

“To Be Delivered” Material
For
City of Sacramento
Law and Legislation Committee
Agenda Packet

Submitted: January 3, 2005

For the Meeting of: January 6, 2005

The attached materials were not available at the time the Agenda Packet was prepared.

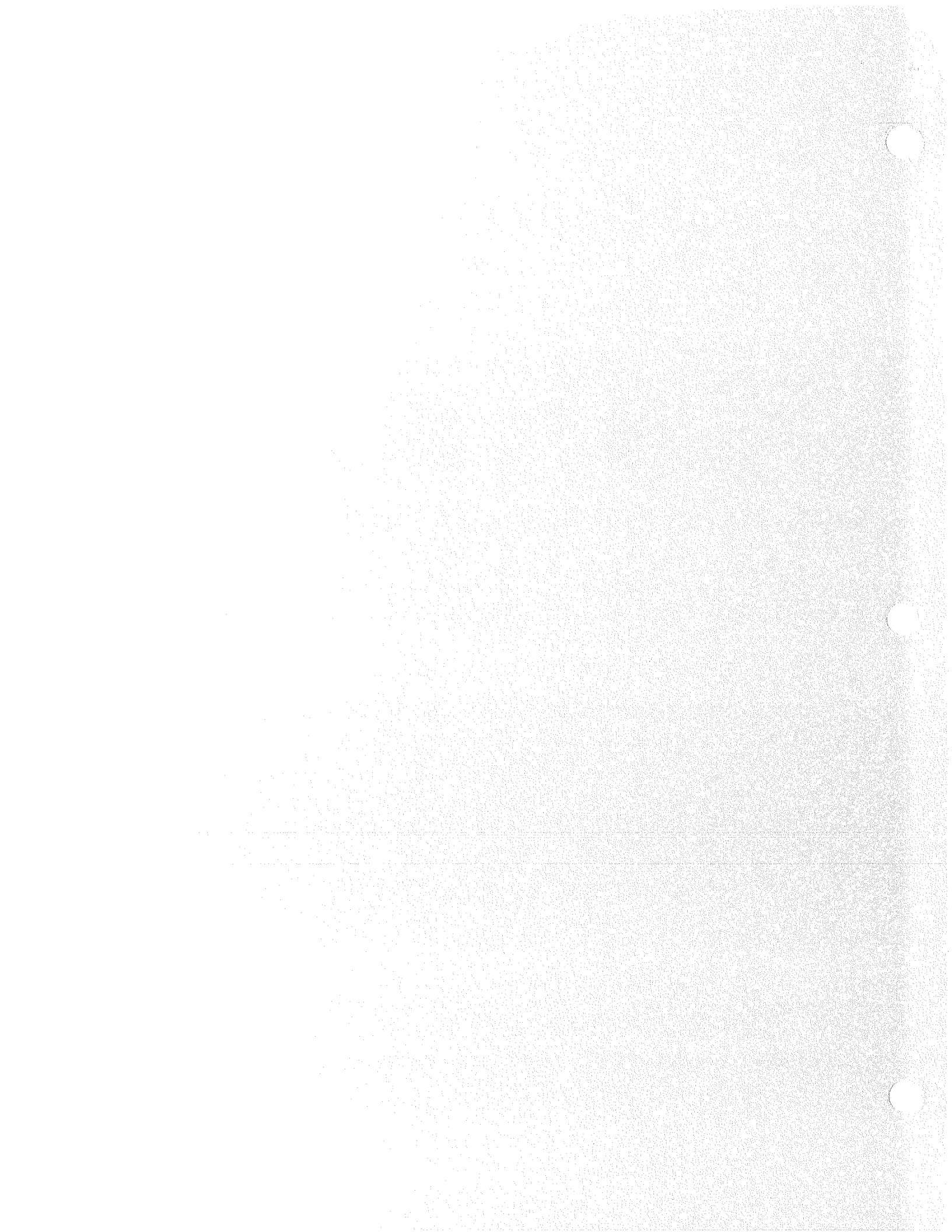
Subject: Interim Ordinance Establishing a Special Permit Requirement for Superstores



Approved By: _____

Please include this “To Be Delivered” material in your agenda packet. This material will also be published to the City’s Intranet.

For additional information, contact the City Clerk Department at Interim City Hall, 730 I Street, Suite 211, Sacramento, CA 95814-2671 – (916) 808-7200.





2.1

DEVELOPMENT SERVICES
DEPARTMENT

CITY OF SACRAMENTO
CALIFORNIA

1231 I STREET
ROOM 300
SACRAMENTO, CA
95814-2998

Planning Division

December 21, 2004

Law and Legislation Committee
Sacramento, California

Honorable Members in Session:

**SUBJECT: AN INTERIM ORDINANCE ESTABLISHING A SPECIAL PERMIT
REQUIREMENT FOR SUPERSTORES (M04-081)**

LOCATION: Citywide

RECOMMENDATION:

Staff recommends that the Law and Legislation Committee recommend approval of the proposed interim ordinance establishing a special permit requirement for superstores and forward the interim ordinance to City Council.

CONTACT PERSON: Ray Kerridge, Director of Development Services, 808-1930
Joy Patterson, Senior Planner, 808-5607

FOR MEETING OF: January 6, 2005

SUMMARY:

On December 7, 2004 the issue of regulating large retail stores was discussed before the Law and Legislation Committee. At that meeting the committee directed staff to draft an interim ordinance to address large retail stores, return to the committee for final review on January 6, 2005, and schedule the interim ordinance for review by the full Council in January.

COMMITTEE/COMMISSION ACTION:

On September 7, 2004 the Law and Legislation Committee directed staff to prepare an interim ordinance relating to the regulation of large retail stores. Staff returned to the

Law and Legislation Committee
December 21, 2004
RE: Interim Ordinance Related to Superstores

committee on December 7, 2004 for additional direction on preparation of the ordinance. The draft minutes of that meeting are provided as Attachment A.

BACKGROUND INFORMATION:

At the meeting of December 7, the Committee directed staff to prepare an interim ordinance related to big box development that would address: special use permit requirement; economic impact analysis; task force; demolition bond; and basic standards.

Attached for Committee consideration are two alternative interim ordinances. Attachment B requires a more rigorous economic impact analysis process and is the preferred alternative of Council District 2. Attachment C includes an economic impact and data analysis and is submitted by staff.

The proposed ordinance would be an interim ordinance; in effect only while more comprehensive amendments to the Zoning Code are studied. A task force would be created to assist in community, retailer, and developer input in the study and development of permanent regulations governing retail superstores. When a final Zoning Code amendment is adopted by the City Council the interim ordinance would be repealed.

FINANCIAL CONSIDERATIONS:

This report has no fiscal implications.

ENVIRONMENTAL CONSIDERATIONS:

The proposed project is exempt from environmental review pursuant to State EIR Guidelines (CEQA Section 15061 (b) (3)). The proposed amendment is not a project as defined by CEQA, and therefore the activity does not have potential for causing a significant effect on the environment.

POLICY CONSIDERATIONS:

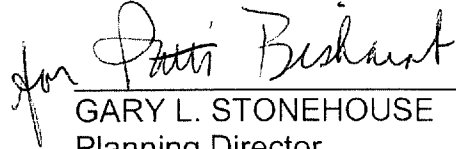
The City of Sacramento currently has a Power Center and Big Box Retail Policy adopted in 1996 (Resolution 96-072). Recently California cities have seen an influx of retail stores that sell groceries and other non-taxable merchandise in addition to the store's regular merchandise. The existing policy document is almost 10-years-old. The interim ordinance will allow for sufficient information to be provided to decision makers regarding the impacts of proposed projects as part of the project approval process, while policy issues are further explored as part of the development of permanent comprehensive regulations that will govern superstores.

Law and Legislation Committee
December 21, 2004
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E/SBD CONSIDERATIONS:

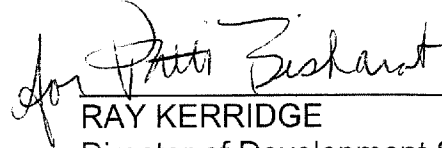
No goods or services are being purchased under this report.

Respectfully submitted,



GARY L. STONEHOUSE
Planning Director

Approved:



RAY KERRIDGE
Director of Development Services

RECOMMENDATION APPROVED:



KEN NISHIMOTO
Deputy City Manager

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COUNCIL COMMITTEE MINUTES

COMMITTEE NAME: LAW AND LEGISLATION
MEETING DATE: December 7, 2004
MEETING TIME: 12:30 P.M.

Committee Member Sheedy called the meeting to order at 12:36 p.m.

ROLL CALL

Present: Committee Members Cohn (Chair), Pannell, Sheedy, and Waters

1.0 CONSENT CALENDAR

1.1 Pending Legislation Log

RECOMMENDATION OF STAFF: Approve Log
COMMITTEE ACTION: Approved Log
VOTING RECORD: MOV: Pannell SEC: Waters
AYES: Pannell, Sheedy, Waters
ABSENT: Cohn

2.0 STAFF REPORTS

2.1 Legislative Update

None.

2.2 Ordinance Establishing Drug/Gun Free Zones and the Creation of Civil Exclusion

RECOMMENDATION OF STAFF: Direction to Staff
COMMITTEE ACTION: Draft ordinance and return to Committee for approval
VOTING RECORD: MOV: Pannell SEC: Waters
AYES: Cohn, Sheedy, Pannell, and Waters
NOES: None
ABSENT: None

Lieutenant Darrell Fong presented the staff report related to establishing drug/gun free zones to prohibit public offenders from congregating in specified areas. Existing zones located near school and are used for sentence enhancements. The proposed ordinance is model on an ordinance in Portland. The ordinance is proposed to prevent activities associated with narcotic offenders and to assist with neighborhood revitalization. The first zone would be somewhere in the downtown area. Proposed ordinance includes an appeal process. Committee Members Waters, Pannell, and Sheedy expressed support for the proposed ordinance.

Richard Archibald, Assistant City Attorney, commented that the City Attorney's Office had not reviewed the proposed ordinance. He stated that there could be

significant enforcement, constitutional and pre-emption issues that may need to be addressed. Committee Cohn advised that the ordinance should address statutes or cases in California. Committee Member Cohn asked if additional zones could be included by resolution. Mr. Archibald responded that an ordinance would be needed to add zones.

The Committee voted to direct staff to prepare an ordinance and to return to the Committee for approval before forwarding it to the full City Council for adoption. Staff was directed to include a map of existing and proposed drug and gun free zones and to address the costs of enforcement when it returned to the Committee with its report.

2.3 Power Centers and Big Box Retail Policy

RECOMMENDATION OF STAFF:	Direction to Staff
COMMITTEE ACTION:	Directed staff to return to the Committee with an interim ordinance.
VOTING RECORD:	MOV: Sheedy SEC: Pannell
	AYES: Cohn, Pannell, Sheedy, Waters
	NOES: None
	ABSENT: None

Mike Medema, Development Services Manager, presented the staff report. Mr. Medema reminded the Committee that the City has an existing Big Box policy that was adopted in 1996 and includes an economic analysis policy. Mr. Medema stated that there was a disconnect between the policy and the direction from the Committee. The purpose of the report was to seek clearer direction. Also, he said that staff would follow-up with an update of the economic analysis.

Committee Member Sheedy commented that she never not asked for a ban on big box retail. She said that it may be appropriate to require an economic impact assessment to approve big box development. She suggested that the City of Sacramento should craft an ordinance that meets its needs. She suggested that LA (Los Angeles) is a good example of city that crafted an ordinance that met its needs. Proposed ordinance should include the requirement of a demolition bond that would require vacant stores to be demolished if vacant for a long period of time to prevent blight. She stated that the City needed an emergency ordinance with a 90-day moratorium to ban big box development (90 square feet/20% food sales) so staff could prepare an interim ordinance. Committee Member Cohn expressed concern that a moratorium would impact current development in Natomas.

Richard Archibald, Assistant City Manager, stated that most zones require a special use permit for any development over 45,000 feet. He suggested that the interim ordinance require a special permit requirement for big box development rather than a ban. Committee Member Cohn suggested adding the requirement of an Economic Impact assessment as part of the special use permit.

Committee Member Pannell expressed concerns with the ordinance because it could prevent large developments in her communities. She advised the Committee

to be careful about the conditions placed on the special use permits. Committee Member Sheedy responded that these developments would not be banned but would provide Council Members with information. Committee Member Pannell expressed her support of the special use permit.

Committee Member Waters stated that he could support the special use permit. He requested additional information on the demolition bond. Mr. Medema stated that staff could return with additional information. He also advised that existing policy does require performance bonds that could be used to demolish buildings.

Committee Member Cohn stated that it would be useful to assemble a stakeholders group similar to a group assembled for the Living Wage Ordinance. Committee Member Sheedy stated that such a group has been created. Committee Member Cohn suggested including representatives from retail in the group. Committee Member Sheedy stated that retail representatives have been invited to participate.

Richard Ramirez, Assistant City Manager, clarified that the five key points of the interim ordinance would be: special use permit; economic impact analysis - good or bad; task force; demolition bond; and basic standards.

The Committee directed staff to prepare an interim ordinance related to big box development that would address the following: special use permit requirement, economic impact assessment, task force, demolition bond, and traffic impacts. The interim ordinance would be brought back to the Committee at its January 6, 2005 meeting. Staff was directed to work with Committee Member Sheedy.

3.0 CITIZENS ADDRESSING COMMITTEE (MATTERS NOT ON AGENDA)

4.0 COMMITTEE IDEAS AND QUESTIONS

ADJOURNED: There being no further business to come before the Law and Legislation Committee, the meeting was adjourned at the hour of 1:24 p.m.

Respectfully submitted,

Tina Lee-Vogt, Legislative Affairs Analyst

APPROVED:

Steve Cohn, Committee Chair

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ORDINANCE NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF _____

AN INTERIM ORDINANCE ESTABLISHING A SPECIAL PERMIT REQUIREMENT FOR SUPERSTORES

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

THE COUNCIL DECLARES AND FINDS AS FOLLOWS:

1. California cities have recently seen an influx of retail stores that sell groceries and other non-taxable merchandise in addition to the stores' regular merchandise; and
2. These stores are often large, exceeding 90,000 gross square feet in size; and
3. These stores can generate impacts on the jurisdiction where they are located that are different from the impacts that are generated by a retail stores generally; and
4. The Council of the City of Sacramento is interested in ensuring a healthy small business sector; and
5. While these retail stores generate sales tax, the effect of these retail stores on overall sales tax generation can require additional analysis to fully understand; and
6. The Council of the City of Sacramento is interested in ensuring that sufficient information regarding the impacts of these projects be prepared and presented as part of the project approval process.

SECTION 2.

- A. Notwithstanding the provisions of Title 17 of the Sacramento City Code (the Zoning Code), a special permit shall be required to establish a superstore in any zone

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DATE ADOPTED: _____

where retail uses are allowed under Chapter 17.24 of Title 17, whether as a matter of right or otherwise. The requirement for a special permit shall apply to proposals to construct a new building or structure for a superstore, and it shall also apply to proposals to utilize an existing building or structure for a superstore.

Definitions: For purposes of this ordinance, the term "superstore" means a retail store where the use will occupy more than 90,000 gross square feet and where more than 20% of the gross floor area is devoted to the sale of non-taxable merchandise. The term "superstore" 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.

- B. Prior to approving or disapproving a special permit pursuant to Section 2-A above, and in addition to any other requirements of Title 17 of the Zoning Code, an Economic Impact Analysis ("EIA") shall be prepared for the proposed project. The EIA shall be prepared by the City, or by another qualified entity or consultant retained by the City, and shall be an expense of the applicant. The EIA may not be prepared by the applicant.

The EIA shall be a report that analyzes the potential economic impacts of the proposed superstore, shall be considered by the Planning Commission at the time of consideration of the special permit application, and shall include at least the following:

1. A survey of existing retail stores in the City.
2. A survey of the number of persons employed by the existing local retail stores in the City
3. A survey of the wage and benefit differentials, if any, between the proposed superstore and existing retail stores in the City.
4. An analysis of the number of existing retail stores in the City, that will likely incur reduced sales and an analysis of the number of existing retail stores in the City that will likely close if the proposed superstore is approved.
5. An estimate of the sales tax revenues that are likely to be generated by the proposed superstore, and an estimate of the sales tax

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revenues that are likely to be lost by existing retail stores in the City, either due to loss of business or from closure.

- C. If a superstore subject to this ordinance becomes vacant or is abandoned, the building shall not be kept vacant for more than twelve (12) months. Upon notice by the City that the building has been vacant for more than twelve (12) months, the building shall be demolished within sixty (60) days of the date of the notice, and the site maintained until such time as another building is constructed and use commenced.
 - 1. All superstores subject to this ordinance, shall enter into an agreement, to the satisfaction of the City, that guarantees that these demolition and maintenance requirements will be met.
 - 2. All superstores subject to this ordinance shall obtain, provide evidence to the City, and carry in full force and effect throughout the duration of the life of the agreement, a performance bond, in a form acceptable to the City Attorney, that guarantees the performance of the agreement set forth in this section. Said performance bond shall provide funds to cover the cost of building demolition and maintenance of the site if the building is not demolished or the site is not maintained, as set forth herein.

- D. This ordinance is enacted by the City Council as an interim ordinance, without notice and hearing before the Planning Commission and City Council as otherwise required by Section 17.208.010 of the City's Zoning Code. It is anticipated that permanent, comprehensive regulations governing superstores, consisting of amendments to Title 17 of the City Code, will be processed in the manner required by Section 17.208.010 within 180 days, and that this interim ordinance will be repealed at that time.

PASSED FOR PUBLICATION:

DATE ENACTED:

DATE EFFECTIVE:

MAYOR

ATTEST:

CITY CLERK

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ON DATE OF _____

AN INTERIM ORDINANCE ESTABLISHING A SPECIAL PERMIT REQUIREMENT FOR SUPERSTORES

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

THE COUNCIL DECLARES AND FINDS AS FOLLOWS:

1. California cities have recently seen an influx of retail stores that sell groceries and other non-taxable merchandise in addition to the stores' regular merchandise; and
2. These stores are often large, exceeding 90,000 gross square feet in size, and are referred to as "superstores"; and
3. These superstores can generate economic impacts on the jurisdiction where they are located that are different from the impacts that are generated by a retail stores generally; and

Revise 4 and Omit 5-6

4. The Council of the City of Sacramento is interested in ensuring a healthy ~~(delete the word small)~~ business sector, and in particular, a healthy small business sector; and
5. While ~~these retail superstores generate significant sales tax revenues, the effect of these retail stores on overall sales tax generation can extent to which these~~

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ORDINANCE NO. _____

DATE ADOPTED: _____

revenues displace revenues from existing retail stores, as well as cause other economic impacts, requires additional analysis to fully understand; and

6. The Council of the City of Sacramento is interested in ensuring that sufficient information regarding the economic impacts of these projects be prepared and presented as part of the project approval process.

SECTION 2.

- ~~13.7.~~ Notwithstanding the provisions of Title 17 of the Sacramento City Code (the Zoning Code), a special permit shall be required to establish a superstore in any zone where retail uses are allowed under Chapter 17.24 of Title 17, whether as a matter of right or otherwise. The requirement for a special permit shall apply to proposals to construct a new building or structure for a superstore, and it shall also apply to proposals to utilize an existing building or structure for a superstore.

Definitions: For purposes of this ordinance, the term "superstore" means a retail store where the use will occupy more than 90,000 gross square feet and where more than 20% of the gross floor area is devoted to the sale of non-taxable merchandise. Notwithstanding the foregoing, the term "superstore" shall exclude wholesale clubs or other establishments selling primarily bulk merchandise and charging membership dues or otherwise restricting merchandise sales to customers paying a periodic assessment or fee. ~~The term "superstore" 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.~~

- ~~14.8.~~ Prior to approving or disapproving a special permit pursuant to Section 2-A above, and in addition to any other requirements of Title 17 of the Zoning Code, an Economic Impact Analysis ("EIA") shall be prepared for the proposed project. The EIA shall be prepared by the City, or by another qualified entity or consultant retained by the City, and shall be an expense of the applicant. The EIA may not be prepared by the applicant.

FOR CITY CLERK USE ONLY

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DATE ADOPTED: _____

The EIA shall be a report that analyzes the potential economic impacts of the proposed superstore on the local economy. The Analysis shall be considered by the Planning Commission at the time of consideration of the special permit application, and shall include at least the following:

1. ~~A survey of existing retail stores in the City.~~ A survey of the number of persons employed by the existing retail stores in the City, an estimate of the number of persons that who will likely be employed by the proposed superstore, and an analysis of whether the proposed supercenter will result in a net increase or decrease of jobs in the City.

2. ~~A survey of the number of persons employed by the existing local retail stores in the City.~~

~~3~~ 2. A survey of the wage and benefit differentials, if any, between the proposed superstore and existing retail stores in the City.

3. An analysis of the effects of the proposed superstore on retail sales and whether there will be a net increase or decrease in net sales in the City.

4. ~~An analysis of the number of existing retail stores in the City, that will likely incur reduced sales and an analysis of the number of existing retail stores in the City that will likely close if the proposed superstore is approved.~~ An estimate of the sales tax revenues that are likely to be generated by the proposed superstore, and an estimate of the effect of the proposed superstore on sales tax revenues generated by existing retail stores in the City, including an estimate of the sales tax revenues that are likely to be lost by existing retail stores in the City, either from loss of business or from closure.

5. ~~An estimate of the sales tax revenues that are likely to be generated by the proposed superstore, and an estimate of the sales tax revenues that are likely to be lost by existing retail stores in the City, either due to loss of business or from closure.~~ Other standard economic indicators that are published and available that may assist in the review by the Planning Commission.

C. If a superstore subject to this ordinance becomes vacant or is abandoned, the building shall not be kept vacant for more than twelve (12) months. Upon notice by the City that the building has been vacant for more than twelve (12) months, the building

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DATE ADOPTED: _____

shall be demolished within sixty (60) days of the date of the notice, and the site maintained until such time as another building is constructed and use commenced.

1. All superstores subject to this ordinance, shall enter into an agreement, to the satisfaction of the City, that guarantees that these demolition and maintenance requirements will be met.
2. All superstores subject to this ordinance shall obtain, provide evidence to the City, and carry in full force and effect throughout the duration of the life of the agreement, a performance bond, in a form acceptable to the City Attorney, that guarantees the performance of the agreement set forth in this section. Said performance bond shall provide funds to cover the cost of building demolition and maintenance of the site if the building is not demolished or the site is not maintained, as set forth herein.

15.9. This ordinance is enacted by the City Council as an interim ordinance, without notice and hearing before the Planning Commission and City Council as otherwise required by Section 17.208.010 of the City's Zoning Code. It is anticipated that permanent, comprehensive regulations governing superstores, consisting of amendments to Title 17 of the City Code, will be processed in the manner required by Section 17.208.010 within 180 days, and that this interim ordinance will be repealed at that time.

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DATE EFFECTIVE:

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MAYOR

ATTEST:

CITY CLERK

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