retail uses are established in a community based almost entirely on demographics - the specific characteristics of a region's population regarding income, age, density, etc. and the presence of existing competitors in the targeted "trade area." Since the retail outlet is the last stage of the economic process before consumption occurs, it is extremely difficult for the retailer to move out of (or not locate in) the trade area, much less the region as a whole. Despite the rise of internet sales where goods are purchased on-line and delivered to the consumer's doorstep, most retail sales still occur in retail stores. In fact the recent trends suggest that "large format" or "big box" retailers are able to effectively compete with smaller and non-traditional retailers based on price, selection, and overall value. These type retailers are increasingly constructing ever-larger "super-markets" and "super-centers" precisely in order to compete with smaller less value-oriented retailers. For the most part, San Diego retailers do not compete with retailers outside the City, and almost never compete with retailers outside the region.

The Relationship of Tax Revenue to the Size of the Retailer

Larger retail establishments are able to provide some savings to the consumer through lower prices resulting from increased efficiency. A significant portion of these savings is likely to be spent at the same or other retailers such that taxable sales remain the same or may even drop slightly. The disposable income of a City's population is the primary determining factor in the amount of sales tax a City will receive. Since retailers are not a part of the economic base from which this disposable income is derived, they have little impact on taxable sales or tax revenues allocated to local cities. There is one important exception to this rule. The actual positioning of a retailer near a City limit line, and the reach of that retailer into the trade area which extends into another jurisdiction can influence sales tax receipts. While cities might like to "import" tax revenue from a neighboring jurisdiction by "positioning" a large format (aka "big box") retailer, or a series of such retailers along the inside of its city limits, the reality is that the demographics and the existence of competing retailers will have a much greater impact on the location decisions of these retailers than accommodative land use policies. Retail locations are likely to be geographically dispersed throughout residential areas without regard to political boundaries. As such, cities can do very little if anything that will significantly affect sales tax revenues from retailers. Smaller cities will have relatively more leverage, and larger cities relatively less.

San Diego's Situation

City staff evaluated existing land uses on both sides of the City Limits and concluded that large retail establishments were more likely to be sited by retailers in surrounding cities than within the City of San Diego. Consideration was given to the following factors: (1) presence of vacant land, (2) presence of obsolete structures (3) land use zoning and planning designations, and (4) the existence of adopted Redevelopment Project Areas and the historical use of these by local jurisdictions to "assemble" land for large retailers. While it is difficult to predict the potential locations of future super-centers or even large retail establishments generally, it is clear that the City of San Diego has relatively less ability to positively influence sales tax revenues by

encouraging such retail establishments in locations which would "shift" tax revenues to San Diego. In conclusion, it appears that the City of San Diego has nothing to gain financially from the establishment of super-centers in San Diego County and potentially could be exposed to negative fiscal impacts from this type of retailer.

Key Findings of Studies of Large Retail Establishments

City staff has reviewed five studies which quantitatively evaluated the fiscal impacts of large retail establishments and none predict a potential fiscal benefit from such retailers generally. Conclusions range from "the net impacts on local sales tax revenues are far from certain" (Boamet and Crane 1999) to "it is arguable that there is an even greater net cost [to the City of San Diego] in this case from the super-centers" (Rea and Parker, 2000) This latter study prepared on behalf of the San Diego Taxpayers Association departed from other similar studies by examining and quantifying actual service costs associated with super-centers and in addition provided extrapolated costs resulting from increased reliance of retail employees on publicly subsidized health care programs. All of the studies noted, but were unable to quantify, costs associated with infrastructure and redevelopment expenditures undertaken by local governments to either attract large retailers or mitigate the urban blight caused by the closure of smaller retailers.

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Prepared by the Community and Economic Development Department on 5/04/04: RG