

**LOS ANGELES CITY PLANNING DEPARTMENT
RECOMMENDATION REPORT**

CITY PLANNING COMMISSION

DATE: Thursday, June 24, 2004
TIME: after 10:00 a.m.*
PLACE: Constituent Service Center
 6262 Van Nuys Boulevard, 1st Floor
 Van Nuys, California 91401

CASE NO: CPC 2000-4247 CA
CEQA: ENV-2004-3181-CE
LOCATION: Citywide
COUNCIL DISTRICT: All
PLAN AREA: All
RELATED FILE: CF 00-1675-S2

PUBLIC HEARING REQUIRED

REQUEST: A proposed ordinance that amends Subsection U of Section 12.24 of the Municipal Code regulating retail establishments in excess of 100,000 square feet in size and devote more than 10% of sales floor area to the sale of non-taxable merchandise known as Superstores in the Economic Assistance Areas of the City.

SUMMARY: Proposed ordinance amends the Los Angeles Municipal Code requiring an additional finding and information leading to an economic impact analysis report required to approve a Major Development Project conditional use for a Superstore (Appendix A).

Franklin P. Eberhard, 213-978-1273

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ADVICE TO PUBLIC: *The exact time this report will be considered during the meeting is uncertain since there may be several other items on the agenda. Written communications may be mailed to the Commission Secretariat, 200 North Spring Street, Room 532, Los Angeles, CA 90012 (Phone No. 213-978-1300). While all written communications are given to the Commission for consideration, the initial packets are sent to the week prior to the Commission's meeting date. If you challenge these agenda items in court, you may be limited to raising only those issues you or someone else raised at the public hearing agendized herein, or in written correspondence on these matters delivered to this agency at or prior to the public hearing. As a covered entity under Title II of the Americans with Disabilities Act, the City of Los Angeles does not discriminate on the basis of disability, and upon request, will provide reasonable accommodation to ensure equal access to its programs, services and activities. Sign language interpreters, assistive listening devices, or other auxiliary aids and/or other services may be provided upon request. To ensure availability of services, please make your request not later than three working days (72 hours) prior to the meeting by calling the Commission Secretariat at (213) 978-1300

SUMMARY

The Planning Department has received a communication from the City Attorney regarding the regulation of Superstores in the City of Los Angeles. The letter requests that the Director of Planning ask the City Planning Commission to consider an ordinance (Appendix A) adding detail to the findings now required to approve a "Major Project Conditional Use" that includes "Superstore Commercial Activities". The Ordinance requires an "economic analysis report" to be prepared by the applicant and submitted to either the Community Development Department (CDD) or the Community Redevelopment Agency (CRA) (depending on the location of a proposed Superstore) to be included in the deliberations on a Superstore proposal. The appropriate agency is then to make recommendations for the City Planning Commission.

Current provisions of the Municipal Code (Appendix B) include a requirement that conditional use approval be obtained for establishments with 100,000 square feet or more called a "Major Development Project". In order to approve a "Major Development Project" conditional use the City Planning Commission and the City Council upon appeal must make specified findings supported by factual information. The City Attorney Ordinance (Appendix A), if adopted, adds an additional finding that must be adopted in the affirmative in order to approve a "Major Development Project" conditional use containing "Superstore Commercial Activities". "Superstore Commercial Activities" are defined as "... sale from the premises of goods and merchandise for personal or household use, from stores whose total Sales Floor Area exceeds 100,000 square feet and which devote more than 10% of sales floor area to the sale of Non-Taxable Merchandise." Non-taxable merchandise generally refers to food items. There are a number of exclusions from the definition including those stores that have membership dues or those that have a periodic access fee. The new finding applies to all Economic Assistance Areas in the City. They include State Enterprise Zones, a Federal Empowerment Zone, a Federal Renewal Zone, Community Redevelopment Project Areas and Earthquake Project Areas including a one-mile buffer around each.

Staff recommends support of proposals to augment the City's conditional use procedures for reviewing new applications for such Superstores. The action of the Planning Commission and subsequently the City Council in 2001 in augmenting the Major Project conditional use findings as they apply to large retail stores exceeding 100,000 square feet established a precedent in recognizing the land use impacts of these stores. That action added a new finding to the law requiring "that the use would have no material adverse impact on properties, improvements or uses, including commercial uses, in the surrounding neighborhood." The issue of appropriate design was addressed at the time by the adoption of design guidelines by the City Planning Commission as called for in the ordinance. The current proposal seeks to better identify and define what is meant by "material adverse impacts" of Superstores. Such an addition to the Code would be a positive improvement to existing regulations in that it could establish more clarity to the law and guidance to staff in evaluating new applications for Superstores. Further, this effort is consistent with the earlier direction and actions of the City.

The Planning Department is submitting alternate language (recommendations below) to several parts of the City Attorney draft of Ordinance (Appendix A) modifying the conditional use. The alternate language contains an augmented finding that includes different language than that in the City Attorney's ordinance focusing attention on the economic welfare of land uses in the impact area. The staff is also recommending that the Director of Planning with the help of the General Managers of the two reporting agencies prepare and draft instructions and application forms that specify the information required and procedures for preparing and processing the "economic impact analysis report". The material to be contained in the instructions and application forms include the information listed in the City Attorney's draft ordinance. Staff believes that this will produce greater flexibility and ability to address issues that are relevant to applications over time. A recommendation to this effect is included here with the commensurate recommendation to adjust the ordinance accordingly. There are several issues at the end of the staff report that the Commission may wish to address that are not included in the staffs recommendations for the reasons stated there.

RECOMMENDATIONS:

1. **Adopt** this report as its report on this subject.
2. **Adopt** the attached Findings.
3. **Adopt** the attached ordinance (Appendix A) amended as follows:
 - a. **Delete** the first sentence of the portion of Section 2 of the ordinance under subsection (d) Superstores in Economic Assistance Areas, sub-subsection (1).
 - b. **Add** a new first sentence of the portion of Section 2 of the ordinance under subsection (d) Superstores in Economic Assistance Areas, sub-subsection (1) to read:

(1) Additional Findings. *In addition to the findings otherwise required by this Section and set forth in Paragraph (b) of this Subdivision, prior to approval of a Superstore that is located in an Economic Assistance Area, the City Planning Commission or the City Council on appeal shall find that the Superstore would not adversely affect the economic welfare of the land uses in the Impact Area, based upon information contained in an economic impact analysis report submitted by the applicant, any other information received or obtained by the Community Development Department or the Community Redevelopment Agency, a recommendation by the Community Development Department, or the Community Redevelopment Agency pursuant to Subparagraph (3) below, and any other information received before or at a public hearing required by this Section. The phrase "Impact Area" refers to a minimum three mile radius surrounding the proposed location of the Superstore, but may be expanded where deemed appropriate by the Department of City Planning, the Community Development Department or Community Redevelopment Agency, based upon information received in the economic impact analysis report and any other information received by either of the Departments or the Agency.*
 - c. **Delete** the portion of Section 2 of the ordinance under subsection (d) Superstores in Economic Assistance Areas, sub-subsection (2) Procedures starting with the third sentence and including the list of 12 listed items of information.
4. **Recommend** that the City Council instruct the Director of Planning, after consultation with the General Managers of the Community Development Department and the Community Redevelopment Agency, to issue instructions and application forms to applicants for submitting information for the purposes of preparing and processing the required economic impact analysis report. This information to include the information recommended for deletion in 2. c. above as well as any other information deemed appropriate by the three general managers. The instructions would also set forth the procedure used to process the report by the affected City Agencies and the applicant. The Director of Planning upon consultation of one or more of the two other General Managers would be authorized to amend those instructions and forms as circumstances dictate. These instructions and forms and any amendments thereto would be subject to review by the City Council's Planning and Land Use Management Committee.

FINDINGS

1. In accordance with Charter Section 556, that the proposed ordinance (Appendix A) as amended is in substantial conformance with the purposes, intent and provisions of the General Plan because it would help to “reinforce existing and establish new neighborhood districts that accommodate a broad range of uses that serve the needs of adjacent residents, promote neighborhood activity, and are compatible with adjacent neighborhoods”. Further, it would accomplish this by ensuring that the adverse economic impacts of a land use nature that impact these neighborhoods are fully investigated, mitigated and where feasible eliminated. It contributes to implementation of the following objective of the Citywide General Plan Framework, Objective 3.8, by limiting the size of retail stores, shops or businesses in neighborhood commercial zones and “encourage the development of new regional centers that accommodate a broad range of uses that serve, provide job opportunities and are accessible to the region, are compatible with adjacent uses”.
2. In accordance with Charter Section 558 (b) (2), that the subject ordinance is directly related to the General Plan, specific plans or other plans being prepared by the Planning Department as it will ensure small retail stores in neighborhood commercial areas that are depicted and regulated in those plans are not adversely impacted by larger Superstores and are compatible therewith and other uses in the area, goals of many specific and community plans; and
3. In accordance with Charter Section 558 (b) (2) that the proposed ordinance (Appendix A) as amended herein is in substantial conformance the public necessity, convenience, general welfare and good zoning practice in that it will promote the development of Superstores at appropriate locations and zones while either mitigating, minimizing or avoiding any significant adverse economic impacts of a land use nature that could impact adjoining businesses and residential communities.
4. The ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) and City guidelines for the implementation thereof pursuant to Article III, Section 2, Subsection (m) of the Los Angeles City CEQA Guidelines, as it will not have a negative impact on the environment.

CON HOWE
Director of Planning

FRANKLIN P. EBERHARD
Deputy Director

STAFF REPORT

Request

The City Attorney has transmitted a letter to the Director of Planning including an Ordinance to further regulate new Superstores in the City of Los Angeles. The letter requests that the Planning Director submit the ordinance to the City Planning Commission for its consideration. The Ordinance would amend the Major Development Project provisions (Section 12.24 U 14 of the LAMC) of the Municipal Code by defining "Superstore" and adding a new finding needed to approve a Superstore. The ordinance also contains new procedures for preparation of an economic impact analysis report by an applicant with recommendations submitted to the Planning Commission from either the Community Development Department or the Community Redevelopment Agency as appropriate. This includes a list of required information to be provided by the applicant. Some exclusions from these requirements are set forth in the ordinance. The ordinance as prepared by the City Attorney is approved as to form and legality.

Background

On May 21, 2004 the Director of Planning received a letter from the City Attorney's Office requesting that the Director of Planning submit the attached Ordinance (Appendix A) to City Planning Commission for its consideration. The draft Ordinance would amend the portion of the Los Angeles Municipal Code dealing with Major Development Project conditional uses. This is not the first review of the City Planning Commission on various aspects of this matter.

- On August 11, 2000 a motion was introduced and adopted in the City Council instructing the City Attorney to prepare and present an ordinance which prohibits the granting of approvals for retail stores exceeding 170,000 square whose total non-taxable merchandise floor area exceeds 10% of the total gross floor area.
- On September 28, 2000 the City Attorney transmitted to the Commission an ordinance that would prohibit the establishment of superstores with 150,000 square feet where seven and a half percent of or more of the floor area is devoted to sale of non-taxable goods. The Planning Department presented the matter to the City Planning Commission on November 16, 2000.
- On Nov 16, 2000 in addition to the ordinance prepared by the City Attorney, the staff presented an alternate ordinance and recommended it to the City Planning Commission. This ordinance proposed that stores of 150,000 square feet that included food sales be prohibited unless they received a conditional use permit pursuant to the then existing "Major Development Project Conditional Use" already existing in the Los Angeles Municipal Code (LAMC).
- On January 25, 2001 the City Planning Commission approved another ordinance and recommended City Council adoption of that ordinance. This new ordinance augmented the findings of the Major Development Project Conditional use by adding two new provisions. It required that "Additional findings for Large Retail Stores containing 100,000 square feet or more of floor area in the C2, C4, CM, M1, M2 and M3 Zones: (i) that the use is consistent with the general requirements of Design Guidelines for Retail Stores with 100,000 square feet or more of floor area adopted by City Planning Commission; and (ii) that the use would have no material impact on properties improvements or uses including commercial uses, in the surrounding neighborhood."

- On March 22, 2001 the City Planning Commission adopted the Design Guidelines For Major Development Projects For Large Retail Stores.
- On July 10, 2001 the City Council adopted the ordinance (Appendix B) recommended by the Planning Commission and the ordinance was subsequently signed by the Mayor and published on July 26, 2001.
- On August 26, 2001 that ordinance became effective.
- On August 16, 2002 a motion was introduced and approved by the City Council instructing the City Attorney “to prepare and present an ordinance which prohibits the granting of approvals for retail stores exceeding 150,000 square feet whose total non-taxable merchandise floor area exceeds 10% of the total gross floor area.”
- On February 3, 2004 the City Attorney submitted a “Draft of Ordinance Prohibiting “Superstore Commercial Activities” in “Economic Assistance Areas” and within a one-mile buffer area from those areas in the City of Los Angeles to the Director of Planning requesting response. In as much as that draft ordinance was not consistent with the City Planning Commission’s previous action on the matter, the Planning Director determined that the City Planning Commission review and comment on the matter. However, in the interim more discussions occurred and reports prepared at the City Council level on the matter as well as in the City Attorney’s Office. As a result another draft ordinance was prepared.
- On May 21, 2004 (received by the Planning Department on May 24, 2004) the City Attorney submitted another Ordinance (Appendix A) to the Planning Director for consideration by the Planning Commission. This ordinance returned to the idea of strengthening the findings needed to approve a “Major Development Project Conditional Use” for a “Superstore” in “Economic Assistance Areas”.

Discussion

The new ordinance consists of the following:

- It requires the City Planning Commission to find, should it approve a Major Development Project conditional use for a “Superstore” in an “Economic Assistance Area” that the “Superstore” would not adversely affect the economic welfare of the Impact Area, based on information submitted by the applicant in a written economic impact analysis report and any other information received or obtained by the Community Development Department or the Community Redevelopment Agency as well as a recommendation received from either of the two agencies
- Economic Assistance Areas are defined as the “Five State Enterprise Zones, Federal Empowerment Zone, thirty-seven Community Redevelopment Agency Project Areas, and Earthquake Project Areas, and a one-mile buffer surrounding each of the above identified zones, as identified by the Community Development Department and as shown on the Los Angeles Economic Assistance Areas” Map, dated January 2004,”
- The Impact Area of a proposed project is an area within a minimum of 3 miles of the project site but can be expanded by the reporting agency.
- The applicant is required to submit an economic impact analysis report prepared by a consultant approved by the Department or Agency and fully paid for by the applicant.

- The Ordinance contains a listing of pieces of information that must be submitted by the applicant in addition to information requested by the appropriate reporting agencies cited below. The economic impact analysis report is to contain this information.
- The ordinance includes the requirement for either the Community Redevelopment Agency or the Community Development Department as appropriate to make written recommendations as to whether the proposed “Superstore” “will result in an adverse economic impact on the Impact Area, and if so, whether conditions are available which will mitigate the economic impact.” These written recommendations including proposed mitigation measures, if any, are to be submitted to the Planning Department by the applicant.
- The ordinance contains a number of definitions including the definitions of “Economic Assistance Areas” (see attached map), “Large Retail Stores”, “Major Development Project”, Non-taxable merchandise, Sales Floor Area, and Superstore.
- Excluded from the proposed new regulations are wholesale clubs, other establishments selling primarily bulk merchandise, and establishments charging membership dues or otherwise restricting merchandise sales to customers paying a periodic assessment fee.

Staff believes, consistent with previous City Council, City Planning Commission, earlier staff recommendations and the current ordinance now submitted for the Commission’s review, that each individual Superstore proposal needs to be reviewed and evaluated based on the unique circumstances surrounding that proposal as opposed to banning such projects out right or by permitting them by-right. Further, based on evidenced contained in the City Attorney’s report to the several Council Committees (attached to the file), that “Superstores” require closer examination than many other projects subject to the “Major Development Project” conditional use provisions of the Municipal Code. The City Attorney’s recommendations are based on the Rodino report and their research into what other cities have done. The conditional use procedure has already been established for such reviews and it is appropriate to continue to use this procedure to evaluate and act on Superstore applications as long as the standards for reviewing the application are land use related.

In reviewing the specifics of the proposed ordinance the staff has two concerns. First, it is clear that many economic impacts also have related land use impacts. For instance if a new business is of such a nature that it is likely to cause significant abandonment or degrading of adjoining business and residential communities, one could easily maintain that its economic impacts also have significant and often severe land use impacts. The economic impact analysis report required by the ordinance may in fact provide information about economic impacts beyond land use, but the appropriate finding in a land use regulation should refer directly to the land use impacts cause by economic consequences of the new “Superstore.” Staff believes more appropriate wording for the newly required finding would add the phrase “of the land uses” (“would not adversely affect the economic welfare of the Impact Area”). Of course impacts such as design, traffic, parking, and visual impacts also need to be addressed. These are, however, already considered as a part of the conditional use process.

Second, staff has an additional technical concern with the proposed ordinance as presented. The ordinance contains a list of items that applicants should supply to one of the two reporting agencies. The language is as follows:

(2) Procedures. *An application for approval of a Superstore pursuant to this paragraph shall follow the procedures for conditional use permits otherwise required by this Section. In addition, the applicant shall submit the economic impact analysis report referenced in subparagraph (1) to the Community Development Department or to the Community Redevelopment Agency, where appropriate, in conjunction with its application to the Department of Planning. The economic impact analysis report shall be prepared by a consultant approved by the Department or the Agency and paid for in full by the*

applicant. The report shall identify, in addition to any other information requested by the Department of Planning, the Community Development Department or, where appropriate, the Community Redevelopment Agency, whether:

(i) Any supermarket larger than 20,000 square feet has existed within the Impact Area for the preceding ten years;

(ii) Prior efforts to establish a supermarket larger than 20,000 square feet within the Impact Area have been unsuccessful;

(iii) The Superstore would result in the physical displacement of any businesses, and, if so, the nature of the displaced businesses;

(iv) The Superstore would require the demolition of housing, or any other action or change that results in a decrease in the stock of extremely low, very low, low or moderate- income housing stock;

(v) The Superstore would result in the destruction or demolition of any park or other green space, playground, childcare facility, community center;

(vi) The Superstore would provide lower in cost and/or higher in quality goods and services to residents than currently available or that are currently unavailable within the Impact Area in which the project is proposed to be located;

(vii) The Superstore would displace jobs within the Impact Area. For purposes of determining this impact, the applicant must identify the number of jobs displaced, the quality of the jobs, whether the jobs are temporary or permanent, and the employment sector in which the lost jobs are located;

(viii) The Superstore would impose additional community costs in the form of traffic, security, environmental or other impacts on the Impact Area;

(ix) The Superstore would result in/generate a net sales tax and/or business tax decrease to the City;

(x) Any restrictions exist on the subsequent use of the property on which the Superstore is proposed to be located, including the provisions of a lease if applicable, which, in the event the owner or operator of the Superstore vacates the premises, would require the premises to remain vacant for a significant amount of time;

(xi) The Superstore will result in any other adverse economic impacts or blight on the Impact Area; and

(xii) Any measures are available which will mitigate any adverse economic impacts identified by the applicant.

Staff has not evaluated in detail the substance of the above pieces of information requested in the language above. Rather the staff is concerned that this level of detail is contained in the Zoning Code. The need for different kinds of relevant information changes with time and circumstance, yet changes to this listing would require an amendment to the Zoning Code. It is more appropriate, and flexible, to detail the required information and application procedures through an administrative process.

Staff believes that the Director of Planning or the General Managers of either of the two reporting agencies should be directed to set the requirements for information and the content of the economic impact analysis report. The provision of the above information could be mandated by them in the form of an application document and instructions that contain a requirement to respond to the above and other questions that might be relevant. This would give more flexibility to the process and eliminate the need to address issues that may no longer be relevant while emphasis in the proper proportion can be given to the appropriate information whatever that might be.

If the Commission or City Council wanted to assure that the requested information reflects their concerns there could be a requirement that a suitable document requesting such information be reviewed and approved by the Commission or a City Council Committee before it is issued.

The Commission's attention is drawn to two additional matters, the size of the impact area. First, the ordinance specifies that it is a 3-mile area and can be expanded. However, it could actually be larger to start with. Assume that a proposed Superstore is located at the outer edge of an Economic Assistance Area which includes the one-mile buffer around any of the listed zones. Thus in effect nearly a 4-mile impact area at a minimum would have to be evaluated. Staff is concerned that this may be too large an area in some circumstances. The Commission may want to consider adding some flexibility to the ordinance by allowing that in addition to the provision that the impact area be expanded that it also may be reduced. Should the Commission decide to add this flexibility in need only add the words "or reduced" after the words "expanded" in the last sentence of the paragraph entitled "**(1) Additional Findings**" in the ordinance. The sentence would read:

The phrase "impact area" refers to a minimum three mile radius surrounding the proposed location of the Superstore, but may be expanded or reduced where deemed appropriate by the Department of City Planning, the Community Development Department or the Community Redevelopment Agency, based upon information received in the economic analysis report and any other information received by either of the Departments or the Agency.

Staff has not included this in its recommendations due to the fact that it does not have the economic expertise to adequately opine on this matter but information gathered from the public hearing on the ordinance may assist the Commission in addressing this question.

Finally, the Department has received a request from attorneys representing the Westfield Corporation. The Westfield Corporation owns and operates a number of shopping centers or malls in the City of Los Angeles. They propose that when existing facilities in these shopping centers/malls are vacated that Superstores might be allowed by-right and be exempted from the provisions of the proposed ordinance. They suggest that that language be added to the ordinance that excludes "stores located in shopping centers/malls with over 400,000 gross square feet of retail space." Considering the desirability of revitalizing existing malls, this may also be something the Commission wishes to consider.

Conclusion

In conclusion, the staff supports the proposed ordinance and believes it is consistent with the Commission's earlier actions, but recommends that the ordinance finding be changed to reflect the economic factors that have land use impacts and that the lengthy informational requirements in the proposed ordinance be required in some form other than in the ordinance itself.

Environmental Impact

The attached proposed ordinance is exempt from the requirements of the California Environment Quality Act (CEQA) pursuant to Article III, Section 2, Subsection (m) of the City of Los Angeles CEQA Guidelines (ordinances that have no negative impact on the physical environment). The environmental document (ENV-2004-3181-CE) is attached to the file.

Appendix B
Excerpt From Current Los Angeles Municipal Code
Section 12.24 U

CPC 2000-4247CA
June 2, 2004

14. **“Major” development projects**, otherwise permitted by right in the zone(s) in which they are located and in compliance with the limitations and regulations of this article.

(a) **Definition.** A “major” development project means the construction of, the addition to, or the alteration of, any buildings or structures which create or add 250,000 square feet or more of warehouse floor area, 250 or more hotel/motel guest rooms, or 100,000 square feet or more of floor area in other nonresidential or non-warehouse uses. The above definition shall apply to the cumulative sum of related or successive permits which are part of a larger project, such as piecemeal additions to a building, or multiple buildings on a lot as determined by the Director of Planning. For the purpose of this subdivision, floor area shall be as defined in Section 12.03 of this Code.

(b) **Findings.** In addition to the other findings required by this section, the City Planning Commission shall make the following findings:

(1) the major development project conforms with any applicable specific and/or redevelopment plan;

(2) the project provides a compatible arrangement of uses, building, structures, and improvements in relation to neighboring properties; and

(3) the major development project complies with the height and area regulations of the zone in which it is located.

(4) (Added by Ord. No. 174,097, Eff. 8/26/01.) Additional Findings for Large Retail Stores containing 100,000 square feet or more of floor area in the C2, C4, C5, CM, M1, M2 and M3 Zones:

(i) that the use is consistent with the general requirements adopted by the City Planning Commission as Design Guidelines for Retail Stores with 100,000 square feet or more of floor area; and

(ii) that the use would have no material adverse impact on properties, improvements or uses, including commercial uses, in the surrounding neighborhood.

(c) **Projects Exempt From Conditional Use Requirement:**

(1) Notwithstanding any provisions of this article to the contrary, any development project which received one or more still-valid discretionary approvals, including but not limited to those listed below, shall be exempt from the conditional use requirement set forth in this subdivision:

(i) zone change;

(ii) height district change;

(iii) supplemental use district;

(iv) conditional use approval;

(v) variance or adjustment;

Appendix B
Excerpt From Current Los Angeles Municipal Code
Section 12.24 U

CPC 2000-4247CA
June 2, 2004

- (vi) parcel map;
- (vii) tentative tract map;
- (viii) coastal development permit;
- (ix) development agreement;
- (x) density bonus greater than the minimums pursuant to Government Code Section 65915;
- (xi) density transfer plan;
- (xii) exception from a geographically specific plan;
- (xiii) project permit pursuant to a moratorium or interim control ordinance or specific plan;
- (xiv) public benefit projects; or
- (xv) other similar discretionary approvals, as determined by the Director.

This exemption shall apply only if the applicable decision-making body determines in writing that the prior discretionary approval, and the required environmental review, considered significant aspects of the approved project's design (such as, but not limited to, building location, height, density, use, parking access) and that the existing environmental documentation under the California Environmental Quality Act is adequate for the issuance of the present permit in light of the conditions specified in Section 21166 of the California Public Resources Code. The Department of City Planning may require supplements to the environmental documentation to maintain its currentness. The Director is hereby authorized to establish procedures to process decisions required under this paragraph.

(2) Any project within the boundaries of a designated Enterprise Zone, or Employment in Economic Incentive Zone provided that an Environmental Impact Report or Environmental Impact Statement was certified as part of the Zone designation process. The project shall instead require site plan review pursuant to Section 16.05.

Appendix A

ORDINANCE NO. _____

An ordinance establishing regulations of “Superstores” in “Economic Assistance Areas” in the City of Los Angeles.

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. Paragraph (a) of Subdivision 14 of Subsection U of Section 12.24 of the Los Angeles Municipal Code is amended to read:

(a) Definitions. For purposes of this Subdivision the following words and phrases are defined as follows:

Economic Assistance Areas means the existing geographically defined areas: Five State Enterprise Zones, Federal Empowerment Zone, Federal Renewal Community Zone, thirty-seven Community Redevelopment Agency Project Areas, and Earthquake Project Areas, and a one-mile buffer surrounding each of the above-identified zones, as identified by the Community Development Department and as shown on the “Los Angeles Economic Assistance Areas” Map, dated January 2004, which is attached to Council File No. 00-1675 S2 and is on file in the Community Development Department, and which may be amended from time to time.

Major Development Project means the construction of, the addition to, or the alteration of, any buildings or structures which create or add 250,000 square feet or more of warehouse floor area, 250 or more hotel/motel guest rooms, or 100,000 square feet or more of floor area in other nonresidential or non-warehouse uses. The above definition shall apply to the cumulative sum of related or successive permits which are part of a larger project, such as piecemeal additions to a building, or multiple buildings on a lot as determined by the Director of Planning. For the purpose of this subdivision, floor area shall be as defined in Section 12.03 of this Code.

Non-taxable Merchandise means products, commodities, or items not subject to California state sales tax.

Sales Floor Area means the interior building space devoted to the sale of merchandise, but excludes restrooms, office space, storage space, automobile service areas, or open-air garden sales space. For the purpose of determining the total sales floor area of a single business establishment, the aggregate square footage of all adjacent stores that share common check stands, management, a controlling ownership interest, warehouses, or distribution facilities shall be considered a single business establishment.

Superstore means a Major Development Project that sells from the premises goods and merchandise, primarily for personal or household use, and whose total Sales Floor Area exceeds 100,000 square feet and which devote more than 10% of sales floor area to the sale of Non-Taxable Merchandise. This definition excludes wholesale clubs or other establishments selling primarily bulk merchandise and charging membership dues or otherwise restricting merchandise sales to customers paying a periodic assessment fee. This definition also excludes the sale or rental of motor vehicles, except for parts and accessories, and the sale of materials used in construction of buildings or other structures, except for paint, fixtures, and hardware.

Sec. 2. A new Paragraph (d) is added to Subdivision 14 of Subsection U of Section 12.24 of the Los Angeles Municipal Code to read:

(d) Superstores in Economic Assistance Areas.

(1) Additional Findings. In addition to the findings otherwise required by this Section and set forth in Paragraph (b) of this Subdivision, prior to approval of a Superstore that is located in an Economic Assistance Area, the City Planning Commission or the City Council on appeal shall find that the Superstore would not adversely affect the economic welfare of the Impact Area, based upon information contained in an economic impact analysis report submitted by the applicant, any other information received or obtained by the Community Development Department or the Community Redevelopment Agency, a recommendation by the Community Development Department, or the Community Redevelopment Agency pursuant to Subparagraph (3) below, and any other information received before or at a public hearing required by this Section. The phrase "Impact Area" refers to a minimum three mile radius surrounding the proposed location of the Superstore, but may be expanded where deemed appropriate by the Department of City Planning, the Community Development Department or Community Redevelopment Agency, based upon information received in the economic impact analysis report and any other information received by either of the Departments or the Agency.

(2) Procedures. An application for approval of a Superstore pursuant to this paragraph shall follow the procedures for conditional use permits otherwise required by this Section. In addition, the applicant shall submit the economic impact analysis report referenced in subparagraph (1) to the Community Development Department or to the Community Redevelopment Agency, where appropriate, in conjunction with its application to the Department of Planning. The economic impact analysis report shall be prepared by a consultant approved by the Department or the Agency and paid for in full by the applicant. The report shall identify, in addition to any other information requested by the Department of Planning, the Community Development Department or, where appropriate, the Community Redevelopment Agency, whether:

(i) Any supermarket larger than 20,000 square feet has existed within the Impact Area for the preceding ten years;

(ii) Prior efforts to establish a supermarket larger than 20,000 square feet within the Impact Area have been unsuccessful;

(iii) The Superstore would result in the physical displacement of any businesses, and, if so, the nature of the displaced businesses;

(iv) The Superstore would require the demolition of housing, or any other action or change that results in a decrease in the stock of extremely low, very low, low or moderate income housing stock;

(v) The Superstore would result in the destruction or demolition of any park or other green space, playground, childcare facility, community center;

(vi) The Superstore would provide lower in cost and/or higher in quality goods and services to residents than currently available or that are currently unavailable within the Impact Area in which the project is proposed to be located;

(vii) The Superstore would displace jobs within the Impact Area. For purposes of determining this impact, the applicant must identify the number of jobs displaced, the quality of the jobs, whether the jobs are temporary or permanent, and the employment sector in which the lost jobs are located;

(viii) The Superstore would impose additional community costs in the form of traffic, security, environmental or other impacts on the Impact Area;

(ix) The Superstore would result in/generate a net sales tax and/or business tax decrease to the City;

(x) Any restrictions exist on the subsequent use of the property on which the Superstore is proposed to be located, including the provisions of a lease if applicable, which, in the event the owner or operator of the Superstore vacates the premises, would require the premises to remain vacant for a significant amount of time;

(xi) The Superstore will result in any other adverse economic impacts or blight on the Impact Area; and

(xii) Any measures are available which will mitigate any adverse economic impacts identified by the applicant.

(3) Recommendation. The Community Development Department, or the Community Redevelopment Agency if the Superstore is proposed to be located in a redevelopment area, shall review the economic impact analysis report and make a written recommendation as to whether the proposed Superstore will result in an adverse economic impact on the Impact Area and, if so, whether conditions are available which will mitigate the economic impact. The written recommendation, including proposed mitigation measures, if any, shall be submitted to the Department of Planning by the applicant with the application pursuant to subsection B.

Sec. 3. **Severability.** If any provision of this Ordinance is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, the invalidity shall not affect the remaining provisions of this Ordinance, which can be implemented without the invalid provisions and, to this end, the provisions of this Ordinance are declared to be severable.

(101768)

Sec. 4. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located in the Main Street lobby to the City Hall; one copy on the bulletin board located at the ground level at the Los Angeles Street entrance to the Los Angeles Police Department; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of _____.

J. MICHAEL CAREY, City Clerk

By _____
Deputy

Approved _____

Mayor

Approved as to Form and Legality

Pursuant to Charter Section 559, I **approve** this ordinance on behalf of the City Planning Commission and recommend it be adopted

By _____
ROCKARD J. DELGADILLO
City Attorney

May , 2004
see attached report.

Date _____

CON HOWE
Director of Planning

File No(s). CF 00-1675-S2