



THE CITY OF SAN DIEGO
MAYOR JERRY SANDERS

MEMORANDUM

DATE: November 29, 2010

TO: Honorable Council President Ben Hueso and Members of the City Council

FROM: Mayor Jerry Sanders

SUBJECT: Veto of Council Ordinance O-2011-18 REV. 2 (Relating to the regulation of superstores)

On November 16, 2010, the City Council approved an Ordinance related to superstores. I have exercised my right to veto this action for the following reasons:

I do not believe it is the City's role to determine where consumers may shop, or to provide a competitive advantage to certain retail businesses. The Council's action singles out one type of retail format (that combines consumer goods and grocery sales in a single establishment) for regulation in a manner that is inconsistent with the City's Land Development Code and General Plan.

The Council's action sends the message that San Diego is not business friendly at a time when job creation is critical and a significant amount of unemployed San Diegan's need our economy to grow. This is a message San Diego cannot afford to send. Additionally, this action creates a competitive disadvantage for San Diego in the pursuit of sales tax revenue. Superstores will be built to serve our residents, but they will simply locate outside of the city's boundary, causing sales taxes to go to other jurisdictions and increasing traffic as people must travel further in search of lower prices.

In 2007, the Mayor and City Council overturned a similar ordinance that would have banned superstores citywide. This ordinance appears to be a second attempt to ban superstores by establishing an additional layer of regulation that fails to identify objective review criteria or conditions under which superstore development may ever be considered to be appropriate.

Proponents have suggested that the ordinance is necessary to provide review of superstores. However, superstore development is already subject to site-specific analysis and discretionary permit review. In 2007, the Mayor and City Council established a process for decision makers to

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review new retail development (50,000 square feet and larger) based on objective permit findings and design criteria. Passage of the superstore ordinance will create redundancies and contradictions, subjectivity and unpredictability, and overall will cause confusion in the development process.

Proponents of the superstore ordinance have suggested the ordinance is necessary for evaluation of economic impacts. However, decision makers already have the tools in place to evaluate the economic impact of a large retail establishment, including superstores. Under the existing code, a decision maker has the ability to deny proposed large retail development 50,000 square feet or greater in size if there is evidence of potential blight or other adverse impacts in conflict with adopted policies. The City's Economic Prosperity Element adopted in March 2008 specifically requires a fiscal impact and market analysis for proposed large retail establishments greater than 100,000 square feet; the effect of which would be modified by the ordinance without formally processing a General Plan amendment.

This ordinance would deprive families of the option to enjoy significant savings when they shop for basic necessities of life, including groceries. It would hit low income families disproportionately hard.

The Community Planners Committee, Code Monitoring Team, Technical Advisory Committee, and San Diego Regional Chamber of Commerce have each questioned the intent of the ordinance, and lack of transparency in the process used to bring this ordinance forward. My veto of this ordinance is reflective of their input and concerns.



JERRY SANDERS

Mayor

cc: Jan Goldsmith, City Attorney
Andrea Tevlin, Independent Budget Analyst
Liz Maland, City Clerk