



CITY OF LONG BEACH

THE CITY PLANNING COMMISSION

333 W. Ocean Boulevard Long Beach, California 90802 562-570-6194 FAX 562-570-6068

September 19, 2006

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Conduct a public hearing on the proposed Amendments to the Zoning Regulations; and

1. A. Receive the supporting documentation into the record, conclude the public hearing and declare the Ordinance, prohibiting stores greater than 100,000 square feet in size that have greater than 10 percent of floor area dedicated to non-taxable merchandise with exemptions for merchandise clubs that sell primarily bulk merchandise, read the first time and laid over to the next regular meeting of the City Council for final reading (Case No. 0601-10)(Citywide);
B. Receive the supporting documentation into the record, conclude the public hearing and declare the Ordinance amending PD-25 read the first time and laid over to the next regular meeting of the City Council for final reading;
C. Receive the supporting documentation into the record, conclude the public hearing and declare the Ordinance amending PD-29 read the first time and laid over to the next regular meeting of the City Council for final reading;
D. Receive the supporting documentation into the record, conclude the public hearing and declare the Ordinance amending PD-30 read the first time and laid over to the next regular meeting of the City Council for final reading;
2. Receive the supporting documentation into the record, conclude the public hearing and declare the Ordinance, establishing new fees associated with Condominium Conversions, read the first time and laid over to the next regular meeting of the City Council for final reading (Case No. 0601-11)(Citywide);
3. Receive the supporting documentation into the record, conclude the public hearing and declare the Ordinance, reclassifying painting contractors from a prohibited use to a permitted use relative to home occupation uses, read the first time and laid over to the next regular meeting of the City Council for final reading (Case No. 0601-13)(Citywide);

4. Receive the supporting documentation into the record, conclude the public hearing and declare the Ordinance, amending the City's residential density bonus standards to conform with the State of California residential regulations, read the first time and laid over to the next regular meeting of the City Council for final reading (Case No. 0601-14)(Citywide); and
5. Approve a Resolution submitting applicable Ordinance Amendments to the California Coastal Commission as Implementing Resolutions for the City's Local Coastal Plan.

DISCUSSION

The Planning Commission held public hearings on various dates (see attached) to consider various amendments to the Zoning and Subdivision regulations. Amendments to Title 20 (Subdivisions) and Title 21 (Zoning) of the Long Beach Municipal Code may be proposed up to three times a year. This is the first package of amendments for 2006. The amendments generally respond to City Council requests, address changing land use issues in the community, update obsolete regulations, correct typographical errors and cross references, and replace vague language with more specific language. The following constitute the proposed amendments:

Big Box Retail Prohibition

In response to a City Council directive to review the impacts of superstore activity on City infrastructure and the community, the proposed Zoning Ordinance amendment prohibits retail establishments over 100,000 square feet that have 10 percent or more of the floor area dedicated to non-taxable merchandise with exemptions for membership clubs that sell primarily bulk merchandise. Staff researched ordinances from various jurisdictions (including the City of Los Angeles; Alameda County; City of Oakland; Fort Collins, CO; Madison, WI; Moscow, ID; County of Pasco, FL; and Maryland Department of Planning) as well as a study commissioned by the Los Angeles County Community Development Department and a study commissioned by the Governor's Office of Planning and Research. Both research studies support the recommendation to prohibit these types of uses based on the economic impacts of superstore retail establishments.

The Planning Commission conducted a public hearing on June 15, 2006 and continued the item to its July 20, 2006 meeting to allow further review. At its July 20, 2006 meeting, the Planning Commission unanimously recommended that the City Council adopt the amendment to the Zoning Ordinance (See Attachment 1- Planning Commission Staff report and minutes for July 20, 2006).

Condominium Conversion Fee

On October 11, 2005, the City Council requested that the City Attorney prepare a condominium conversion fee ordinance for review and recommendation by the Planning Commission. The fee would be created as a funding component of the City's Housing Trust Fund. At its June 15, 2006 meeting, the Planning Commission reviewed three possible condominium conversion fee structures that included tying the fee to a future sales price of the converted unit, a fixed per unit fee, and waiver of the fee subject to deed restricting some of the units as affordable units. The Planning Commission also reviewed several options for the implementation of the fee including future applications (ie., conversions that have not yet been filed), conversions that have been filed but have not received Tentative Map approval and conversions that have received Tentative Map approval but not Final Map approval (See

Attachment 2- Planning Commission Staff report and minutes for July 20, 2006).

After discussing the item at the June 15, 2006 public hearing, the Planning Commission continued the item to the July 20, 2006 meeting to allow a public study session to be held on the issue. At its July 20, 2006 meeting, the Planning Commission recommended with a 5-1 vote (Commissioner Winn dissenting) that the City Council adopt the amendment to the zoning ordinance with the following:

- That the condominium conversion fee be 1.5 percent of the sales price of the converted unit, to be applied to new applications and applications not deemed complete as of July 20, 2006;
- That the fee be collected through escrow upon the sale of each individual unit, but not later than 18 months after final map approval;
- That the fee be provided exclusively to the Housing Trust Fund with exemptions listed in the proposed Ordinance; and
- That condominium conversion projects providing state-defined affordable housing units for sale will be exempt from a portion of the fees, dependent on the affordability rate and number of units deed-restricted for such purpose as determined by the Housing Services Bureau.

Density Bonus Standards

The Department of Planning and Building is proposing an amendment to Section 21.63 of the Zoning Ordinance, Incentives for Affordable Housing, to update the qualifications for a density bonus and the density bonus limitations. This request is in response to a change in Section 65915 et seq. of the California Government Code that occurred in January 2005. In the case of incentives for affordable housing, State code preempts City code. Therefore, in order to avoid amending the City's Zoning Ordinance every time the State amends its regulations, the proposed amendment ties the City's incentives for affordable housing to the State Government Code.

The Planning Commission conducted a public hearing on June 15, 2006 and unanimously recommended that the City Council adopt the amendment to the Zoning Ordinance (See Attachment 3- Planning Commission staff report and minutes for June 15, 2006).

Reclassification of Painting Contractors

The Department of Financial Management requested an amendment to the zoning regulations to allow painting contractors as home occupation uses. The request is due primarily to the painting industry moving from oil-based paints to water-based paints that do not require the same use of highly flammable and dangerous solvents. This change results in a lower potential threat to residential areas. Both the Fire Department and Building Department have reviewed and concur with the proposal. In addition, the California Franchise Tax Board information indicated that there were at least 112 painting contractors that filed a state income tax return from residential addresses in Long Beach. These businesses represent approximately \$20,000 in annual business license tax for deposit in the City's General Fund.

The Planning Commission conducted a public hearing on April 6, 2006 and unanimously recommended that the City Council adopt the amendment to the Zoning Ordinance (See Attachment 4- Planning Commission staff report and minutes for April 6, 2006).

ENVIRONMENTAL ANALYSIS

In accordance with the Guidelines for Implementation of the California Environmental Quality Act, Categorical Exemptions CE 06-115, CE 06-116, CE 06-120, and CE 06-23 have been prepared for the respective amendments.

TIMING CONSIDERATIONS

The Municipal Code requires the Planning Commission recommendation to be transmitted by the Department of Planning and Building to the City Clerk for presentation to the City Council within 60 days following Planning Commission action. However, since the City is the applicant this time frame is not binding.

FISCAL IMPACT

Staff has estimated that the adoption of a Condominium Conversion fee would provide approximately \$1.25 million annually for the Housing Trust Fund. This calculation uses the 262 units approved for conversion in 2005 as the annual average, and the July 2005 citywide average sales price of \$322,000.

This matter was reviewed by Assistant City Attorney Michael Mais on September 13, 2006 and Budget Management Officer David Wodynski on September 8, 2006.

SUGGESTED ACTION:

Adopt recommendation.

Respectfully submitted,

MATTHEW JENKINS, CHAIR
CITY PLANNING COMMISSION

BY: 
SUZANNE FRICK
DIRECTOR OF PLANNING AND BUILDING

SF:GC:CB:jw

Attachments:

- 1) Planning Commission Staff Report (Big Box Retail) and minutes dated July 20, 2006 (including attachments)
 - 2) Planning Commission Staff Report (Condominium Conversion fee) and minutes dated July 20, 2006 (including attachments)
 - 3) Planning Commission Staff Report (Density Bonus standards) and minutes dated June 15, 2006)
 - 4) Planning Commission Staff Report (Painting Contractors) and minutes dated April 6, 2006)
- Zone Change Amendment Ordinances
Resolution



CITY OF LONG BEACH Attachment #1

DEPARTMENT OF PLANNING & BUILDING

333 WEST OCEAN BOULEVARD • LONG BEACH, CALIFORNIA 90802 • (562) 570-6194 FAX (562)570-6068

ZONING DIVISION

July 20, 2006

CHAIRMAN AND PLANNING COMMISSIONERS
City of Long Beach
California

SUBJECT: Proposed Amendments to the Zoning Ordinance regarding large retail establishments with grocery sales.

LOCATION: Citywide

APPLICANT: City of Long Beach
c/o Suzanne Frick, Director of Planning and Building
333 W. Ocean Boulevard
Long Beach, CA 90802

RECOMMENDATION

Planning Commission recommend that the City Council adopt the amendment related to new large retail shopping establishments with grocery sales.

BACKGROUND

At its October 11, 2005 meeting, the City Council directed the Planning Commission to develop zoning regulations to limit the impact of superstore retail on City infrastructure and the community. Specifically, the City Council Memorandum (see attached) sought to ban Superstores, defined as retail establishments over 100,000 square feet that have 10% or more of the floor area dedicated to non-taxable merchandise, with exemptions for membership clubs that sell primarily bulk merchandise in areas where the city has invested substantial state, local, and federal resources in revitalization.

Planning staff researched ordinances from various jurisdictions (including City of Los Angeles, Alameda County, CA, Oakland, CA, Fort Collins, CO, Madison, WI, Moscow, ID, County of Pasco, FL, Maryland Department of Planning) regarding large retail or "big box" developments. The ordinances vary in focus; from those that limit total size of stores and amount of grocery or non-taxable merchandise sold to those that focus on design, site planning, and environmental elements. Based on the breadth of regulations in other areas, staff drafted recommendations to the Planning Commission that deal with both the size of superstores as well as site and sustainability standards for large commercial developments.

On June 15, 2006 the Planning Commission considered both staff recommendations and voted to continue the superstore with grocery sales prohibition to the July 20, 2006 Planning Commission Hearing and to continue the site and sustainability standards to a date uncertain.

Prohibit stores greater than 100,000 square feet in size that have greater than 10% of floor area dedicated to non-taxable merchandise, with exemptions for membership clubs that sell primarily bulk merchandise.

The attached research studies support the recommendation based on the economic impacts of superstore retail establishments on smaller retailers, particularly grocery stores. The City of Los Angeles Community Development Department commissioned the Rodino Associates to prepare a report on big box retail/ superstores (see attached report and LA City Attorney Summary Report). The Rodino report cites examples of Superstores driving out existing supermarkets, which may affect the viability of entire local shopping areas. The report also noted the downward effect on wages and benefits on communities where they locate.

One of the conclusions of the Rodino Report was that "Big Box retailers and superstores may negatively impact the retail labor market in an area by converting union-scale retail jobs to a fewer number of lower paying retail jobs. The difference in overall compensation (wages and benefits) may be as much as \$8.00 per hour. Grocers have cited the current grocery store worker's strike and lockout as being partly due to the impact of the labor policies of the non-union superstore retailers." As of July 2005, three of the top 25 largest employers in the Long Beach were groceries (Ralphs, Vons, Albertsons).

This recommendation to prohibit stores greater than 100,000 square feet in size that have greater than 10% of floor area dedicated to non-taxable merchandise, with exemptions for membership clubs that sell primarily bulk merchandise fulfills the intent of the request described in the October 11, 2005 City Council Memorandum. Staff does not believe that there are currently any Superstores located within the City.

The proposed amendment would apply to the commercial and industrial chapters of the zoning ordinance, and to the Atlantic Avenue, Long Beach Boulevard, and Downtown Long Beach Planned Development Districts. Draft language of the amendment is attached for your review.

The City of Los Angeles adopted an ordinance in 2004 that requires an economic impact analysis and findings that the superstore would not adversely affect the economic welfare of the area for any proposed superstores in or within a one-mile buffer of economic assistance areas. If the Planning Commission were to prefer this option, an equivalent implementation method for Long Beach would be to limit the geographic area to a one-mile buffer around Redevelopment areas, which would encompass all but a fraction of the enterprise zone located within the City, and/or to allow superstores only after considering an economic impact analysis.

PUBLIC HEARING NOTICE

In accordance with the Noticing Requirements of the Zoning Ordinance, a legal notice appeared in the Press Telegram Newspaper on May 30, 2006. Notices were also sent

to each of the nine City Council representatives as well as all public libraries. In addition, notices were posted at City Hall.

ENVIRONMENTAL REVIEW

The project has been deemed categorically exempt from further environmental review pursuant to the Guidelines of the California Environmental Quality Act. Categorical Exemption (CE 06-115)

IT IS RECOMMENDED THAT THE PLANNING COMMISSION

Recommend that the City Council adopt the amendment to the Zoning Ordinance related to new large retail shopping establishments with grocery sales.

Respectfully submitted,

SUZANNE FRICK,
DIRECTOR OF PLANNING AND BUILDING

By:


SCOTT MANGUM
PLANNER

Approved:


ANGELA REYNOLDS
PLANNING OFFICER

Attachments

1. Proposed Amendment
2. October 11, 2005 City Council Agenda Item Memorandum
3. Rodino Report Summary and related studies
4. City of Los Angeles Superstore Ordinance
5. Categorical Exemption

Proposed Amendment Language for the Prohibition of Large Scale Retail with Sale of Substantial Non-Taxable Items

Prohibit stores greater than 100,000 Square Feet in size that have greater than 10% of floor area dedicated to non-taxable merchandise, with exemptions for membership clubs that sell primarily bulk merchandise. Non-taxable sales merchandise generally includes food products for human consumption, but not items such as over-the-counter medicine, alcoholic beverages, carbonated beverages, tobacco products, or dietary supplements. The prohibition would apply to and amend the use tables within all commercial and industrial zones as well as the Atlantic Avenue, Long Beach Boulevard, and Downtown Long Beach Planned Development Districts. As an example, the following change would be made to the Table of uses permitted in commercial zones.

Portion of TABLE 32-1 – Uses in All Other Commercial Zoning Districts										
	Neighborhood			Community				Regional	Other	
Retail Sales	CNP	CNA	CNR	CCA	CCP	CCR	CCN	CHW	CS	
Superstores (Retail > 100,000 SF with > 10% Floor Area non-taxable merchandise)	N	N	N	N	N	N	N	N	N	For Superstores see Footnote (2)

Footnotes: (2)

Membership clubs that sell primarily bulk merchandise are exempt from the Superstore regulations.



City of Long Beach
Working Together to Serve

Office of Tonia Reyes Uranga
Councilmember, 7th District
Memorandum

NB-31

Date: October 11, 2005

To: Honorable Mayor and Members of the City Council

From: Councilmember Bonnie Lowenthal, First District *BL*
Councilman Dan Baker, Second District *DB*
Councilmember Tonia Reyes Uranga, Seventh District *TR*

Subject: **AGENDA ITEM: Zoning Rules to Limit the Impact of "Big Box" Superstores**

A specific objective of the Business Growth and Workforce Development Task Force of the Long Beach 2010 Strategic Plan is, "Revitalize local shopping districts designed to meet the needs of neighborhoods rather than focusing exclusively on large retail ("big box") projects that can disrupt adjacent neighborhoods." (B3.3) Public comments received from the Jobs and Business Strategy workshops continue to cite the need to "improve demographics and income characteristics" to retain more businesses and jobs in Long Beach. (JBS Community Input Report Vol. 4, Page 14, Chamber of Commerce Input – 2.3.1)

As awareness of the negative impacts of "big box" developments has increased throughout the nation, a number of cities have enacted ordinances and zoning rules to ensure adequate review of the economic and community impacts of large-scale retail development, protect the viability of existing commercial areas, and maintain competition by preventing a single retailer from dominating the local market. These zoning rules prohibit stores over a certain size to sustain the vitality of small-scale, pedestrian-oriented business districts, which in turn nurture local business development. Store size caps prevent the many negative impacts of "big box" development, such as increased traffic congestion and overburdened public infrastructure, and they protect the character of the community by ensuring that new development is at a scale in keeping with existing buildings. Such a zoning rule would not ban "big box" retailers from the entire city, but only in those areas where the city has invested substantial state, local and federal resources in economic revitalization. Superstores or "big box" retailer are often defined as a retail establishment over 100,000 square feet that has 10% or more of its floor area dedicated to non-taxable merchandise, with exemptions for membership clubs that sell primarily bulk merchandise.

We would like to request our colleagues' support for referring the matter to the Planning Commission to make the necessary findings in order to develop zoning rules that would limit the impact of "big box" developments.

Suggested Action: Refer to Planning Commission for development of zoning rules to limit impact of superstore retail on City infrastructure and the community.

REPORT NO. R03-0585
December 16, 2003

REPORT RE:

**OPTIONS FOR REGULATING THE
DEVELOPMENT OF SUPERSTORES**

Housing, Community & Economic Development Committee
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Planning & Land Use Management Committee
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

(Council File 00-1675-S2 not transmitted herewith)

Honorable Members:

The City Attorney's Office transmits this report to assist the Committees and Council in framing their discussion of the research, analysis and public hearings conducted regarding the issue of regulating big box retail or superstores¹ development. This report identifies three sets of policy choices the Committees should consider in crafting a regulatory approach: (1) defining the focus of regulation, i.e. which uses should be subject to additional development restrictions; (2) deciding on the geographic scope of the regulation; and (3) determining the form of regulation.

¹Academics, researchers and planners variously refer to large retail stores as "big box" stores, "supercenters" or "superstores." For clarity and ease of reference, this report shall use the term "superstore" to refer to large stores combining retail and grocery sales as distinguished from the term "big box" stores, which refers to all large retail stores regardless of whether grocery sales are included under the same roof.

Based on our legal analysis and review of the record, the City Attorney's Office recommends the adoption of an ordinance prohibiting superstore development in Economic Assistance Areas. Superstores would be defined as stores greater than 100,000 square feet which combine retail and grocery sales and which devote more than 10% of sales floor area to the sale of non-taxable merchandise. Wholesale and membership clubs selling primarily bulk merchandise would be excluded. Economic Assistance Areas would be defined as areas encompassing all Community Redevelopment Agency project areas, State and Federal Enterprise Zones, the Empowerment Zone and Renewal Community, and a one-mile radius buffer from these zones. Prohibiting superstores in Economic Assistance Areas would address the particular land use impacts associated with very large combined retail and grocery sales and protect the City's substantial direct and indirect investment in the revitalization and planning of the communities within Economic Assistance Areas.

This report is based on a review of the *Final Report on Research for Big Box Retail/Superstore Ordinance* by Rodino Associates ("Rodino Report"), industry and academic studies, and an analysis of regulations adopted by other jurisdictions in response to the impacts caused by big box retail and superstore development.

I. BACKGROUND

The City currently regulates large retail stores with 100,000 square feet or more of gross floor area by requiring a conditional use permit in the C2, C4, C5, CM, M1, M2, and M3 zones consistent with findings and design guidelines adopted by the City Planning Commission. The existing ordinance is aimed at mitigating the land use impacts of big box retail development within commercial and manufacturing zones, but does not address the particular land use, environmental and economic impacts associated with superstores, which combine retail and grocery sales within one enormous establishment.

In March 2003, the City Council authorized the Community Development Department (CDD) to retain a consultant to assist CDD and the City Attorney's Office in compiling and analyzing background material necessary to draft an ordinance regulating superstore development. CDD retained Rodino Associates and with their assistance conducted two public hearings on the issue. Rodino Associates surveyed available studies and literature and reviewed testimony from the hearings to recommend the appropriate definition to use in a new ordinance, summarized the impacts of big box and superstore development, suggested measures to mitigate those impacts and outlined a procedure for reviewing and analyzing superstore development

proposals in Economic Assistance Areas. The Rodino Report and this report are the

products of this enterprise.

II. MAJOR IMPACTS OF SUPERSTORES

A. Land Use, Traffic, Environmental and Design Impacts

The land use and other environmental impacts associated with superstore development are well documented in studies from across the country. Superstores are characterized as typically windowless, rectangular, single-story buildings with drab standardized facades. They rely on auto-borne shoppers and require acres of surrounding parking. Superstores have unique potential to profoundly disrupt land use patterns because they offer discount retail and full-service grocery retail under one roof. This threatens traditional supermarkets which often anchor neighborhood shopping centers. As a result, the adjacent development of a superstore may potentially threaten the viability of entire commercial districts.

In addition, superstores create particularly high transportation impacts because of the frequency of grocery trips combined with the huge scale of their general merchandise operations. The typical household makes more frequent trips to the grocery store than to a general retail store or to warehouse membership clubs, which primarily sell a limited range of bulk food items. Traffic generation studies indicate that superstores are likely to generate more traffic on a daily or weekly basis than other types of large stores.² This increase in trips increases traffic congestion and air pollution,³ while the acres of parking required to support auto-borne shoppers increase the urban heat-island effect and generate increased amounts of polluted runoff from parking lots.⁴

B. Economic Assistance Areas

The City of Los Angeles has maintained a long-standing and unwavering commitment to revitalizing and eliminating blight in the City's poorest communities by leveraging State and Federal tax credits, economic incentives and the City's own direct

² Report to the Community and Economic Development Agency of the City of Oakland by the Office of the City Manager, An Ordinance Amending the Oakland Planning Code to Define "Large-Scale Combined Retail and Grocery Sales Commercial Activity," September 23, 2003.

³ *Slamdunking Wal-Mart!* (1999) By: Al Norman, p. 18, citing a study by Brian Ketcham, published in a 1995 edition of "Metro Planner", the newsletter of the American Planning Association.

⁴ "The High Cost of Free Parking", 1000 Friends of Wisconsin and the Land Use Institute.

and indirect investment. These programs and initiatives target geographically defined areas including five State Enterprise Zones, two Federal Enterprise Zones, an Empowerment Zone, a Renewal Community and 37 Community Redevelopment Agency Project Areas (collectively, "Economic Assistance Areas"). The City, State and Federal governments created Economic Assistance Areas to eliminate blight, encourage private investment, and revitalize community economic activity. Combined, all three levels of government have expended hundreds of millions of dollars to achieve these economic assistance goals.

Economic Assistance Areas catalyze the development of robust and healthy communities. They aim to provide people with opportunities to obtain stable, good paying jobs and to give individuals the prospect to better their lives in the future, "enjoy the environment of their work, have confidence in the intention of their companies to protect their jobs, embrace self improvement and attainment of better education as a vehicle for such improvement, and have greater economic involvement in their own community by spending more in their own community for a more sustained path of economic growth."⁵

The City provides direct and indirect support to Economic Assistance Areas through grants, loans, tax credits, reinvestment of tax increment funds, facade improvement programs, infrastructure improvements and the implementation and enforcement of focused planning efforts such as designs for development in redevelopment project areas.

Superstores may cause substantial disruption to revitalization and planning efforts in Economic Assistance Areas by driving out existing grocery stores that often anchor the neighborhood shopping centers that are the focus of commercial activity in these communities. The Rodino Report discusses evidence from locales as diverse as Dallas, Texas, the State of Mississippi, and Toronto, Canada, demonstrating the impact of superstores on existing grocery stores. In many communities, supermarkets anchor local commercial districts and shopping centers by allowing local residents to buy day-to-day essentials and encouraging patronage of other nearby local businesses. Numerous studies indicate that the single greatest loss from traditional grocery stores is due to the superstore configuration of grouping discount retail and full-service grocery shopping

⁵ *A Position Paper, Revitalization Zones and the Necessity of Protecting Good Paying Jobs: A Brief Review of Some of the Existing Evidence*, Jamshid Damooei, Ph.D., Professor of Economics and Co-Director of Center for Leadership and Values, California Lutheran University.

under one roof.⁶ Superstores draw customers away from traditional supermarkets, thus threatening the viability of entire local shopping areas. If superstores succeed in eliminating neighborhood supermarkets and grocers, the resultant shuttering of local shopping centers could cause a resurgence of the persistent urban blight that Economic Assistance Areas are designed to combat.

The Rodino Report also notes the damaging practice of superstores negotiating leases that permit them to "go dark," i.e. vacate a location, while maintaining the lease on big box structures and parking areas. This facilitates a pattern of superstores locating in a community, engaging in predatory pricing that drives out competitors, consolidating their operations by shutting down stores once competition is eliminated and then tying up the massive parcels they have assembled through long-term leases that prevent the reestablishment of rival retailers and the recycling of scarce industrial and commercial land. This ultimately results in declining property values for the surrounding community as a hulking vacant structure sits on an enormous parcel attracting graffiti and debris.

The Rodino Report focuses particular attention on the tendency of superstores to drive down wages and benefits in the communities in which they locate. Superstores may increase the ranks of the working poor by paying low wages and providing very limited health care benefits, thus further burdening already strained local social service and health care systems.

C. Regulatory Approaches in Other Jurisdictions

A number of jurisdictions throughout the United States have adopted ordinances controlling development of big box retail/superstores. These ordinances range from restricting the location of these retailers to outright prohibitions. Oakland has become the latest California community to regulate these uses by banning "Large-Scale Combined Retail and Grocery Sales" establishments whose total sales floor exceeds 100,000 square feet and which devote more than 10% of sales floor area to the sale of non-taxable merchandise. An ordinance is pending before the San Diego City Council which would prohibit development of superstores that are greater than 130,000 square feet and which stock more than 30,000 Stock-keeping Units, of which at least 10% are non-taxable items. Bozeman, Montana and Coconino County, Arizona have both adopted size restrictions. The Rodino Report describes regulatory efforts in several other jurisdictions.

⁶ *Economic Analysis of the Proposed Fremont Wal-Mart: Short and Long Term Impacts on Retail and Economic Development*, Prepared for The United Food and Commercial Workers Union Food and Commercial Workers Union, Local 870 by Strategic Economics (March 2003).

III. KEY POLICY OPTIONS FOR CONSIDERATION

A. Defining the Focus of Regulation

In devising a big box or superstore ordinance, the Committees must decide the threshold question of the use to be regulated in terms of store size and/or product mix. Big box retail/superstores are generally characterized by large windowless rectangular single-story buildings, standardized facades, reliance on auto-borne shoppers, acres of parking, and no-frills site development without community or pedestrian amenities. Depending on its location, a big box retail/superstore can range from 50,000 to 1,000,000 square feet in size and offer a product mix including general retail, non-taxable (grocery) or bulk merchandise. The City Attorney's Office suggests the Committees consider the following three options:

1. **Retail Facility Larger than 75,000 Square Feet of Gross Buildable Area, Selling Goods to the General Public**

This definition measures size and is the easiest to determine. It will not however, identify the type of inventory carried since it incorporates all retail types including groceries, clothing and home improvement merchandise. This definition is very broad and would apply to most large retail stores including warehouse clubs like Sam's Club, discount stores such as Wal-Mart, home improvement centers similar to Home Depot and superstores comparable to Target. This definition might also include some supermarkets. The Rodino Report recommends this definition.

2. **Retail Facility Larger than 100,000 Square Feet with More Than 10% of the Gross Floor Area Devoted to Non-Taxable Merchandise (Groceries), Excluding Membership Clubs**

This definition incorporates both store floor area, inventory size, and composition. It will apply to superstores such as Wal-Mart Superstores and Target Superstores. It would exclude wholesale clubs or other establishments selling primarily bulk merchandise and charging membership dues or otherwise restricting merchandise sales to customers paying a periodic fee. These exclusions would focus the regulation on the superstore uses that generate particularly high traffic congestion and air quality impacts and which have the most significant potential to undermine economic revitalization efforts. The City Attorney recommends adoption of this definition.

3. **Retail Facility Exceeding 150,000 Square Feet with 20,000 or Greater Non-Taxable Stock-Keeping Units**

This definition unites store floor area and Stock-keeping Units ("SKU") to describes the retailer's inventory. This definition would capture a very limited universe of stores, principally Super Wal-Mart and possibly Super Target. It would exclude Costco and other bulk merchandise or warehouse clubs, because these stores carry a relatively small number of SKUs (3,500 to 4,500). It would also exclude most supermarkets, because although they carry about 25,000 SKUs, they generally do not exceed 150,000 square feet in size. Employing this definition would require retailers to periodically provide the City with SKU data. This would require review and monitoring by City staff.

B. Defining the Geographic Scope of the Regulation

The City of Los Angeles contains a diversity of communities and land use zones and faces uneven development of its commercial centers. As a result, the Committees may wish to consider tailoring the geographic application of an ordinance to account for this diversity. City Attorney's Office recommends consideration of the following options:

1. Citywide Application

The Committees may wish to apply the regulation uniformly across all Economic Assistance Areas and land use zones.

2. Apply To Economic Assistance Areas, Including a One-Mile Buffer Surrounding Each Zone

By applying the regulation only to Economic Assistance Areas, the City could address the land use and environmental impacts caused by superstores while buttressing the City's efforts to economically revitalize and enhance community planning in the City's poorest neighborhoods. Including a one-mile buffer around each zone would further protect the integrity of community planning efforts and prevent developers from locating superstores just outside the border of each Economic Assistance Area and thus undermining the City's direct and indirect investments in these communities. Limiting application of the regulation recognizes the economic diversity of the City's commercial areas. The City Attorney recommends adopting this geographic approach.

3. Apply the Regulation to C2, C4, C5, CM, M1, M2, and M3 Zones

This approach would build on the existing zoning regulations on big box stores exceeding 100,000 square feet by focusing primarily on the land use impacts associated with development in certain commercial and manufacturing zones of Los Angeles. It would

not distinguish between areas facing differing levels of economic development challenges and would have roughly the same affect as a citywide application.

C. Determining the Form of Regulation

Ordinances controlling big box retail and superstore development cover the entire spectrum from size regulations, requiring conditional use permits, to wholesale prohibition. The City Attorney's Office recommends consideration of the following regulatory approaches:

1. Prohibit Development of Superstores Within Economic Assistance Areas

The Rodino Report and the studies, articles and other materials contained in the record document the land use, environmental and economic impacts of superstores. Economic Assistance Areas are by definition the most economically vulnerable areas within the City and thus are the most susceptible to the destabilizing effects of superstore development. Allowing superstores to undermine the vitality of community shopping districts and disrupt local land use patterns would negate decades of focused economic revitalization programs and planning efforts by the City. A complete prohibition of superstore development within Economic Assistance Areas is the simplest and most direct means of preserving economic stability, protecting tax revenues and promoting the general welfare of these communities. The City Attorney recommends adopting this regulatory approach.

2. Requiring Developer Mitigation Within Economic Assistance Areas

Under this approach, superstore developers, in cooperation with CDD, would conduct a community impact assessment analyzing the employment, retail, municipal revenue, property value, consumer choice, land use and urban design impacts of a proposed superstore development. CDD would then require the developer to undertake measures designed to mitigate negative impacts anticipated by the community impact assessment. Mitigation measures might include mitigation fees, agreements to re-lease closed superstore facilities, superstore-sponsored efforts to promote local hiring, imposing a living wage requirement for workers employed at the superstore, or requiring superstores to provide financial assistance to negatively affected local retailers. This approach would require City staff to review the community impact assessments and devise mitigation measures. The Rodino Report outlines a suggested development application and review process to implement this approach.

**3. Maintain or Enhance Existing Regulations Requiring
Conditional Use Permits in the C2, C4, C5, CM, M1, M2, and M3
Zones**

The municipal code currently requires a conditional use permit for the development of retail stores exceeding 100,000 square feet within certain land use zones in the City. These procedures could be enhanced to require additional findings or mitigation measures to address the particular land use impacts caused by superstores.

CONCLUSION

The City Attorney remains committed to assisting the City Council in devising a regulatory scheme that will preserve the economic vitality of our commercial districts, while encouraging well-designed development that is sensitive to the needs of our neighborhoods. Please direct any questions regarding recommendations contained in this report to Assistant City Attorney Cecilia Estolano at (213) 978-8209. Either she or another member of this office will be available when you consider this matter to answer any questions you may have. The City Attorney's Office looks forward to receiving the Committees' directions regarding the form of a proposed superstore ordinance.

Sincerely,

ROCKARD J. DELGADILLO, City Attorney

By

TERREE BOWERS
Chief Deputy City Attorney

Rodino Associates

Urban Revitalization & Real Estate Services

Final Report on Research for Big Box Retail / Superstore Ordinance

Prepared for:

Industrial and Commercial Development Division
Community Development Department
215 W. Sixth Street, 3rd Floor
Los Angeles, CA 90014

Submitted:
October 28, 2003

Submitted to:
Clifford Weiss
Deputy Director
Industrial and Commercial Development Division
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Prime Contractor:
RODINO ASSOCIATES

Sub-Contractor:
ESTELA LOPEZ CONSULTING

Rodino Associates

Urban Revitalization & Real Estate Services

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1. INTRODUCTION AND SUMMARY

The purpose of the study conducted was to:

1. Develop a definition of "big box retailers" and superstores" for application to the "Economic Assistance Zones" of the City of Los Angeles.
2. Identify the possible impacts of big box retailers and superstores if developed within the Economic Assistance Zones.
3. Recommend methods by which such retail projects may be developed and/or regulated within the Economic Assistance Zones to ensure that negative economic and environmental impacts, if any, are substantially mitigated.
4. Assist the City staff in the preparation of an application and review procedure for the development of big box retailers and superstores within the Economic Assistance Zones.
5. Assist the City staff in conducting two public hearings to gather information from the community regarding big box retailers and superstores.

Accordingly, several definitions of big box retailers and superstores used by other municipalities were reviewed and a definition was recommended, as described in Chapter 2 and summarized as follows:

A big box retailer or superstore is a retailer whose facility is larger than 75,000 square feet of gross buildable area from which goods are sold to the general public, that will generate sales tax or use tax (pursuant to Part 1.5, commencing with Section 7200, of Division 2 of the State of California Revenue and Taxation Code).

Chapter 3 provides a discussion of the potential impacts of big box retailers and superstores, and summarizes the experiences of a cross-section of communities in the United States and Canada. Many cities and public agencies have expressed serious concerns over the potential and actual negative impacts of big box retailers and superstores on their communities, with many enacting controlling ordinances. These cities and public agencies include, but are not limited to, the following:

City of San Diego	City of Oakland, California
Contra Costa County, California	Inglewood, California
State of Maryland	New Rochelle, New York
Coconino County, Arizona (Flagstaff)	Rockville, Maryland
Toronto, Canada	

The impacts that are of greatest concern are:

- employment and compensation for labor
- neighboring businesses and consumer choice
- municipal revenues
- municipal investments in low income areas
- property values
- land use and urban design

Various means for mitigating the possible negative impacts of big box retailers and superstores were analyzed and recommendations for the City of Los Angeles were provided in Chapter 4. The mitigation efforts recommended are:

- Impact Assessment Analysis
- Size Limitations and Prohibitions (not recommended)
- Minimum Wage and Benefits Standards
- Local Hiring Requirements
- Land Use and Design Guidelines

- Re-leasing requirements governing closed big box stores
- Promote local retailing
- Regional cooperation among governments on mitigation issues

An application and procedure was developed, similar to the existing Conditional Use Permit process, as described in Chapter 5.

A vigorous community outreach and public hearing process was pursued. As a sub-contractor to Rodino Associates, Estela Lopez Consulting conducted the public outreach. Two public hearings were the result of this effort. The first was held at City Hall on Monday, July 14, 2003 at 10 A.M., and the second was held at Los Angeles City College on Wednesday, July 16, 2003 at 6:30 P.M.

To ensure a robust participation level, a diverse stakeholder database was created with input from multiple sources spanning public and private sector interests. These included:

- Constituent lists from L.A. City Council offices
- Presidents and vice-presidents of all certified neighborhood councils
- Business Improvement Districts
- Los Angeles City Area Planning Commissioners
- Members of Community Redevelopment Agency Project Area Committees (PAC's) and Community Action Councils (CAC's)
- Los Angeles Community Action Agency (CAA) Community Action Board (CAB)
- Labor unions
- Economic development organizations
- Community-based, non-profit organizations, especially those with job training/workforce development specializations
- All state-certified Los Angeles-area chambers of commerce and local merchant organizations
- Ethnic business organizations

Faith-based organizations involved in community and economic development

Representatives of "big box" retailers

California Grocers Association

Additionally, the Community Development Department made available its database of approximately 19,000 small business owners in the Empowerment Zone and Federal "Renewal Community" area.

Flyers announcing the two public hearings were mailed to these stakeholders. Targeted telephone follow-up was conducted to ensure that the individuals and organizations with specific interest in the issue of "super store" development had received the notification. Copies of the hearing announcement and the outreach mailing list are provided in the Appendix.

The analyses and discussions provided in the following chapters are the products of the inputs received from the public hearings and extensive research of documents, reports and studies in the public realm, on big box retailers and superstores.

PUBLIC LAW RESEARCH INSTITUTE

UNIVERSITY OF CALIFORNIA

HASTINGS COLLEGE OF THE LAW

California Responses to Supercenter Development
A Survey of Ordinances, Cases and Elections

by

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Edited by Jodene Isaacs, JD ('03)

Prepared at the request of the Governor's Office of Planning and Research

PLRI REPORTS

Spring, 2004

This report was prepared by the Public Law Research Institute at Hastings College of the Law. It does not represent the views or policies of Hastings College of the Law, its Board of Directors or its faculty.

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EXECUTIVE SUMMARY

This report addresses a number of issues relating to supercenter development, with particular attention given to Wal-Mart's goal of building 40 supercenters within California over the next four years. We first discuss the pros and cons of supercenter development in terms of consumer savings, employee wages, tax revenues, and various environmental impacts. We then examine how different communities have either supported or opposed supercenter developments and emphasize the legal tools that have provided the framework for these actions including voter referendums, ballot initiatives, and lawsuits.

Recent controversies over supercenter development in several California cities and counties are discussed and provide the basis for insights about how the issue may be addressed in the future. Tactics successfully used by large-scale retail advocates in California include mounting advertising campaigns for or against ballot measures and donating money to the election campaigns of development friendly officials. However, supercenter opponents have successfully staved off supercenter development in some areas. Based on the results from various campaigns in California, it appears the more concrete the plans for supercenter development are, the more likely communities and decision-makers will be able to identify negative impacts associated with the development. Pending lawsuits will determine the limits or restrictions local government decision makers may employ to control supercenter development in their communities. In the mean time, we hope this report helps to identify the economic, environmental, and social implications involved with supercenter and large scale retail that should be considered by all communities in California where this development is proposed.

I. INTRODUCTION

Wal-Mart and other large retail stores offer communities the prospect of consumer savings, but at the same time pose potential negative impacts on traffic, the environment, and wages. In balancing the positive and negative effects of large-scale retail developments on local communities, many California cities and counties have approved such stores, while many others have enacted restrictions to limit their construction. This report examines the legal and political battles between developers and local governments in California by providing a history of tools used to encourage or impede the siting of “big box” retailers, and by analyzing which tools have been the most effective, both legally and politically.

Wal-Mart currently operates approximately 3,000 total stores in the U.S., and 1,400 big box supercenters.¹ It is the largest U.S. grocer, with a 19 percent market share, and the third-largest pharmacy, with a 16 percent market share.² By 2007, Wal-Mart is expected to control 35 percent of food and drug sales in the U.S.³ Retail Forward, a global management consulting and research firm, estimated that for every one supercenter that opens, two supermarkets would close.⁴ Indeed, since 1992, the supermarket industry has experienced a nationwide net loss of 13,500 stores.⁵ Over the next five years, Wal-Mart plans to open 1,000 more supercenters in the U.S, including 40 supercenters planned for the state of California.⁶ On March 2, 2004, Wal-Mart opened its first California supercenter, a 225,000 square foot combined retail and grocery store, in La Quinta, California.⁷

The reaction to these developments has been highly contentious. In reaction to Wal-Mart’s supercenter development plans in California, many local city and county governments across the state passed, or are considering ordinances that seek to restrict or ban big box developments.⁸ Other locales have welcomed supercenters into their communities.

A. Purpose

This report examines current legal and political issues arising from big box development in the state of California, as well as the tools available for big box opponents and supporters alike to challenge actions taken by city and county governments. While the report analyzes big box development in general, because so much of the current legislation targets Wal-Mart's supercenter program this report will focus on recent developments involving this subcategory of big box retail.

B. Organization

The report is organized into eight parts. The first section explores various bases by which big box stores are defined including overall square footage, items sold, or physical appearance. The section will also delineate in greater detail the definition of the supercenter, a big box subcategory particularly pertinent in California in light of Wal-Mart's future development plans.

The second section examines regional and national reports that study the effects of economic, social, and environmental impacts of big box retail on local communities. This section sets forth the costs and benefits of big box retail faced by local communities, such as lower prices and increased tax revenue contrasted by lower wages and increased traffic. Although the section examines studies conducted both by Wal-Mart supporters and opponents, this report finds that the studies generally highlight the negative aspects of big box retail. Wal-Mart supercenters will provide consumer savings, but these savings are offset by lower paying jobs and negative environmental impacts.

Sections three through six explore the tools available to big box supporters and opponents by highlighting examples of legal and political strategies used in California and other states. Section three addresses the importance of campaign funding and local city council elections. By looking at the Gilroy City Council's approval of a Wal-Mart supercenter in March 2004, this

section describes how campaign efforts by Wal-Mart to elect “development-friendly” city council officials could result in an uphill battle for supercenter opponents challenging such development. This strategy by developers can serve to avoid later, more costly, legal or political battles by ensuring that local legislation preventing big box development plans will not be approved. Tools used by big box opponents to counter the effect of developer-sponsored legislation by highlighting lawsuits brought in Bakersfield and San Marcos, California are also described.

A strategy employed by both sides of the big box debate is the use of ballot initiatives and referendums that override approvals or restrictions made by local government officials. The fourth and fifth sections discuss big box related initiatives and referendums in Contra Costa County, San Marcos, and Inglewood, California. The political and legal tools available before, during, and after initiatives and referendums are examined in depth as are the political implications of ballot measures.

As an alternative to the referendum battles, Wal-Mart has recently challenged local government opposition through litigation, targeting city and county legislation that restricts “supercenter” formats. The sixth section discusses Wal-Mart’s use of state and federal lawsuits to challenge the constitutionality of supercenter regulations in Turlock and Alameda County, California. The legal bases of the lawsuits and forecasts on their resolution are discussed.

The final two sections are comparative and prospective, looking at how similar big box battles have been resolved in other states, and what issues local governments should address in considering big box development.

ORDINANCE NO. 176166

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. For purposes of this ordinance, the definition of non-taxable merchandise shall not include, without limitation, Sales Floor Area devoted to any of the following categories: services, including the services of a chiropractor, optometrist, optician, physician, surgeon, podiatrist, dentist, spa, gym, nail salon, and travel accommodation services; theaters and other entertainment uses; and food products sold through vending machines.

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 of the business operation of such adjacent stores, controlling ownership interest in the business operation of such adjacent stores, 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, after consideration of all economic benefits and costs, that the Superstore would not materially 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 three mile radius surrounding the proposed location of the Superstore.

(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 prepare and submit the economic impact analysis report referenced in subparagraph (1) to the

Community Development Department or to the Community Redevelopment Agency, where appropriate, for review in conjunction with its application to the Department of Planning. The economic impact analysis report shall be reviewed by the Department or Agency and/or a consultant, if deemed necessary by the Department or Agency and paid for in full by the applicant. The Community Development Department and the Community Redevelopment Agency shall complete its review of the report within 60 days after receipt of the report from the applicant. The report shall identify whether:

(i) Efforts to establish a market larger than 20,000 square feet within the Impact Area have been unsuccessful or whether the proposed use will have an adverse impact or economic benefit on grocery or retail shopping centers in the Impact Area;

(ii) The Superstore would result in the physical displacement of any businesses, and, if so, the nature of the displaced businesses or would create economic stimulation in the Impact Area;

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

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

(v) 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 from a cost benefit perspective within the Impact Area in which the project is proposed to be located;

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

(vii) The Superstore would have a fiscal impact either positive or negative on City tax revenue;

(viii) 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;

(ix) The Superstore will result in any materially adverse or positive economic impacts or blight on the Impact Area; and

(x) Any measures are available which will mitigate any materially adverse economic impacts, if any, identified by the applicant, if necessary.

(3) Recommendation. The Community Development Department, or the staff of the Community Redevelopment Agency if the Superstore is proposed to be located in a redevelopment area or in the surrounding one-mile buffer zone, shall review the economic impact analysis report and, after consideration of economic benefits and costs, make a written recommendation as to whether the proposed Superstore will result in a materially 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 Community Development Department, or the staff of the Community Redevelopment Agency, as appropriate, in accordance with the written procedures on file with the Department and the Agency.

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 the foregoing ordinance was introduced at the meeting of the Council of the City of Los Angeles of August 11, 2004, and was passed by a vote of not less than two-thirds of all its members, at its meeting of AUG 18 2004

J. MICHAEL CAREY, City Clerk

By *Marie Kostanek*
Deputy

Approved AUG 19 2004

James Hahn
Mayor

Approved as to Form and Legality

Rockard J. Delgadillo, City Attorney

By *Terry Kaufmann Macias*
TERRY KAUFMANN MACIAS
Deputy City Attorney

Pursuant to Charter Section 559, I disapprove this ordinance on behalf of the City Planning Commission and recommend it not be adopted

August 9, 2004

see attached report.

Con Howe
CON HOWE
Director of Planning

Date AUG 09 2004

File No(s). CF 00-1675-S1; CPC 2000-4247-CA

DECLARATION OF POSTING ORDINANCE

I, MARIA C. RICO, state as follows: I am, and was at all times hereinafter mentioned, a resident of the State of California, over the age of eighteen years, and a Deputy City Clerk of the City of Los Angeles, California.

Ordinance No. 176166 - Amended Paragraph (a) of Subdivision 14 of Subsection U of Section 12.24 of the L.A.M.C. to establish regulations of "Superstores" in "Economic Assistance Areas" in the City of Los Angeles - a copy of which is hereto attached, was finally adopted by the Los Angeles City Council on Aug. 18, 2004, and under the direction of said City Council and the City Clerk, pursuant to Section 251 of the Charter of the City of Los Angeles and Ordinance No. 172959, on August 25, 2004, I posted a true copy of said ordinance at each of three public places located in the City of Los Angeles, California, as follows: 1) One copy on the bulletin board at the Main Street entrance to Los Angeles City Hall; 2) one copy on the bulletin board at the ground level Los Angeles Street entrance to the Los Angeles Police Department; and 3) one copy on the bulletin board at the Temple Street entrance to the Hall of Records of the County of Los Angeles.

Copies of said ordinance were posted conspicuously beginning on August 25, 2004 and will be continuously posted for ten or more days.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 25th day of August 2004 at Los Angeles, California.


Maria C. Rico, Deputy City Clerk

Ordinance Effective Date: Oct. 4, 2004

Council File No. 00-1675-S1



CITY OF LONG BEACH

DEPARTMENT OF PLANNING & BUILDING

333 WEST OCEAN BLVD., FIFTH FLOOR • LONG BEACH, CALIFORNIA 90802

NOTICE OF EXEMPTION

CATEGORICAL EXEMPTION CE- 000-117

TO: OFFICE OF PLANNING & RESEARCH
1400 TENTH STREET, ROOM 121
SACRAMENTO, CA 95814

FROM: DEPARTMENT OF PLANNING & BUILDING
333 W. OCEAN BLVD., 5TH FLOOR
LONG BEACH, CA 90802

L.A. COUNTY CLERK
ENVIRONMENTAL FILLINGS
12400 E. IMPERIAL HWY. 2ND FLOOR, RM. 2001
NORWALK, CA 90650

PROJECT TITLE: Zoning Text Amendment

PROJECT LOCATION - SPECIFIC: Citywide

PROJECT CITY: Long Beach PROJECT LOCATION - COUNTY: LOS ANGELES

ACTIVITY DESCRIPTION: Zoning Amendment to establish site standards for new commercial establishments and centers over 80,000 s.f. in size and prohibit stores greater than 100,000 s.f. in size that have greater than 10% of floor area dedicated to non-taxable merchandise, with exemptions for membership clubs that sell primarily bulk merchandise.

Name of Public Agency Approving Project: City of Long Beach

Name of Person or Agency Carrying Out Project: Jeff Winklepleck
(Printed Name)

333 W. Ocean Blvd., Long Beach, CA 90802
(Mailing Address)

(562) 570-6607
(Telephone) [Signature]
(Signature)

(To Be Completed By City Staff Only)

Check One:
 LONG BEACH CITY PLANNING COMMISSION
 DEPARTMENT OF PLANNING AND BUILDING

The above project had been found to be exempt from CEQA in accordance with the State Guidelines Section 15305 (Class 5) Minor Alterations in Land Use Limitations

Statement of Support for this finding: Amendment will ride new commercial development in LB

Lead Agency
Contact Person: Anaeta Reynolds Area Code/Telephone: 562-570-6357

Signature: [Signature] Date: 6-7-00 Title: Mayor IV

Signed by Lead Agency [Signature]
 Signed by Applicant [Signature]

Chairman Jenkins stated that he did not support the retroactive fee imposition, and said there would have to be more discussion about how to assist in building up low-income housing stock and funding without penalizing developers.

Commissioner Stuhlbarg said he did not want to see a retroactive fee, and that he felt more discussion was needed on the item.

Commissioner Sramek agreed that the fee should not be retroactive, and that research was needed to determine the profits of condominium conversion. Mr. Sramek expressed concern that a flat fee would discourage developers, and he encouraged everyone to explore other avenues of funding the Housing Trust Fund.

Commissioner Stuhlbarg moved to continue the item to the July 20, 2006 meeting to allow a public study session to be held on the issue. Commissioner Sramek seconded the motion, which passed 4-0. Commissioner Greenberg had left the meeting and Commissioners Winn and Rouse were absent.

8. Case No. 0601-10, Amendment to Zoning Ordinance, CE 06-115

Applicant: City of Long Beach c/o Suzanne Frick
Director of Planning and Building
Subject Site: Citywide
Description: Proposed amendments to the Zoning Ordinance regarding large retail establishments.

Scott Mangum presented the staff report recommending adoption of the amendments to prohibit "super stores" and ensure that large-format retail development promotes the efficient use of land and preserves and enhances the urban fabric through more urban site planning and building design process.

Doug Otto, 111 W. Ocean, Suite 1300, representative of Home Depot, stated that he felt the amendments were problematic because they could put projects currently under long-term development in violation of standards. Mr. Otto added that although his client was working with the City to meet revised standards, using the Site Plan Review process might be a more focused way to work with so-called 'big box' retailers.

Ray Polk, Councilmember representative, stated that their priority was to protect the viability of existing commercial areas and maintain competition by preventing a single retailer

from dominating the local market. Mr. Polk suggested that the Commission take separate actions on the two-part amendment.

Commissioner Sramek agreed that more input was needed on the amendments, because he did not feel they would achieve the City's goals at this point.

Commissioner Sramek moved to recommend that the City Council adopt Part I of the Amendment dealing with the prohibition, but not Part II dealing with design standards. Commissioner Gentile seconded the motion, which failed 2-2. Commissioners Jenkins and Stuhlbarg dissented. Commissioners Winn and Rouse were absent.

Commissioner Gentile moved to continue Part I of the item to the July 20, 2006 meeting and Part II to a date uncertain to allow bifurcation of the issues and further review of each. Commissioner Stuhlbarg seconded the motion, which passed 4-0. Commissioner Greenberg had left the meeting and Commissioners Winn and Rouse were absent.

9. Case No. 0601-12, Amendments to Downtown Planned Development District, CE 06-114

Applicant: City of Long Beach c/o Suzanne Frick
Director of Planning and Building
Subject Site: Citywide
Description: Proposed amendments to the Downtown Planned Development District related to adaptive reuse of commercial buildings.

Greg Carpenter presented the staff report recommending adoption of the amendments to consolidate all regulations related to adaptive reuse of existing buildings.

Chairman Jenkins stated he felt it was a great idea to recycle old buildings, relieving the City of eyesores.

Commissioner Gentile moved to recommend that the City Council adopt the amendments to the Downtown Planned Development District (PD-30). Commissioner Sramek seconded the motion, which passed 4-0. Commissioner Greenberg had left the meeting and Commissioners Winn and Rouse were absent.

Item #5 was returned to the Agenda for a motion

5. Case No. 0411-07, Site Plan Review, Tentative Tract Map, FEIR 09-04

Applicant: Ben Besley, The Olson Company
Subject Site: 634 W. Broadway (Council District 1)
Description: Request for approval of Site Plan Review, Finding of General Plan Conformity for a proposed alley vacation and Vesting Tentative Map No. 062773 to construct a four-story development with 195 residential units (includes six live/work units) and 404 parking spaces.

Commissioner Greenberg moved to review and consider the Final Environmental Impact Report No. 09-04, and to approve the Site Plan Review, General Plan Conformity Findings and Vesting Tentative Map, subject to amended conditions. Commissioner Winn seconded the motion, which passed 6-0. Commissioner Rouse was absent.

4. Case No. 0601-10, Amendment to Zoning Ordinance, CE 06-115

Applicant: City of Long Beach
Suzanne Frick, Director Planning & Bldg.
Subject Site: Citywide
Description: Proposed amendments to the Zoning Ordinance regarding large retail establishments with grocery sales.

Commissioner Stuhlberg recused himself from voting on the item. Scott Mangum presented the staff report recommending adoption of the amendment based on the economic impacts of superstore retail establishments on smaller retailers, particularly grocery stores.

In response to a query from Commissioner Greenberg as to whether this applied to stores other than Wal-Mart, Deputy City Attorney Mais explained that this ordinance was designed to discourage certain big box retailers, and that courts had upheld similar local legislation throughout the country.

Angela Reynolds noted that it was unclear as to whether Wal-Marts would fall into the listed category since they usually had their grocery sections in less than 10% of the floor space. Ms. Reynolds added that there was no specific information on the impact these retailers had on grocery stores.

Commissioner Greenberg expressed no sympathy for nationally owned grocery stores, saying he felt that from a land-use standpoint, there was an advantage to not having big box retailers with big grocery stores.

Chairman Jenkins pointed out that strategically, Long Beach probably didn't have the land to support the large retailers.

Ms. Frick observed that cities are able to address these issues through zoning ordinances to better manage concentration and effect of uses to maintain compatibility. Ms. Reynolds added that there was a new CEQA law regarding big box effects on adjacencies, which Ms. Frick explained would be a preventative, proactive measure.

John Getz, no address given, UFCW representative, said he felt this was not an anti-Wal-Mart ordinance, but rather a way to regulate business models that could have potential impacts on the infrastructure and nearby businesses.

Commissioner Sramek moved to recommend that the City Council adopt the amendment related to new large retail shopping establishments with grocery sales. Commissioner Winn seconded the motion, which passed 5-0. Commissioner Stuhlbarg had recused himself, and Commissioner Rouse was absent.

M A T T E R S F R O M T H E A U D I E N C E

There were no matters from the audience.

M A T T E R S F R O M T H E D E P A R T M E N T O F P L A N N I N G A N D B U I L D I N G

There were no matters from the Department of Planning and Building.

M A T T E R S F R O M T H E P L A N N I N G C O M M I S S I O N

There were no matters from the Planning Commission.

A D J O U R N

The meeting adjourned at 4:40pm.

Respectfully submitted,

Marcia Gold
Minutes Clerk



CITY OF LONG BEACH

DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT

Attachment #2

333 WEST OCEAN BOULEVARD • LONG BEACH, CALIFORNIA 90802 • (562) 570-6194 FAX (562)570-6068

ZONING DIVISION

July 20, 2006

CHAIRMAN AND PLANNING COMMISSIONERS

City of Long Beach

California

SUBJECT: Amendment of the Zoning and Subdivision Regulations to Establish a Fee Related to Condominium Conversions to Support the Housing Trust Fund (Continued)

LOCATION: Citywide

BACKGROUND

This is a request for review and recommendation to establish a new fee imposed on condominium conversions as a component of the Housing Trust Fund (HTF).

The item was originally discussed on June 15, 2006. At that time, the Planning Commission asked staff to gather more information on what other jurisdictions are doing on this issue, the financial details of conversion projects, an update on conversion projects in process, and for more details on how the HTF will be implemented in Long Beach.

Percentage vs. Flat Fee

There are several possible funding mechanisms for the condominium conversion fee. Tying the fee to a future sales price of the converted unit is one avenue that has been suggested. The fee would be imposed after the Final Map was approved and the units were offered for initial sale. This would require the City to confirm the sales price and collect the fee for each of the individual condominium units after the initial sale. Units that are held by the developer or that otherwise remain unsold for any reason would not pay the fee until sold. This approach will be difficult to administer since the City is not involved in the sale of units and tracking/monitoring could be staff-intensive. In addition, collection of the fee would be deferred until sale of the unit is complete, which often occurs well after the building was converted.

It has been suggested that a lien against the project and individual units could be established by the applicants at the time the Final Map is requested to facilitate the paying of the fee. The lien would be in a form acceptable to the City, and would be paid as an action of escrow at culmination of the sale. LA County uses this method to collect their fee, but processes less than 10 projects a year on average.

Alternatively, a flat fee for each condominium unit could be collected at the time the Final Map was submitted for review. Assuming an average sale price of \$400,000, a fee of \$4,000 per converted unit would yield the equivalent amount as a fee based on the one percent of the sales price.

Using the 262 units approved in 2005, a fixed fee of \$4000 per unit would generate over \$1 million annually. This approach would yield a more predictable revenue stream, and result in more effective tracking and monitoring. The fee could be adjusted administratively each year based on increases in condominium sales price indices throughout Long Beach in order to keep pace with increasing sales prices.

This fee would be required during the project development phase, which makes it part of the cost of the conversion for applicants, creating an additional budgetary burden on conversion projects according to several local developers and recent applicants.

Inclusionary Housing

Many jurisdictions use their inclusionary housing programs to generate low and moderate-income housing units. The review of impact fee requirements (attached) indicates that the majority of jurisdictions use this approach instead of a fee-based approach to generate affordable housing. Inclusionary housing provisions require that a percentage of affordable housing units are required within development projects and conversion projects as a condition of approval.

There are 136 cities in California with inclusionary housing policies or programs. This type of program is often coupled with an in lieu fee that can be paid if the required percentage of affordable housing cannot be provided by an individual project for some reason for specified reasons. Examples of inclusionary housing programs in other jurisdictions include 10-20% of units being made affordable as part of a conversion project.

Project Approval Status

There have been 86 condominium conversion projects with a total of 1,175 units reviewed by the Planning Commission since 2001, an average of 13.7 units per project. The Planning Commission approved 1,033 of these housing units.

The Public Works Department processes all subdivision maps within the City. According to their records of the condominium conversion projects, 329 units have received their Final Map approvals, which establishes the individual ownership and taxation parcel and makes the units available for sale. Whether those units have been made available for sale is at the discretion of the applicant and is not tracked by the City.

An additional 373 units have received Planning Commission approval, and the associated Final Maps have been applied for and not approved. This process is taking from 4 to 14 months, depending on the backlog of projects in Long Beach Public Works or Los Angeles County Public Works, either of which can review a map for Subdivision

Map Act requirements. City staff accepts the Final Maps and issues its approval for the County to create the new subdivision and establish the individual taxation parcels. The City receives the updated parcel maps from the County from one to several months after recordation of the Final Map. The taxation assessment lags the subdivision by up to one year, and would be paid by the owner of record of each newly created ownership unit during the normal property tax bill cycle.

432 units are pending Planning Commission approval or have received Planning Commission approval and not yet submitted a request for Final Maps to date. Lastly, 41 units have had no activity toward approval of their Final Maps several years after Planning Commission approval.

Regarding the application of the fee to projects in the pipeline, there are several options to consider. The fee could apply to only new conversions, i.e. conversions that have not yet been filed, to conversions that have been filed, but not received Tentative Map approval, or, to conversions that have received Tentative Map approval, but not obtained Final Map approval. The last approach would be consistent with the City Council's intent to apply the fee at the time of sales, and to maximize the funds collected.

Financial Viability

The Planning Commission requested information to understand the financial structure of conversion projects to get an understanding of the fees for affordable housing that these projects could support. Financial (pro forma) information was requested from local developers and recent conversion applicants and was not provided. Information being compiled by the Housing Services Division's economic consultant will be provided at the study session.

PUBLIC NOTICE

Public notices on the originally scheduled item were sent to recent applicants of condominium conversion projects and those who expressed interest related topics to the condominium conversion policy discussion before the Planning Commission on February 16, 2006.

ENVIRONMENTAL REVIEW

According to the guidelines to implement the California Environmental Quality Act, the proposed action has been determined to be categorically exempt under Section 15305, Minor Alternations in Land Use Limitations, Class 5. This section states that the division of multiple-family residences into common-interest ownership where no physical changes occur can be considered Categorically Exempt (CE). Therefore, CE 06-120 was prepared for this project and is attached for review.

CONCLUSIONS

There are several conclusions that can be drawn from the above analysis.

- **Conversions will continue** – While an increasing number of projects have been processed of the last few years, there remains a large pool of apartments that could be converted to condominiums. Establishing the HTF and funding it in part through a fee from those conversions is consistent with the policy framework for providing affordable housing to both renters and first-time buyers.
- **Timeliness** – The interest in condominium conversions has sparked an increase in the number of cases filed and public inquiries regarding conversions. Given the demand for conversions, the fee is likely to generate substantial funds.
- **Predictable Funding** – Using a percentage of the sales prices assures a fair market price basis for the fee, but requires the fee to be collected well after the approval of conversion. Mechanisms to collect the percentage fee could be implemented to aid administration. A fixed fee could be collected at the time the Final Map is submitted for approval. The fee could be adjusted annually to reflect increases in median sales price. A fixed fee would be the simplest calculation method, but makes the fee as an additional cost of conversion.
- **Need for More Affordable Housing** – Long Beach has a large pool of rental housing. Allowing conversions of some of these units provides more affordable buying opportunities. As long as demand for rental housing is not impacted and relatively affordable rental housing remains available, this policy should continue. Use of an inclusionary housing policy would provide units of affordable housing directly for qualifying projects and could generate more units than a fee at the level being considered would generate.

Planning staff recommends that a fee of \$4,000 per converted unit be established to apply to condominium conversion projects that have not received approval for a Final Map at the time the fee becomes effective. This fee should be adjusted to reflect the annual increase in sales price for condominiums in Long Beach.

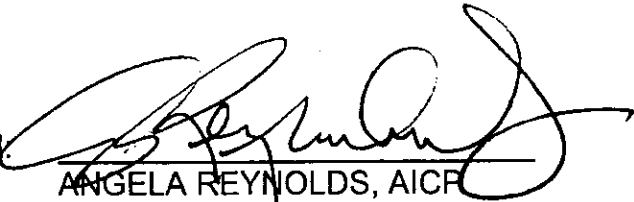
IT IS RECOMMENDED THAT THE PLANNING COMMISSION:

Recommend that the City Council adopt amendments to Title 20.32 (Subdivisions) and Title 21.63 (Zoning Regulations) related to the establishment of a new condominium conversion fee to be used in part to fund the proposed Housing Trust Fund.

Respectfully submitted,

SUZANNE FRICK,
DIRECTOR OF PLANNING AND BUILDING

By: 
STEVE GERHARDT, AICP
COMMUNITY PLANNER

Approved: 
ANGELA REYNOLDS, AICP
PLANNING OFFICER

Attachments:

- Map of Condo Conversion Projects
- Summary of Affordable Housing Impact Fee Requirements for Condominium Conversions

Affordable Housing Impact Fee Requirements for Condominium Conversions

Conversions Subject to Local Inclusionary Ordinance	
Monterey City	15% low and moderate income affordable units for conversion projects with 10 or more units. No allowance for payment of fee.
Napa City	Condo conversions require inclusion of 10% moderate (120% MFI) income affordable units. Option for payment of housing in-lieu fee at discretion of City Council.
Rohnert Park	15% affordable units required for conversions. Payment of in-lieu fee permitted.
San Carlos	15% affordable units required for conversions. Payment of in-lieu fee permitted.
San Diego City	Condo conversions with 2 or more units sold to households earning 150%+ MFI subject to City's inclusionary ordinance, requiring 10% of units to be set aside for households earning up to 100% MFI. Allowance for payment of in-lieu fee, currently set at \$1.25/sq.ft. for projects < 10 units, \$2.50/sq.ft. for projects 10+ units.
San Mateo	10% affordable units. If any inclusionary rental units in project, requirement to convert to inclusionary ownership unit. Payment of in-lieu fee prohibited.
Santa Barbara City	Condo conversions with 10+ units subject to 15% inclusionary housing requirements. Allowance for payment of in-lieu fee. If any deed restricted affordable rental units in conversion project, condition requiring same number and type of affordable units in condo project. Conversions limited to 50 units/year.
South Lake Tahoe	20% affordable units required for conversions.
Walnut Creek	10% affordable units. No fee permitted for conversions with 10+ units. In-lieu fee for 2-9 unit projects ranges from \$2 to \$9/square foot living area.
Conversions Subject to Payment of Flat Affordable Housing Fee	
Pismo Beach	For projects with 8 or more units, charge fee of \$500/unit for affordable housing fund
Roseville	Charges fee of \$5,000/rental unit converted to condo
Santa Cruz County	Follows Coastal Zone requirement of 1:1 replacement of affordable units, or payment of in-lieu fee.
Conversions Subject to Payment of Affordable Housing Fee Based on % of Sales Price	
Berkeley	Fee based on 12.5% of difference between price of a unit, if sold as apartment, and price of converted unit when sold as condo. Conversions limited to 100 units/year.
East Palo Alto	Fee based on 10% of condo sales price at close of escrow, and no lower than 90% of current appraised value. Lien placed on each unit for amount of fee a time of Final Map, and is executed and recorded with County Recorder. Upon payment of fee, release of lien by City.
Los Angeles County	Fee based on 1% of sales price of converted unit. Lien is recorded for each unit at the time of the Final Map as a condition of approval.
Montgomery County, Maryland	Fee based on 4% of sales price of converted unit.

Summary of Condo Conversion Housing Impact Fees

A relatively few number of jurisdictions were identified that charge affordable housing impact fees on condo conversions. While this was not an exhaustive survey, review of approximately 40 jurisdictions' condo conversion ordinances identified only seven which included housing impact fees. More common were jurisdictions with inclusionary housing ordinances to apply these same inclusionary requirements to condo conversions. With 135+ adopted inclusionary housing ordinances in the State and over 80% of these allowing for payment of in-lieu housing fees, such inclusionary in-lieu fees serve as defacto condo conversion impact fees in a potentially significant number of jurisdictions.

The majority of jurisdictions surveyed charge an administrative fee based on the cost to process and inspect the condo conversion. While these fees are often significant (Pasadena's fee is approximately \$2,400/unit), they can only be directed towards covering administrative costs and not affordable housing.

Coastal Zone Provisions Regulating Condo Conversions (Govn Code Section 65590)

Implementation of the Coastal Act can also serve to address the affordable housing impacts of condo conversions.

Conversion of 3 or more dwelling units where at least one unit is occupied by low to moderate income household (up to 120% MFI) triggers replacement requirement. Developer must provide one below market rate unit for each unit occupied by income eligible household, or 20% of the total residential units in project. Replacement units must be available within 3 miles of Coastal Zone, and available for use within 3 years of conversion. If any low/moderate income households are evicted within one year of filing an application to convert, evictions shall be presumed to have been for purpose of avoiding requirements of subdivision, and applicant bears burden of proving evictions were not for purpose of avoiding replacement requirement.

If locality has established in-lieu fee alternative to requiring replacement units in Coastal Zone, the payment of fees must result in the replacement of an equivalent number of dwelling units which would have been required of the applicant. Replacement units provided through collection of in-lieu fees should be provided within the Coastal Zone to the maximum extent feasible, and shall be provided within three years of the conversion.



CITY OF LONG BEACH

DEPARTMENT OF PLANNING & BUILDING

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ZONING DIVISION

June 15, 2006

CHAIRMAN AND PLANNING COMMISSIONERSCity of Long Beach
California

SUBJECT: Amendment of the Zoning and Subdivision Regulations to Establish a Fee Related to Condominium Conversions to Support the Housing Trust Fund

LOCATION: Citywide

BACKGROUND

This is a request for review and recommendation to establish a new fee imposed on condominium conversions as a component of the Housing Trust Fund (HTF).

HOUSING TRUST FUND

On October 11, 2005, the City Council approved the creation of a Housing Trust Fund (HTF). The primary purpose is the creation of an additional funding mechanism to encourage the development of more affordable housing in Long Beach. As part of their action, the City Council also requested the City Attorney to prepare a condominium conversion fee ordinance and refer it to the Planning Commission for review and recommendation back to City Council.

The draft HTF Ordinance was presented to the City Council, on May 2, 2006. The City Council chose to postpone consideration of the HTF ordinance for at least 30 days to allow for additional analysis.

One of the options considered throughout the discussion regarding creating the HTF is a fee of one (1%) of sales price for condominium conversions. In October 2005, the staff report calculated that an average July 2005 sales price of \$322,000 and the sale of an average of 300 converted units would generate nearly \$1 million annually. Consideration of this option for HTF funding existing and potential new affordable housing programs is recognition of the anticipated future interest in condominium conversions and the potential for the City to gain more affordable housing resources from those conversions.

A nexus study is attached to this report that explains the connection between the conversion of apartments to condominiums and the impact on affordable rental and first-time buyer residential property. The nexus report was prepared by Karen Warner, a housing consultant to the Housing Services Bureau.

The study finds that the conversion of apartments to condominiums reduces the number of available apartments, and would potentially increase the demand for apartments if there were not a large pool of apartments within the City of Long Beach. The converted condominiums tend to be more affordable than newly constructed condominiums in all areas of the city, making them more affordable to first-time buyers and others in the market looking for more affordable attached housing product.

HOUSING BACKGROUND

According to State Department of Finance, Long Beach had 172,089 housing units in 2000. Of those, approximately forty percent (40%) were detached single family homes. Five percent (5%) were attached single-family units. Fourteen percent (14%) were multifamily units in buildings of two to four (2-4) units. Thirty-eight percent (38%) were multifamily in buildings with 5 or more (5+) units.

In total, there were 100,355 rental units in Long Beach in 2000. Only those buildings that meet the parking standard, without resorting to tandem parking, can be converted to condominiums. No parking variances are typically being granted as part of condominium conversion projects. While an exact number of potential apartment buildings that meet the development standards for conversion is not available, developers and real estate professionals have noted that is getting more difficult to find buildings for potential conversion.

CONDOMINIUM CONVERSIONS FROM 2000-2005

Market forces are driving an increased interest in condominium conversions. The primary factor driving the interest in condominium conversions is the ever-decreasing ability of households to afford the median-priced home. In Los Angeles County, this affordability index has been dropping steadily where now approximately only twelve percent (12%) of households can afford the median-priced home. What this means is that fewer and fewer renters can afford to purchase a home and fewer current homeowners could afford the homes they live in if they had to purchase it today.

The interest in condominium conversions by both developers and potential buyers has increased annually with the number of projects brought before the Planning Commission at least doubling each of the last four (4) years. While the future of the real estate market is impossible to predict, it is likely that this trend will continue for the foreseeable future if market conditions follow current trends.

Because Long Beach has a large supply of rental housing stock, and a relatively low homeownership rate compared with the County as a whole, the general policy direction has been to allow condominium conversions to proceed under the existing regulations. The following table provides a summary of the condominium conversion cases from 2000 to 2005.

	2000	2001	2002	2003	2004	2005
Number of Cases	2	5	2	4	13	30
Number of Units	22	60	4	18	426 ^a	262

^a – includes 142 units at 250 Pacific Avenue

Even with the market conditions outlined above, it is increasingly difficult for first-time buyers to purchase converted units. One function of the HTF will be to assist these potential homeowners in making their initial purchase, through down-payment assistance or silent second mortgage loans.

FUNDING MECHANISMS

There are several possible funding mechanisms for the condominium conversion fee. Tying the fee to a future sales price of the converted unit is one avenue that has been suggested. The fee would be imposed after the Final Map was approved and the units were offered for initial sale. This would require the City to confirm the sales price and collect the fee for each of the individual condominium units after the initial sale. Units that are held by the developer or that otherwise remain unsold for any reason would not pay the fee until sold. This approach will be difficult to administer since the City is not involved in the sale of units and tracking/monitoring could be staff-intensive. In addition, collection of the fee would be deferred until sales of the unit, often occurring well after the building was converted.

Alternatively, a flat fee for each condominium unit could be collected at the time the Final Map was submitted for review. A fee of \$4,000 per converted unit would yield the equivalent amount as a fee based on the one percent of the sales price.

Using the 262 units approved in 2005, a fixed fee of \$4000 per unit would generate over \$1 million annually. This approach would yield a more predictable revenue stream, and result in more effective tracking and monitoring. The fee could be adjusted administratively each year based on increases in condominium sales price indices throughout Long Beach in order to keep pace with increasing sales prices.

A third option is to require a fee but allows a waiver of the fee if a project deed restricted some of the units as affordable units. This option would allow an alternative approach in the event the fee could not be paid.

Regarding the application of the fee, there are several options to consider. The fee could apply to only new conversions, i.e. conversions that have not yet been filed, to conversions that have been filed, but not received Tentative Map approval, or, to conversions that have received Tentative Map approval, but not obtained Final Map approval. The last approach would be consistent with the City Council's intent to apply the fee at the time of sales, and to maximize the funds collected.

PUBLIC NOTICE

Public notices on this item were sent to recent applicants of condominium conversion projects and those who expressed interest related topics to the condominium conversion policy discussion before the Planning Commission on February 16, 2006.

ENVIRONMENTAL REVIEW

According to the guidelines to implement the California Environmental Quality Act, the proposed action has been determined to be categorically exempt under Section 15305, Minor Alternations in Land Use Limitations, Class 5. This section states that the division of multiple-family residences into common-interest ownership where no physical changes occur can be considered Categorical Exempt (CE). Therefore, CE 06-120 was prepared for this project and is attached for review.

CONCLUSIONS

There are several conclusions that can be drawn from the above analysis.

- **Conversions will continue** – While an increasing number of projects have been processed of the last few years, there remains a large pool of apartments that could be converted to condominiums. Establishing the HTF and funding it in part through a fee from those conversions is consistent with the policy framework for providing affordable housing to both renters and first-time buyers.
- **Timeliness** – The interest in condominium conversions has sparked an increase in the number of cases filed and public inquiries regarding conversions. Given the demand for conversions, the fee is likely to generate substantial funds.
- **Predictable Funding** – Using a percentage of the sales prices assures a fair market price basis for the fee, but requires the fee to be collected well after the approval of conversion. A fixed fee could be collected at the time the Final Map is submitted for approval. The fee could be adjusted annually to reflect increases in median sales price. A fixed fee would be the simplest calculation method.
- **Need for More Affordable Housing** – Long Beach has a large pool of rental housing. Allowing conversions of some of these units provides more affordable buying opportunities. As long as demand for rental housing is not impacted and relatively affordable rental housing remains available, this policy should continue.

Planning staff recommends that a fee of \$4,000 per converted unit be established to apply to condominium conversion projects that have not received approval for a Final Map at the time the fee becomes effective. This fee should be adjusted to reflect the annual increase in sales price for condominiums in Long Beach.

IT IS RECOMMENDED THAT THE PLANNING COMMISSION:

Recommend that the City Council adopt amendments to Title 20.32 (Subdivisions) and Title 21.63 (Zoning Regulations) related to the establishment of a new condominium conversion fee to be used in part to fund the proposed Housing Trust Fund.

Respectfully submitted,

SUZANNE FRICK,
DIRECTOR OF PLANNING AND BUILDING

By: 
STEVE GERHARDT, AICP
COMMUNITY PLANNER

Approved: 
GREG CARPENTER
PLANNING BUREAU MANAGER

Attachments:

- Proposed Condominium Conversion Fee Ordinance, draft outline
- Nexus Study Memorandum (April 7, 2006)
- Condominium Conversion Fee Charged by Other Jurisdictions (April 12, 2006)
- Housing Trust Fund Press Release (released May 2, 2006)
- Categorical Exemption 06-120

PROPOSED CONDOMINIUM CONVERSION FEE ORDINANCE

(DRAFT)

PURPOSE

To establish a dedicated continuous source of funding for the City's Housing Trust Fund.

GENERAL PARAMETERS

1. The condominium conversion fee shall become effective 60 days after the Mayor's signing of the ordinance.
2. The applicant or successor in interest shall be required to pay \$4,000 per converted unit, prior to the City's approval of the Final Map. The fee shall be adjusted annually based on the percentage increase in the Citywide Condominium Sales Price Index from year to year.
3. The Housing Services Bureau shall collect the condominium conversion fee.
4. Staff shall report the status of the condominium conversion fee annually to the Planning Commission.

APPLICABILITY

The fee shall apply to all residential units being converted from rental to homeownership that have not yet obtained Final Map approval.

EXEMPTIONS:

Condominium conversion projects providing affordable units for sale will be exempt from a portion of the fee dependant on the affordability rate and number of units deed restricted for such purpose as determined by the Housing Services Bureau.

Date: April 7, 2006

To: Ellie Tolentino, Housing Operations Officer
Housing Services Bureau

From: Karen Warner, AICP
Housing Consultant

For: Department of Planning and Building
City Attorney's Office

Subject: Nexus for Condominium Conversion Fee Ordinance

This memo is intended to provide background on the relationship between condominium conversions and impact on the City's lower income renters and supply of affordable rental housing. This relationship, or "nexus", provides the justification necessary for the City to charge a fee for condominium conversions for deposit into the Housing Trust Fund.

Current Housing Needs of Long Beach Renters

With over 100,000 rental units in Long Beach comprising approximately 60% of the housing stock, Long Beach has a very active rental market. However, the increasing gap between renter incomes and market rents has exacerbated issues of housing affordability for the City's renter population. The 2000 Census documents 46% of the City's renters were spending 30% or more of their incomes on housing (State and federal standards for housing "overpayment"). Approximately one-quarter of Long Beach renters experienced severe overpayment, spending more than half of income on shelter. (County-wide, 44% of renter households overpaid, and 22% severely overpaid). This imbalance between renter incomes and market rents has contributed towards increasing levels of household overcrowding (20% of City renter households severely overcrowded¹), resulting in accelerated unit deterioration and neighborhood decline. In addition, renters spending such a high proportion of their incomes on housing are particularly vulnerable to homelessness.

Review of current market rents serves to further highlight the extent of housing affordability mismatch. As of fourth quarter 2005, the average monthly rent in Long Beach was \$1,127 for a one-bedroom unit, \$1,373 for a two-bedroom unit, and \$1,425 for three-bedrooms.² Using the 30% affordability standard, a two person household would need to earn \$47,000 per year to afford the average one-bedroom apartment rent of \$1,127, including \$50 in monthly utilities. This

¹ 2000 Census. Severe overcrowding defined by Census as greater than 1.5 persons per room.

² Casden 2006 Real Estate Economics Forecast, USC Lusk Center for Real Estate.

level of income well exceeds the 2005 Los Angeles-Long Beach MSA very low (\$26,200) and low (\$41,900) income thresholds.

Because Long Beach has a large number of recent immigrants and low paid workers, it is also relevant to evaluate rental affordability for minimum wage workers. At \$6.75 per hour, two minimum wage workers would each need to work approximately 67 hours per week to afford the average \$1,127 one-bedroom apartment rent. Thus, the minimum wage in California is well below that needed to pay average rents in Long Beach, contributing to high levels of renter overpayment and overcrowding.

The USC Lusk Center for Real Estate forecasts that Long Beach apartment rents will increase by more than 6% this year, and that the City's already low 2.8% vacancy rate will further decline. With limited new supply of rental housing and projected losses of existing rental stock resulting from condominium conversions, vacancy rates are expected to shrink and push rents further upward.

Need for additional rental housing

State law requires jurisdictions to provide for their fair share of regional housing needs within their Housing Element. The Southern California Association of Governments (SCAG) determines the projected housing needs for jurisdictions in Southern California, and designates the number of households the City will be expected to accommodate. Housing needs are further broken down by the following four income categories: very low, low, moderate and upper income. Future housing needs reflect the number of new units needed in a jurisdiction (future demand), plus an adequate supply of vacant housing units to assure mobility, and new units to replace losses. These needs were forecast most recently within SCAG's 2000-2005 Regional Housing Needs Assessment (RHNA).³

Long Beach has a regional housing need for an allocation of 1,464 new housing units during the 2000-2005 RHNA planning period, as adopted within the City's Housing Element. According to the City's 2004-2005 Annual Progress Report on implementation of the Housing Element, the City has made the following progress in meeting its RHNA goals:

³ The 2000-2005 SCAG Housing Element planning period has been extended to June 30, 2008 (with no increase to RHNA goals) to correspond with SCAG's Regional Transportation Plan, as allowed per Chapter 696, Statutes of 2004.

**City of Long Beach
2000-2005 Status in Addressing RHNA**

Income Level	RHNA Allocation	Housing Units Permitted FY 2000 – 05	Attainment Percentage
Very Low (0-50% MFI)	411	119*	29%
Low (51-80% MFI)	251	43*	17%
Moderate (81-120% MFI)	296	60*	20%
Upper (above 120% MFI)	506	3,701**	730%
Total	1,464	3,923	268%

Source: Long Beach FY 2005 Housing Element Annual Progress Report, November 17, 2005

* Reflects income restricted housing documented by Long Beach Housing Services Bureau

** Reflects market rate housing production based on building permits issued.

While the City has more than fulfilled its total RHNA goal for the 2000-2005 housing period, it has fallen significantly short in producing housing affordable to very low, low, and moderate income households. This shortfall is reflective of a local housing market that is only producing housing for upper income households, requiring subsidies to bring down the cost of market-rate housing to affordable levels. While the City has committed significant resources and made commendable progress in assisting in the development of affordable housing - in the past year alone three projects totaling 148 units were produced - the need for affordable units well exceeds public subsidy resources.

The prevailing rental rates in most areas of Southern California do not justify a rate of return to build new apartment buildings. Many communities have seen negligible new apartment development in the last 10-20 years. Construction costs simply do not justify the anticipated rental revenue stream in many cases without some form of subsidy.

It is no surprise that renters comprise the majority of Long Beach households earning lower incomes. In fact, according to the City's 2005-2010 Consolidated Plan, 78% of the approximately 72,000 lower income (<80% MFI) households in Long Beach are renters. Therefore, the City's shortfall in producing new housing affordable to lower income groups – as highlighted in its 2004-2005 RHNA Annual Progress Report - has the greatest impact on renter households. Exacerbating this shortfall in rental housing production is the increasing trend towards conversion of existing apartments into condominium ownership.

Impact of Current Condominium Conversion Trends

The market for condominium conversions in Long Beach has increased dramatically over the past several years, with the number of cases brought before the Planning Commission doubling in each of the last four years. The City has allowed condo conversions to continue to provide a lower cost ownership

alternative to single-family homes, consistent with Housing Element goals to increase homeownership.

Similarly, greater Los Angeles was the 12th strongest market in the nation for conversion sales in 2005.⁴ As long as single-family home prices continue to escalate and interest rates remain relatively low, the market for condominium conversions is predicted to remain strong.

**City of Long Beach
Condominium Conversion Cases: 2000-2005**

	2000	2001	2002	2003	2004	2005
Number of Cases	2	5	2	4	13	30
Number of Units	22	60	4	18	426*	262

*Includes 142 units at 250 Pacific Avenue

The City's Condominium Conversion Ordinance offers existing apartment tenants an exclusive right to contract for the purchase of their unit ("right of first refusal"). Purchase terms and conditions are required to be the same or more favorable than those offered to the general public. However, to what extent are existing tenants able to afford to purchase the converted units?

The table on the following page presents median sales price data for all new and existing condominiums sold in Long Beach during 2005. Over 1,300 condominiums were sold for an overall median sales price of \$343,000,⁵ an increase of 30% from the prior year. While converted condominium units are typically smaller and provide less parking than newly built condominiums, developers generally put a high level of improvement into the property to maximize sales prices. Recently converted units can be assumed, on average, to command the Citywide median condominium sales price, which encompasses a range of older units, converted apartment units, and newly constructed units.

Assuming a 5% downpayment, 6.25% fixed rate interest, and 30-year term, the monthly mortgage payment necessary to purchase the median priced (\$343,000) condominium in Long Beach is \$2,000, or approximately \$2,400 once taxes and insurance are included. A household would need to earn at least \$86,000 per year to support this mortgage, assuming they pay no greater than 33% of household income for housing. Based on data from the 2000 Census, only 7% of Long Beach's 96,000 renter households earned this level of income. (In Los Angeles County, only 12% of households can afford the median priced home,

⁴ The Forbes/Slatin Real Estate Report, "Preaching to the Converters," 11/30/05.

⁵ Los Angeles County Home Sales Activity for 2005, as compiled by DataQuick and calculated based on a weighted average of the medians listed for 11 Long Beach City zip codes.

referred to as the "affordability index.")⁶ This data would indicate that very few existing tenants in Long Beach are able to purchase their converted unit without some form of subsidy.

**City of Long Beach
Median Condominium Sales Prices: 2005**

Long Beach Zip Code	Number of Condominiums Sold	Median Condominium Sales Price	% Change in Price from 2004
90802	429	\$360,000	26.3%
90803	169	\$450,000	18.4%
90804	144	\$321,000	28.9%
90805	73	\$200,000	40.8%
90806	13	\$324,000	15.7%
90807	146	\$302,000	17.7%
90808	9	\$369,000	10.1%
90810	41	\$195,000	47.7%
90813	68	\$290,000	49.5%
90814	138	\$365,000	25.9%
90815	73	\$362,000	11.0%
Citywide Total	1,303	\$343,000	30.1%

Source: www.DQNews.com, Los Angeles Times Zip Code Chart

Impacts of Tenant Displacement

Given the disparity in tenant incomes and the market price of converted apartments, the majority of tenants in converted properties in Long Beach will be faced with displacement. The City's Condominium Conversion Ordinance establishes the following tenant noticing and relocation requirements to help mitigate the hardship caused by displacement:

- Written notification at least 60 days prior to filing of tentative map, and at least 10 days prior to the public hearing before the Planning Commission
- Written notification within 10 days of map approval, including information on tenant's rights and benefits, and statement that no evictions will occur as a result of the conversion for at least 180 days
- Written notification at least 10 days prior to consideration of final map before City Council (or director of Public Works, as applicable), including estimate of time prior to eviction

⁶ California Association of Realtors, December 2005.

- Where City determines existing rents are at affordable levels, special relocation benefits (in accordance with Chapter 21.60 of the Zoning Ordinance) provided by the developer to low and very low income households. The current relocation benefit is approximately \$3,600.
- Very low and low income tenants with a handicapped member entitled to additional relocation benefits for replacement of any structural modifications tenant previously paid for in vacated unit

Monetary relocation assistance provided to very low and low income tenants is intended to be reflective of the actual costs likely to be incurred by displaced households, including first and last month's rent, security deposits, moving and storage expenses, and utility deposits. However, the difficulty in finding affordable replacement housing in Long Beach where rental vacancies are extremely limited can be daunting. The severe shortage of affordable rental housing will subject many of these displaced households to housing overpayment and/or overcrowding, and even risk of homelessness.

Numerous research studies show that condominium conversions lead to the displacement of a community's vulnerable populations, such as single-parent households. Furthermore, tenants displaced from their homes through condominium conversions are unlikely to be relocated into adequate and affordable housing. This is particularly true for elderly, non-white, and lower income tenants.⁷

Conclusion

The growing imbalance between tenant incomes and market rents in Long Beach has created a major housing affordability problem for tenants, contributing to increasing rates of household overcrowding and neighborhood deterioration. In addition, despite the commitment of considerable public resources, the City faces a significant shortage in the production of very low, low and moderate income units necessary to address the regional housing needs adopted within the Housing Element.

⁷ Bhatia, R, Housing Needs, Residential Displacement, and Comprehensive Human and Environmental Impact Assessment: A Summary of Research on the Human Health and Social Effects of Residential Displacement and a Review of Population and Housing Impacts in CEQA Policy and Practice (Technical Report, 3/1/04 for the City of County of San Francisco, Dept. of Public Health); Hartman, C. & Robinson, D, "Evictions: The Hidden Housing Problem," Housing Policy Debate, Vol. 14, Issue 4, Fannie Mae Foundation 2003; U.S. Dept of Housing and Urban Development, The Conversion of Rental Housing to Condominiums and Cooperatives: A National Study of Scope, Causes, and Impacts (2001 reprinted 1980 ed.).

Market trends supporting conversion of apartments to condominium ownership are causing tenant displacement and permanent loss of the rental housing stock, further exacerbating the already critical housing needs of Long Beach's lower income tenants. This relationship between condominium conversions and the impact on both tenants and the stock of affordable rental housing, serves as justification for charging a condominium conversion fee for deposit into the City's Housing Trust Fund.

The primary purpose of creating the Housing Trust Fund is to augment the City's existing affordable housing resources. As drafted, the HTF would earmark 80% of its resources to above moderate-income households (\$82,650 for a four-person household in 2005), and 20% for extremely low-income households (\$19,650 for a four-person household in 2005). Affordability benefits would continue for 55 years for rental units, and 30 years for owner-occupied units. The City Council could change these provisions during deliberations to create the HTF. Funding sources for the HTF beyond potential condominium conversion fees include transient occupancy taxes from the General Fund and developer fees from Douglas Park and potentially other large-scale development projects.



Date: April 12, 2006

To: *for* Gerald Miller, City Manager *R.A.*

From: Patrick West, Director of Community Development *PWest*

For: Bonnie Lowenthal, Councilmember, 1st District

Subject: Condominium Conversion Fee Charged by Other Jurisdictions

This memo is in response to your request for information regarding the practices of other cities in terms of condominium conversion fees.

Below is the result of our research.

- County of Los Angeles – charges a fee equal to 1% of the sales price of the converted unit.
- Roseville, CA – charges a flat fee of \$5,000 per unit.
- Montgomery County, Maryland - charges a fee equal to 4% of the sales price of the converted unit.
- City of Berkeley, CA – charges 12.5% of the difference between the price of a unit, if sold as an apartment (e.g., \$150,000) and the price of the converted unit when sold as a condo (e.g., \$450,000). Using the numbers in this example, the difference of \$300,000, multiplied by 12.5%, requires a fee of \$37,500. Note that the City limits conversions to 100 units per year.
- City of San Diego, CA – does not charge a fee per se; however, all condominium conversion projects of two or more units that contain units sold to households earning 150% of area median income (AMI) or more, are subject to the City's inclusionary housing ordinance which requires that at least 10% of the units be set aside for households earning no more than 100% AMI or pay in-lieu fees, which are currently \$1.25 per sq. ft. for projects with less than ten units, or \$2.50 per sq. ft. for projects with ten units or more.

In addition to the above, on February 16, 2006, the Department of Planning and Building submitted a report to the Planning Commission regarding condominium conversions. Below is an excerpt from the report that discusses condominium conversions in other jurisdictions.

"A survey of other adjacent communities indicates that Long Beach is one of

Bonnie Lowenthal, Councilmember, 1st District

April 12, 2006

Page 2

the few communities with an active program for condominium conversions. This is a function of the higher percentage of available apartment buildings in Long Beach that meet the City's straightforward existing regulations as discussed above. Other cities allow conversions, and either limit the number or have more stringent requirements that limit the potential of converting existing buildings. The survey included Pasadena, Signal Hill, Anaheim, San Jose, San Francisco, Redondo Beach, Oakland, Lakewood, Seal Beach and Carson, among others.

Adjacent communities have sought to limit or prohibit condominium conversions. The primary reason is that their rental pool is relatively small and the vacancy rate remains low. In Redondo Beach, for example, condominium conversions are allowed, but each year the City conducts a survey to see if the vacancy rate for rental units is above six percent (6%). For the past 18 years, the rate has been in the range of 3 percent (3%), and no condominium conversions have been allowed.

In San Francisco, the City/County issues a limited number of condominium conversion permits by lottery. Because the demand greatly exceeds supply, mortgage lenders and developers in the area have created new financing mechanisms similar to cooperatives to allow individual ownership of multi-family buildings. Under this scenario, the City is not involved in the transfer of ownership and there is no opportunity to determine if the buildings meet current building safety standards."

The full report to the Planning Commission is attached for your reference.

Please call me at x86570 or Ellie Tolentino at x86926 if you have any questions or need additional information.

PW:EMT

✓ cc: Suzanne Frick, Director of Planning and Building
Attachment

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**Press Release****City of Long Beach Public Information Office**
333 W. Ocean Blvd, Long Beach, CA 90802

5/2/2006

FOR IMMEDIATE RELEASE

PRESS RELEASE #CM: 050206

Subject : Agenda Item #27 - Housing Trust Fund Fact Sheet**Contact :** Elizabeth Stochl, Manager, Housing Services Bureau 570.6367

Housing affordability in the City of Long Beach and elsewhere is declining, making it harder and harder for people to buy homes. To increase first-time homebuyers assistance, the City Council on October 11, 2005, asked the City Attorney to prepare an ordinance establishing a Housing Trust Fund (HTF). The City of Long Beach needs more affordable housing, and the HTF would be an effective tool toward achieving that goal.

On May 2, the City Council is scheduled to have the first reading of the Housing Trust Fund Ordinance. A final reading and approval will take place at a subsequent City Council meeting.

Here are some important details:

- The HTF would augment existing affordable housing resources.
- Establishing a HTF would likely help the City of Long Beach receive any future State housing bond funds.
- The HTF would help increase neighborhood stability and vitality.
- 80 percent of HTF funds would be earmarked for above moderate-income households. Based on 2005 income levels, that would be \$82,650 for a four-person household.
- 20 percent of HTF funds would be earmarked for extremely low-income residents. Based on 2005 income levels, that would be \$19,650 for a four-person household.
- Affordability benefits would continue for 55 years with rental units and 30 years for owned units, and would not expire with sale of property.
- The Long Beach Housing Development Company will administer the HTF and will provide the City Council with semi-annual reports.
- HTF's initial funding would come from General Fund transient occupancy taxes, \$500,000 per year, and from Boeing Realty's contribution for Douglas Park development, \$3,000,000 over five years.
- Other funding sources, such as condominium conversion fees, contributions from major employers, charitable organizations, foundations, will be explored.

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CITY OF LONG BEACH

DEPARTMENT OF PLANNING & BUILDING

333 WEST OCEAN BLVD., FIFTH FLOOR • LONG BEACH, CALIFORNIA 90802

NOTICE OF EXEMPTION

CATEGORICAL EXEMPTION CE- 06-120

TO: OFFICE OF PLANNING & RESEARCH
1400 TENTH STREET, ROOM 121
SACRAMENTO, CA 95814

FROM: DEPARTMENT OF PLANNING & BUILDING
333 W. OCEAN BLVD., 5TH FLOOR
LONG BEACH, CA 90802

L.A. COUNTY CLERK
ENVIRONMENTAL FILLINGS
12400 E. IMPERIAL HWY. 2ND FLOOR, RM. 2001
NORWALK, CA 90650

PROJECT TITLE: Zoning Text Amendment

PROJECT LOCATION - SPECIFIC: Citywide

PROJECT CITY: Long Beach

PROJECT LOCATION - COUNTY: LOS ANGELES

ACTIVITY DESCRIPTION: Zoning Amendment to establish a new fee imposed on condominium conversions as a component of the Housing Trust Fund (HTF).

Name of Public Agency Approving Project: City of Long Beach

Name of Person or Agency Carrying Out Project: Jeff Winklepleck

(Printed Name)

333 W. Ocean Blvd., Long Beach, CA 90802

(Mailing Address)

(562) 570-6607

(Telephone)

(Signature)

(To Be Completed By City Staff Only)

Check One:

LONG BEACH CITY PLANNING COMMISSION

DEPARTMENT OF PLANNING AND BUILDING

The above project had been found to be exempt from CEQA in accordance with the State Guidelines Section 15305 (CLASS 5) Minor Alterations in Land Use Limitations

Statement of Support for this finding: Amendment will support Housing needs in the City.

Lead Agency Contact Person: Angela Reynolds

Area Code/Telephone: 562-570-6357

Signature: Jill Griffiths Date: 6-7-06 Title: Planner IV

Signed by Lead Agency

Signed by Applicant

(Jill Griffiths for Angela Reynolds)

had left the meeting, and Commissioners Winn and Rouse were absent.

7. Case No. 0601-11, Amendment to Zoning Ordinance and Subdivision Regulations, CE 06-120

Applicant: City of Long Beach c/o Suzanne Frick
Subject Site: Citywide
Description: Proposed amendment to the Zoning Ordinance and Subdivision Regulations to establish a fee related to Condominium Conversions to support the Housing Trust Fund.

Steve Gerhardt presented the staff report requesting review and a recommendation to the City Council that a new fee be established for condominium conversions.

In response to queries from Chairman Jenkins as to the reasoning behind the flat fee of \$4000, Ms. Frick explained that it was based on the average sales price of \$400,000. Mr. Jenkins suggested it be tied to a percentage of the sales price to better track overall housing prices, and Ms. Frick replied that staff believed a flat fee would cost less administratively and help fund the Housing Trust Fund sooner.

Katie Della Donna, 3540 Lemon, expressed opposition to the amendment saying it would hurt small developers who wouldn't be able to afford the additional cost and would be forced to move their operations elsewhere. Ms. Della Donna noted that this would represent a 200% increase in fees and be difficult to administer and enforce.

Adrienne Bridges, 100 Ocean #1200, also expressed disapproval of the proposed fee, agreeing it would hurt the smaller developer immensely, and if necessary should only be imposed on new applications, not existing ones.

Tom Wurzl, 5703 Seaside Loft, agreed that the fees would halt much development in Long Beach and end the user-friendly aspect of working with the City.

Bob Hildebrand, 555 Main Avenue, representing the Long Beach Interfaith Community Organization, expressed support for the amendment, since the Housing Trust Fund would help increase area workforce housing.

Karen Hudson, 1650 Ximeno #120, Coldwell Banker, expressed opposition to the amendment agreeing it would hurt her smaller

clients who are upgrading eyesores in the City, eating prohibitively into the profits of many developers, potentially flattening sales prices and compromising building quality. Ms. Hudson added that many sales prices were nowhere near \$400,000, and that setting a flat fee would discourage investment in area properties.

Valerie Clark, P. O. Box 886, Silverado, CA 92676, stated that she is a small-scale developer, objected to the proposed fee, saying that in the end it would discourage development of affordable housing.

Curtis Gay, 301 Magnolia, said he supported the fee since he was a disabled vet unable to find affordable housing and this might help provide the Housing Trust Fund with continued resources.

Suzanne Brown, 2750 E. Spring Street, said she felt the fee would help offset the ongoing loss of affordable housing stock. Ms. Brown agreed that the fee should be percentage-based, which she said would be consistent with other jurisdictions and since \$4000 per application would be insufficient, and that ten percent of all new units should be set aside for low-income residents.

Ryan Baumgarner, 141 Corona Avenue, said he thought developers would pass the fee on to purchasers, making housing in Long Beach even less affordable.

Sandra Kroll, 5280 Atherton St. #138, said she supported the idea to assist low-income residents and replace housing stock.

Andrew Kincaid, 110 W. Ocean Blvd. #350, Associate Director, Long Beach Affordable Housing Coalition, stated that he believed there should be a more equitable way to garner monies for the Housing Trust Fund.

Maria Giese, 1901 E. Ocean Blvd., #302, Chair, Mayor's Committee on Homelessness, said she felt everyone had a moral obligation to help low-income renters.

Adil Karamally, 1440 S. State College Blvd., Anaheim, Meridian Properties LLC, expressed strong opposition to the amendment, noting that developers were already working with the City to improve and upgrade housing stock, both for low-income renters and for the workforce. Mr. Karamally added that he felt the fee would hurt the revitalization process and inhibit developers from providing cost-efficient housing.

Chairman Jenkins stated that he did not support the retroactive fee imposition, and said there would have to be more discussion about how to assist in building up low-income housing stock and funding without penalizing developers.

Commissioner Stuhlberg said he did not want to see a retroactive fee, and that he felt more discussion was needed on the item.

Commissioner Sramek agreed that the fee should not be retroactive, and that research was needed to determine the profits of condominium conversion. Mr. Sramek expressed concern that a flat fee would discourage developers, and he encouraged everyone to explore other avenues of funding the Housing Trust Fund.

Commissioner Stuhlberg moved to continue the item to the July 20, 2006 meeting to allow a public study session to be held on the issue. Commissioner Sramek seconded the motion, which passed 4-0. Commissioner Greenberg had left the meeting and Commissioners Winn and Rouse were absent.

8. Case No. 0601-10, Amendment to Zoning Ordinance, CE 06-115

Applicant: City of Long Beach c/o Suzanne Frick
Director of Planning and Building
Subject Site: Citywide
Description: Proposed amendments to the Zoning Ordinance regarding large retail establishments.

Scott Mangum presented the staff report recommending adoption of the amendments to prohibit "super stores" and ensure that large-format retail development promotes the efficient use of land and preserves and enhances the urban fabric through more urban site planning and building design process.

Doug Otto, 111 W. Ocean, Suite 1300, representative of Home Depot, stated that he felt the amendments were problematic because they could put projects currently under long-term development in violation of standards. Mr. Otto added that although his client was working with the City to meet revised standards, using the Site Plan Review process might be a more focused way to work with so-called 'big box' retailers.

Ray Polk, Councilmember representative, stated that their priority was to protect the viability of existing commercial areas and maintain competition by preventing a single retailer

Description: Approval of Tentative Tract Map No. 066419 to convert an existing eight unit apartment building into condominiums.

Approved Tentative Tract Map No. 066419 subject to conditions.

C O N T I N U E D I T E M S

The following item was heard out of order:

3. Case No. 0601-11, Amendment to Zoning Ordinance and Subdivision Regulations, CE 06-120

Applicant: City of Long Beach
Suzanne Frick, Dir. Planning & Building
Subject Site: Citywide
Description: Proposed amendment to the Zoning Ordinance and Subdivision Regulations to establish a fee related to Condominium Conversions to support the Housing Trust Fund.

Angela Reynolds summarized the study session and presented the staff report requesting Commission review and a recommendation to establish a new fee on condominium conversions.

Chris Christensen, 4817 Palm Avenue, Suite I, La Mesa, CA 91944, developer, said he felt the fee was excessive and would discourage further redevelopment of existing, aging housing stock, which when converted, gave the City more affordable housing in the long-term, along with neighborhood stabilization and an increased tax base.

Michael Dixon, 224 Natrick Avenue #1, spoke against the fee, saying he thought it would decrease the affordable housing stock.

Caitlin Lynch, 3345 Wilshire Blvd., Suite 1005, Los Angeles 90010, representing the Southern California Association of Non-Profit Housing, expressed support for the fee to preserve affordable housing and secure funding for more.

Todd Hawke, 1300 E. 1st Street, developer, spoke against the fee, especially if retroactive, saying he felt it was burdensome to smaller developers.

Sandra Kroll, 5280 Atherton Street #138, expressed concern that the loss of rental units would present added hardships to low-

income residents that might be offset in part by a viable, healthy housing trust fund fed by the conversion fee.

Adil Kardmalli, 23 Castille, Irvine, independent developer, said he was working in Long Beach to upgrade the City and was opposed to any fee imposition since he felt it would lead to slowing conversions and therefore increased home costs.

Ray Clark, 2015 E. Broadway, said he was against the fee because condo conversions upgraded existing properties and neighborhoods, creating new home ownership opportunities, and this would stop if the developers were unable to pass on the additional costs.

Bob Hildebrand, 555 Maine Avenue #306, expressed support for the condo conversion fee, saying that the Housing Trust Fund would help create more affordable housing, and he suggested that the Fund be boosted with contributions from the RDA and perhaps public bonds.

Elina Green, 2651 Elm Avenue, Suite 100, also expressed support for a fee that would reflect increasing housing costs, saying she thought ongoing condo conversions were having an adverse, gentrification effect on the City.

Kevin Cwayna, 7120 E. Mezzanine Way, expressed concern that the fee might slow down conversions and eventually the local economy if the costs could not be passed on. Dr. Cwayna suggested that overall condo conversions be limited to preserve low- and moderate-income housing stock.

Heather Bradley, 8009 E. Damar Street, real estate professional, said she felt the condo market was saturated; prices were dropping, and that relocation fees were already hurting small developers.

Laura Rodriguez, 42 W. 49th Street, low-income resident, expressed support for the fee.

Karen Hudson, 1650 Ximeno Avenue #120, Coldwell Banker representative, expressed opposition to the fee, saying it would force the smaller developers to go elsewhere.

David Lines, 30902 Clubhouse Drive, Laguna Niguel, apartment building owner, said he was not opposed to paying his fair share of the Housing Trust Fund, but he wanted to see the fee spread out among all involved in the conversion process. Mr. Lines

also suggested adjusting the conversion rules to allow low-income tenants to purchase their units.

Maria Deeseey, 1901 E. Ocean, supported the fee, given the waiting list of low-income families for Section 8 housing.

Tom Wertzell, 244 Redondo, small developer, opposed the fee saying that it would inhibit business especially if retroactive, and impart a negative message to smaller developers who are instrumental in upgrading neighborhoods with their conversions.

Laura Sanchez, 3759 Orange Avenue, said she supported the idea of the fee to fund the Housing Trust Fund, and felt the cost could easily be passed on to buyers.

Bonnie Lowenthal, Vice Mayor, City of Long Beach, expressed support for a percentage-based condo conversion fee, saying that this would capture more from upscale developments. Ms. Lowenthal added that most other large cities already had such a fee structure in place, which she commented was an appropriate mechanism to fund the HTF, which would in the end create more home ownership opportunities at all income levels.

Katie Della Donna, no address given, developer, expressed opposition to the fee because she felt it would negatively impact the small developer. Ms. Della Donna said that increased code enforcement action would create more funds for the City.

Commissioner Winn stated that he could not support the amendment because he did not feel that the amount of money generated by this fee would be sufficient to even begin to successfully address affordable housing and education needs.

Commissioner Gentile agreed that imposition of this fee on a relatively small number of units would be an insufficient solution, whereas a small annual tax increase might generate much more.

Deputy City Attorney Mais pointed out that it would be problematic to attach any fee to property taxes, which would require a vote by the general population.

Beth Stochl, Housing Services Manager, noted that affordable housing has a deed restriction for 30-year resident with a maximum income 150% of the county median since HTF assists up to that.

Commissioner Stuhlberg said he felt that even a small fee would help bolster the Housing Trust Fund and be a move in the right direction.

Commissioner Sramek pointed out that condo conversion policies were reexamined yearly, and he felt that these conversions used a very low percentage of the overall housing stock. Mr. Sramek suggested that the Housing Trust Fun focus on turning renters into homeowners via special exemptions.

A discussion followed which resulted in the crafting of the final motion. Commissioner Greenberg commented that the cost should not be front-loaded onto the developers, which could lead to the loss of construction loans, and that the fee would be less consequential if it was more equitably applied, but at this point, there seemed to be no alternative. Mr. Greenberg added that although he preferred to wait until all the issues were clarified, if this fee turned out to be problematic, the Commission could deal with it at a later date.

Commissioner Stuhlberg then moved, seconded by Commissioner Sramek, to recommend that the City Council adopt the amendment to the Zoning Ordinance with the following revisions:

- **That the condominium conversion fee be 1.5 percent of the sales price, to be applied to completed applications only as of July 20, 2006;**
- **That the fee be collected through escrow upon the sale of each individual unit, but not later than 18 months after final map approval;**
- **That the fee be provided exclusively to the Housing Trust Fund with exemptions listed in the proposed ordinance**
- **That condominium conversion projects providing state-defined affordable housing units for sale will be exempt from a portion of the fees, dependent on the affordability rate and number of units deed-restricted for such purpose as determined by the Housing Services Bureau.**

The motion passed 5-1, with Commissioner Winn dissenting. Commissioners Rouse was absent.

2. **Case No. 0605-35, Site Plan Review, Standards Variance, Tentative Map, General Plan Conformity 6-15-06, Mitigated Negative Declaration 08-05**



CITY OF LONG BEACH

Attachment #3

DEPARTMENT OF PLANNING & BUILDING

333 WEST OCEAN BOULEVARD • LONG BEACH, CALIFORNIA 90802 • (562) 570-6194 FAX (562)570-6068

ZONING DIVISION

June 15, 2006

CHAIRMAN AND PLANNING COMMISSIONERS
City of Long Beach
California

SUBJECT: Proposed amendment to the Zoning Ordinance Chapter 21.63,
regarding incentives for affordable housing.

LOCATION: Citywide

APPLICANT: City of Long Beach
c/o Suzanne Frick, Director of Planning and Building
333 W. Ocean Boulevard
Long Beach, CA 90802

RECOMMENDATION

Planning Commission recommend that the City Council adopt the proposed amendment to the Zoning Ordinance.

BACKGROUND

The Department of Planning and Building is proposing an amendment to Section 21.63 of the Zoning Ordinance, Incentives for Affordable Housing, to update the qualifications for a density bonus and the density bonus limitations. This is in response to a change in Section 65915 et seq. of the California Government Code that occurred in January 2005. This section of the state law also regulates the granting of density bonuses. In the case of incentives for affordable housing, State code preempts City code. Therefore, in order to avoid amending the City's Zoning Ordinance every time that the State amends its regulations, the proposed amendment ties the City's incentives for affordable housing to the State Government Code.

State laws allow cities to develop its own list of development waivers in order to accommodate the increased density. The city currently has a list of eleven (11) development standards waivers, which will not be modified with this amendment. State law allows developers to exceed the maximum dwelling units permitted by the local zoning provided a certain percentage of units are price restricted. The table below shows the discrepancies between the current City ordinance and state law.

CHAIRMAN AND PLANNING COMMISSIONERS

CASE NO. 0601-14

June 15, 2006

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Current City and State Code Requirements for Density Bonus Qualification

	Low Income Requirement	Very Low Income Requirement	Moderate Income Requirement
City code	20% low income affordable units	10% very low income affordable	Not included
State Code	10% low income affordable units	5% very low income affordable	Included

The table below illustrates the differences between the density bonus allowed per City code and per State code in a zone with the maximum density of 12 units per acre.

Current City and State Density Bonus Allowances

	Percentage Density Bonus Permitted	Maximum density in applicable zone	Maximum Additional Units Allowed	Total units allowed with density bonus
Existing City Code	25%	12 units/acre	3 units/acre	15 units/acre total
State code	35%	12 units/acre	4 units/acre	16 units/acre total

The proposed amendment to Chapter 21.63 of the Zoning Ordinance to provide incentives for affordable housing is attached for your review.

PUBLIC HEARING NOTICE

In accordance with the Noticing Requirements of the Zoning Ordinance, a legal notice appeared in the Press Telegram Newspaper on May 30, 2006. Notices were also sent to each of the nine City Council representatives as well as all public libraries. In addition, notices were posted at City Hall.

ENVIRONMENTAL REVIEW

The project has been deemed categorically exempt from further environmental review pursuant to the Guidelines of the California Environmental Quality Act. Categorical Exemption (CE 06-116)

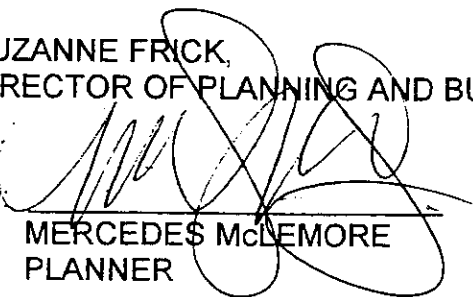
IT IS RECOMMENDED THAT THE PLANNING COMMISSION

Recommend that the City Council adopt the amendment to the Zoning Ordinance

Respectfully submitted,

SUZANNE FRICK,
DIRECTOR OF PLANNING AND BUILDING

By:


MERCEDES McDEMORE
PLANNER

Approved:


CAROLYNE BIHN
ZONING OFFICER

CHAIRMAN AND PLANNING COMMISSIONERS

CASE NO. 0601-14

June 15, 2006

Page 3

Attachments

1. Proposed Amendment
2. Categorical Exemption

Chapter 21.63

INCENTIVES FOR AFFORDABLE HOUSING

21.63.010 Purposes.

This Chapter establishes a system of incentives to encourage developers to provide housing for very low, low income, **moderate income**, and senior households, pursuant to Section 65915 et seq. of the California Government Code. The incentive consists of a density bonus. (Ord. C-6822 § 20 (part), 1990; Ord. C-6533 § 1 (part), 1988).

21.63.020 Qualification.

In order to qualify for a density bonus, a project must be low, very low income, **moderate income (condominiums) as defined by the State of California**, or senior citizen housing project (as defined in Sections 51.3 and 51.2 of the California Civil Code)

21.63.030 Limitation.

Density bonuses shall not exceed **the percentage as permitted by the State of California of maximum density allowed in the applicable zoning district.**

21.63.040 Procedures.

The following procedural requirements shall be observed in reviewing and acting upon applications for density bonuses made pursuant to this Chapter:

A. Application. An application for a density bonus shall be made in conjunction with other required applications for residential developments and shall be subject to the same procedures required by this title and other applicable sections of the Municipal Code.

21.63.050 Development standards.

All residential projects granted a density bonus shall conform to the development standards of the applicable zoning district, except those standards regulating density or as waived according to Section 21.63.080. (Ord. C-6822 § 20 (part), 1990; Ord. C-6533 § 1 (part), 1988).

21.63.060 Maintenance of units.

In exchange for the density bonus, the developer shall guarantee the units will be maintained for very low, low income, **moderate income**, and senior households for thirty years. The guarantee shall be in the form of a deed restriction or other legally binding and enforceable document acceptable to the planning commission. The document shall be recorded with the Los Angeles County Recorder prior to the issuance of a building permit. The applicant shall comply with the provisions of Chapter 21.60 for the maintenance of the units according to housing authority procedures. (Ord. C-6822 § 20 (part), 1990; Ord. C-6533 § 1 (part), 1988).

21.63.070 Additional incentives.

In addition to the density bonus, the low income, very low income, **moderate income**, and senior units shall be exempt from the parks and recreation and transportation developer fees, if the developer is in compliance with the applicable exemption provisions of Sections 18.17.130, 18.18.120 and 18.18.140 of the Long Beach Municipal Code as they now exist or may later be amended. (Ord. C-7247 § 28, 1994; Ord. C-6822 § 20 (part), 1990).

21.63.080 Waiver of development standards.

A. **Criteria for Waiver.** If the applicant can demonstrate that the increased density cannot physically be accommodated on the site, then the following development standards shall be waived during site plan review to accommodate the increased density. The waiver in the standards shall follow the priority order hereby established and the applicant shall demonstrate that the increased density cannot be accommodated with each sequential waiver before the waiver of the next standard is allowed. Only one standard shall be waived unless it is shown that each individual standard waiver will not physically accommodate the proposed density. A complete site plan and floor plan shall be provided to demonstrate the physical noncompliance.

B. Priority order for waiver:

1. Percentage compact parking;
2. Tandem parking design limitations;
3. Privacy standards;
4. Private open space;
5. Common open space;
6. Height;
7. Distance between buildings;
8. Side yard setbacks;
9. Rear yard setbacks;
10. Number of parking spaces (but not less than one space per unit); and
11. Front setbacks. (Ord. C-6822 § 20 (part), 1990).

21.63.090 Additional financial incentives.

If the developer believes that with the density bonus and the additional incentives, the provision of the low income, very low income, **moderate income** or senior citizen housing units are not financially feasible, then the developer shall submit a project pro forma demonstrating the deficiency. Such pro forma shall include the costs of complying with each of the above listed standards. These standards shall then be sequentially waived until financial feasibility is achieved. (Ord. C-6822 § 20 (part), 1990).



CITY OF LONG BEACH

DEPARTMENT OF PLANNING & BUILDING

333 WEST OCEAN BLVD., FIFTH FLOOR • LONG BEACH, CALIFORNIA 90802

NOTICE OF EXEMPTION

CATEGORICAL EXEMPTION CE- 06-116

TO: OFFICE OF PLANNING & RESEARCH
1400 TENTH STREET, ROOM 121
SACRAMENTO, CA 95814

FROM: DEPARTMENT OF PLANNING & BUILDING
333 W. OCEAN BLVD., 5TH FLOOR
LONG BEACH, CA 90802

L.A. COUNTY CLERK
ENVIRONMENTAL FILLINGS
12400 E. IMPERIAL HWY. 2ND FLOOR, RM. 2001
NORWALK, CA 90650

PROJECT TITLE: Zoning Text Amendment

PROJECT LOCATION - SPECIFIC: Citywide

PROJECT CITY: Long Beach

PROJECT LOCATION - COUNTY: LOS ANGELES

ACTIVITY DESCRIPTION: Zoning Amendment to amend the City's density bonus standards for residential projects to conform with the State of California guidelines.

Name of Public Agency Approving Project: City of Long Beach

Name of Person or Agency Carrying Out Project: Jeff Winklepleck

(Printed Name)

333 W. Ocean Blvd., Long Beach, CA 90802

(Mailing Address)

(562) 570-6607

(Telephone)

(Signature)

(To Be Completed By City Staff Only)

Check One:

LONG BEACH CITY PLANNING COMMISSION

DEPARTMENT OF PLANNING AND BUILDING

The above project had been found to be exempt from CEQA in accordance with the State Guidelines Section

15.305 (CLASS 5) Minor Alterations in Land Use Limitations

Statement of Support for this finding: Amendment will increase consistency with State guidelines.

Lead Agency

Contact Person: Angela Reynolds

Area Code/Telephone: 562-570-6357

Signature: Jill Griffiths

Date: 6-7-06

Title: Planner IV

Signed by Lead Agency

Signed by Applicant

(Jill Griffiths for Angela Reynolds)

10. Case No. 0601-13, Amendment to Zoning Ordinance, CE 06-116

Applicant: City of Long Beach c/o Suzanne Frick
Director of Planning and Building
Subject Site: Citywide
Description: Proposed amendment to the Zoning Ordinance
Chapter 21.63, regarding incentives for affordable housing.

Mercedes McLemore presented the staff report recommending adoption of the amendment to update the qualifications for a density bonus and the density bonus limitations.

Commissioner Gentile moved to recommend that the City Council adopt the amendment to the Zoning Ordinance. Commissioner Sramek seconded the motion, which passed 4-0. Commissioner Greenberg had left the meeting, and Commissioners Winn and Rouse were absent.

M A T T E R S F R O M T H E A U D I E N C E

There were no matters from the audience.

**M A T T E R S F R O M T H E D E P A R T M E N T O F
P L A N N I N G A N D B U I L D I N G**

There were no matters from the Department of Planning and Building.

**M A T T E R S F R O M T H E P L A N N I N G
C O M M I S S I O N**

There were no matters from the Planning Commission.

A D J O U R N

The meeting adjourned at 4:44pm.

Respectfully submitted,

Marcia Gold
Minutes Clerk



CITY OF LONG

Attachment #4

DEPARTMENT OF PLANNING & _____

333 WEST OCEAN BOULEVARD • LONG BEACH, CALIFORNIA 90802 • (562) 570-6194 FAX (562)570-6068

ZONING DIVISION

April 6, 2006

CHAIRMAN AND PLANNING COMMISSIONERS
City of Long Beach
California

SUBJECT: Proposed Amendment to the Zoning Ordinance regarding home occupation uses and reclassifying painting contractors from a prohibited use to a permitted use.

LOCATION: Citywide

APPLICANT: City of Long Beach
c/o James Goodin, Business Services Officer
333 W. Ocean Boulevard
Long Beach, CA 90802

RECOMMENDATION

Planning Commission recommend that the City Council adopt the amendment to the Zoning Ordinance.

BACKGROUND

The Department of Planning and Building received a request from the Department of Financial Management to modify Table 51-2 of Section 21.51.235 of the Zoning Ordinance to allow painting contractors as home occupation uses. Currently, only masonry contractors, plumbing contractors and painting contractors are prohibited from operating a business from their home.

In the past, painting contractors typically used oil-based paints that, in turn, required the use of flammable and dangerous solvents as part of their business. Due to the volatility of these supplies and the potential threat to residential areas, painting contractors were prohibited from operating a business out of their home. The industry has moved away from oil-based paints and now primarily uses water-based paints that do not require the same use of flammable and dangerous solvents. The Building Department and Fire Department have reviewed and concur with this information and the proposed request.

Allowing painting contractors as home-based businesses will result in safer operations as well as provide additional revenue for the City. As part of the application process, the painting contractor will be given a copy and is required to sign the standard rules of operation for home occupations (see attached). Prior to the issuance of a business license, each business will have a premises inspection to ensure that it is operating safely and within the rules. Registering painting contractors will also allow the City to educate and regulate proper disposal of painting materials.

Information provided to the City by the State of California Franchise Tax Board shows that there were at least 112 painting contractors that filed a state income tax return from residential addresses in Long Beach. These businesses represent approximately \$20,000 in annual business license tax for deposit in the City's general fund. Granting home occupation permits to painting contractors will help to ensure that all businesses are taxed consistently and fairly and do not place an undue burden on those businesses that have a business license.

The proposed amendment to Table 51-2 of Section 21.51.235 of the Zoning Ordinance to reclassify painting contractors from a prohibited use to a permitted use is attached for your review.

PUBLIC HEARING NOTICE

In accordance with the Noticing Requirements of the Zoning Ordinance, a legal notice appeared in the Press Telegram Newspaper on March 23, 2006. Notices were also sent to each of the nine City Council representatives as well as all public libraries. In addition, notices were posted at City Hall.

ENVIRONMENTAL REVIEW

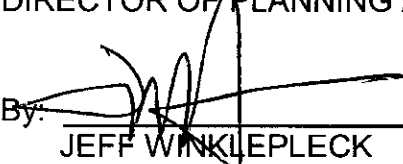
The project has been deemed categorically exempt from further environmental review pursuant to the Guidelines of the California Environmental Quality Act. Categorical Exemption (CE 06-23)

IT IS RECOMMENDED THAT THE PLANNING COMMISSION

Recommend that the City Council adopt the amendment to the Zoning Ordinance

Respectfully submitted,

SUSANNE FRICK,
DIRECTOR OF PLANNING AND BUILDING

By: 

JEFF WINKLEPLECK
PLANNER

Approved: 

CAROLYNE BIHN
ZONING OFFICER

Attachments

- 1. Proposed Amendment
- 2. Request memo
- 3. Home Occupation Standard Rules
- 4. Categorical Exemption

Table 51-2
Home Occupation Uses

<u>Use</u>	
1. Ambulance service	N
2. Appliance repair	N
3. Architectural service	Y
4. Art restoration	Y
5. Artist studio	Y
6. Automobile repairs, parts sales, upholstery, detailing washing service	N
8. 7. Beauty salons and barber shops	N
9. 8. Boardinghouse, bed and breakfast hotel, time-share unit	N
10. 9. Carpentry, cabinet makers	N
11. 10. Ceramics (kiln of six cubic feet or more)	N
12. 11. Ceramics (kiln of less than six cubic feet)	Y
13. 12. Churches, religious instruction	N
14. 13. Consulting services	Y
15. 14. Contracting (office use only)	Y
16. 15. Contracting: masonry, or plumbing or painting	N
17. 16. Data processing	Y
18. 17. Dental laboratory	Y
19. 18. Direct sale production distribution (e.g. Amway, Tupperware, Jafra)	Y
20. 19. Drafting and graphic services	Y
21. 20. Dressmaking, sewing, tailoring, contract sewing (one machine)	Y
22. 21. Electronic assembly	Y
23. 22. Engineering service	Y
24. 23. Financial planning, investment services	Y
25. 24. Flower arranging	Y
26. 25. Gardening, landscape maintenance	Y
26. 26. Gun sales and repair (including gun shows only)	N
27. Health salons, gyms, dance studios, aerobic exercise studios, massage	N
28. Helium balloons	N
29. Home crafts	Y
30. House painter (office use only)	N Y
31. Housecleaning service	Y
32. Insurance sales or broker	Y
33. Interior design	Y
34. Knife sharpening	N
35. Jewelry making, jeweler	Y
36. Laundry, ironing service	Y
37. Limousine or pedicab service	N
38. Locksmith	Y
39. Mail order (not from home retail sales)	Y
40. Medical or dental office	N
41. Millinery	Y

42.	Mortician, hearse service	N
43.	Palm reading, fortunetelling	N
44.	Private clubs	N
45.	Real estate sales or broker	Y
46.	Religious services	N
47.	Restaurants, taverns, food preparation	N
48.	Retail sale from site (except direct distribution)	N
49.	Sales representative (office only)	Y
50.	Security service	Y
51.	Skin care	N
52.	Swimming pool cleaning	Y
53.	Tax preparation	N
54.	Telephone answering, switchboard, call forwarding	Y
55.	Tow truck service	N
56.	Tutoring	Y
57.	Typing, word processing	Y
58.	Upholstery	N
59.	Veterinary uses (including care, grooming or boarding)	N
60.	Wall papering	Y
61.	Watch repair	Y
62.	Writing, computer programming	Y

Abbreviations: Y = Permitted
N = Not permitted



Date: January 25, 2006
To: Carolyne Bihn, Zoning Officer
From: James Goodin, Business Services Officer
Subject: Home Business Office—Painting Contractors

This memorandum is a request to authorize painting contractors to operate a business office out of their home. Section 21.51.235, *Home Occupations*, of the Long Beach Municipal Code in Table 51-2 prohibits masonry, plumbing or painting contractors from operating a business office out of their home. The LBMC does, however, allow other types of contractors to operate a business (office use only) from their home. These include building, cement, cesspool, electrical, electrical maintenance, engineering, house moving, lathing, plaster, refrigeration, roofing preparation, security alarm, sewer, tile and marble, weather stripping, and other miscellaneous contractors. Only masonry, plumbing, and painting contractors are prohibited from operating a business from their home.

Over the years the environment and the methods of the painting contractor have changed. A few years ago painting contractors used mostly oil-based paints and required flammable and dangerous solvents as part of their painting supplies. Today, painting contractors use mostly water-based paints and no longer use flammable and dangerous chemicals as part of their business. There no longer appears to be a requirement to prevent painting contractors from operating a business office from their home. The Building and Fire Marshall offices have reviewed and concur with this request.

The City has received information from the Franchise Tax Board that there are at least 112 Painting Contractors that filed a state income tax return from a Long Beach address and do not have a City of Long Beach business license. When contacted, several of these business owners stated that they had attempted to obtain a business license, but were denied because of zoning restrictions. Obviously this has not deterred them from operating their business.

Since the operation of a painting contractor business from the home no longer presents a danger to the neighborhood, there are at least two good reasons to authorize operating a painting contractor business from the home. First, by making these businesses legal and not forcing them to go underground, each business will have a premises inspection prior to issuing a business license. During this inspection, the City can ensure that the business is safe for the neighborhood. In addition, the business, like other home office businesses, will be given and sign for the rules under which a home occupation business must be operated. These are the standards listed in LBMC 21.51.235(B), including "4. No toxic, explosive, flammable, corrosive, etiologic, radioactive or other restricted material shall be used or stored on the site." Waste management is a growing City concern. Registering painting contractors will allow the City to educate and regulate proper disposal of painting materials. As underground businesses, they are not subject to any regulation. The second reason to license these 112+ underground businesses is that they represent \$20,000 annual business license tax for deposit into the General Fund. All businesses need to be taxed consistently and fairly so as not to place an undo burden on those businesses that have a business license.

cc. Mark Sutton, Building Inspection Officer
BC Hank Teran, Deputy Fire Marshall
Jeff Benedict, Manager, Environmental Health
Jeannine Montoya, Business License Supervisor



City Of Long Beach
 Department Of Planning And Building
 Zoning Administration Division

Home Occupation Permit Application
 Standard Rules Of Operation

Zoning Division Information and Assistance: (562) 570-6194

In any building rated for residential occupancy under the building regulations in any district, a small and unobtrusive business may be conducted within a dwelling unit provided that:

- A: The primary use of the unit shall be a dwelling; and
- B: The following standards shall be complied with at all times:
 1. No person other than a resident of the dwelling unit shall be engaged or employed in the home occupation, and the number of residents engaged or employed in the home occupation shall not exceed two (2).
 2. No sign shall be displayed in a manner visible outside the dwelling unit. Vehicles with signs identifying the home occupation shall be parked so that they cannot be seen from the public right-of-way.
 3. No mechanical equipment shall be used except that which is necessarily, customarily or ordinarily used for household or leisure purposes. Such equipment shall not generate noise higher than the noise standards established for residential uses.
 4. No toxic, explosive, flammable, combustible, corrosive, etiologic, radioactive, or other restricted materials shall be used or stored on the site.
 5. There shall be no outside operations, storage or display of materials or products.
 6. Total storage of materials or products used in the business shall not exceed one hundred and twenty-eight (128) cubic feet.
 7. The residential appearance of the premises shall not be altered. Creation of a separate entrance to the dwelling or the use of an existing entrance exclusively for the business shall not be permitted.
 8. No process shall be used which is hazardous to public health, safety or welfare.
 9. Visitors, customers or deliveries to the dwelling unit shall not exceed that which normally and reasonably occurs for a residence. Visitors and deliveries shall be limited to not more than two (2) business visitors an hour and eight (8) visitors a day, and not more than two (2) deliveries of products or materials a week.
 10. The occupation shall not displace or block the use of parking spaces required for the residential use including any business storage in required garage parking areas.
 11. No advertisement shall be placed in any media containing the address of the property.
 12. Not more than two (2) vehicles shall be used in the business. Only one (1) vehicle may be commercially licensed.
 13. No office or business shall be conducted from a garage location (M occupancy).
 14. Smoke detectors shall be centrally located in corridors leading to sleeping rooms or above stairs if sleeping rooms are on an upper level. Each sleeping room requires a separate smoke detector.

PRINT NAME _____ SIGNATURE _____ DATE _____

ADDRESS OF HOME OCCUPATION _____

The City of Long Beach intends to provide reasonable accommodations in accordance with the Americans with Disabilities Act of 1990. If Materials are required in an alternative format or if special accommodation is desired, please call Business License at (562) 570-6211 or TDD at (562) 570-6793.



CITY OF LONG BEACH

DEPARTMENT OF PLANNING & BUILDING

333 WEST OCEAN BLVD., FIFTH FLOOR • LONG BEACH, CALIFORNIA 90802

NOTICE OF EXEMPTION

CATEGORICAL EXEMPTION CE- 06-23

TO: OFFICE OF PLANNING & RESEARCH
1400 TENTH STREET, ROOM 121
SACRAMENTO, CA 95814

FROM: DEPARTMENT OF PLANNING & BUILDING
333 W. OCEAN BLVD., 5TH FLOOR
LONG BEACH, CA 90802

L.A. COUNTY CLERK
ENVIRONMENTAL FILLINGS
12400 E. IMPERIAL HWY. 2ND FLOOR, RM. 2001
NORWALK, CA 90650

PROJECT TITLE: Zoning Text Amendment

PROJECT LOCATION - SPECIFIC: Citywide

PROJECT CITY: Long Beach PROJECT LOCATION - COUNTY: LOS ANGELES

ACTIVITY DESCRIPTION: Zoning amendment regarding home occupation uses and reclassifying painting contractors to a permitted use

Name of Public Agency Approving Project: City of Long Beach

Name of Person or Agency Carrying Out Project: James Goodin
(Printed Name)

333 W. Ocean Blvd, Long Beach, Ca 90802
(Mailing Address)

562-570-7073
(Telephone) (Signature)

(To Be Completed By City Staff Only)

Check One:

LONG BEACH CITY PLANNING COMMISSION

DEPARTMENT OF PLANNING AND BUILDING

The above project had been found to be exempt from CEQA in accordance with the State Guidelines Section

15305

Statement of Support for this finding: Minor change to landuse regulation. No change in landuse or density.

Lead Agency: Jeff Winklepleck Area Code/Telephone: 562-570-6007

Signature: [Signature] Date: 2/3/06 Title: Planner

Signed by Lead Agency

Signed by Applicant

R E G U L A R A G E N D A

6. Case No. 0601-13, Zoning Ordinance Amendment, CE 06-23

Applicant: City of Long Beach
 c/o James Goodin, Business Svcs. Officer
Subject Site: Citywide
Description: Proposed amendment to the Zoning Ordinance
 regarding home occupation uses and reclassifying painting
 contractors from a prohibited use to a permitted use.

Jeff Winklepleck presented the staff report recommending adoption of the requests since allowing painting contractors as home-based businesses will result in safer operations as well as additional revenues for the City.

Chairman Jenkins observed that this seemed a logical step since there were no health or environmental problems associated with these businesses.

Sean Barrett, 4496 Cerritos Avenue, painting contractor, expressed support for the staff recommendation, saying it would increase income to local suppliers while keeping overhead low for local painters, allowing them to be more competitive.

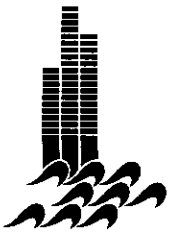
Commissioner Winn moved to recommend that the City Council adopt the amendment to the Zoning Ordinance. Commissioner Gentile seconded the motion, which passed 4-0. Commissioners Greenberg, Rouse and Sramek were absent.

7. Case No. 0404-13, Annual Review

Applicant: Boeing Realty Corporation
 c/o Deborah L. Stanley
Subject Site: 3855 Lakewood Blvd. (Council District 5)
Description: Annual review of the Development Agreement
 between the City of Long Beach and Boeing (McDonnell
 Douglas Corporation)

Lynette Ferenczy presented the staff report recommending finding the applicant to be in compliance with the terms of the Development Agreement.

Mario Stevali, Senior Real Estate Manager, Boeing Realty Company, 4900 E. Conant Street, stated that the first phase of infrastructure was being inlaid and that the first block of land would be available for sale by year's end. Mr. Stevali added




City of Long Beach
Working Together to Serve

Memorandum

Date: September 13, 2006

To: Larry Herrera, City Clerk

From: Michael J. Mais, Assistant City Attorney, Ext. 82230 

Subject: City Council Agenda of September 19, 2006 - Item #1 A, B, C & D
Item 1A Ordinance Amending LBMC Title 21 re Superstores
Item 1B Ordinance Amending PD-25
Item 1C Ordinance Amending PD-29
Item 1D Ordinance Amending PD-30

The subject documents are transmitted for placement on the City Council agenda of September 19, 2006.

Also enclosed are redlined portions of PD-25, PD-29, and PD-30. PD-30 is being amended by adding pertinent parts of Tables 32-1 and 33-2 and adding section 21.15.2985 so a redlined version is not necessary.

If you have any questions, please do not hesitate to contact me.

MJM:kjm

Encls.

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#06-04186

PD-25 USE TABLE			
Uses			Comments
	Pawn Shops	N	
	<u>Superstore (Retail > 100,000 SF with > 10% non-taxable merchandise)</u>	N	<u>See 21.15.2985</u>
	Thrift Store, Used Merchandise	AP	Also see Note under "Basic Retail"
	Vending Machines	A	Accessory to existing retail sales. (See 21.51.295)
TEMPORARY LODGING	Bed & Breakfast Inn	AP	
	Hotel	AP	
	Motel	N	
	Inn	N	
	Shelters	N	
TEMPORARY USES	Carnival, Event, Fair, Trade Show, etc.	T	
	Construction Trailer	T	
TRANSPORTATION AND COMMUNICATION FACILITIES	Transportation Facilities (bus terminals, cab stands, heliports, helistops)	N	
	Communication Facilities (cellular telephone cell site, electrical distribution station)	N	
MISCELLANEOUS	Storage of Hazardous Materials Accessory to Principal Use (such as pest control)	C	A CUP is required if amount of material stored exceeds 55 gal. of liquid, 500 lbs of solids, 200 cubic feet of compressed gas, or any amount of acutely hazardous material.

Abbreviations:

- Y = Yes (permitted use)
- N = Not permitted
- C = Conditional Use Permit is required
- A = Accessory Use
- AP = Administrative Use Permit is required
- T = Temporary use subject to provisions contained in Chapter 21.53.

Long Beach Boulevard Planned Development District (PD-29) Table

PD-29 USE TABLE							
Uses	Subarea 1a	Subarea 1	Nodes Subareas 2 & 5	Subarea 3	Subarea 4	Comments	
Multi-family Residential	N	Y	Y	Y	Y	Note: Check special development standards	
RESTAURANTS & READY-TO-EAT FOODS	Y	Y	Y	Y	Y		
Restaurants & Ready-to-Eat Foods with drive-thru lanes	C	C	C	AP	AP		
RETAIL SALES	Y	Y	Y	Y	Y		
Basic Retail Sales (except uses listed below)							
Gun Shop	C	C	N	C	C		
Itinerant Vendor	T	T	T	T	T		
Merchandise Mall, Indoor Swap Meet	C	AP	Y	Y	Y		
Outdoor Sales Events (fleece mths/swap meet)	C	C	C	C	C		
Superstore (Retail > 100,000 SF with > 10% non-taxable merchandise)	N	N	N	N	N	Note: See 21.15.2985	
Pawn Shops	C	C	N	C	C		
Thrift Store	AP	AP	N	AP	Y		
Vending Machines	A	A	A	A	A		
TEMPORARY LODGING	C	Y	Y	Y	Y		

Downtown Planned Development District (PD-30)

TABLE 1 - Uses in the Commercial and Mixed Use Districts

		Promenade District	Downtown Core District	Downtown Mixed Use District	East Village Mixed Use District
	Restaurants & Ready-to-Eat Foods with drive-thru lanes (see Sec 21.52.231)	N	N	N	N
	Outdoor Dining	A	A	A	A
	Vending Carts	AP	AP	AP	AP
RETAIL SALES:	Basic Retail Sales (except uses listed below)	Y	Y	Y	Y
	Building Supply or Hardware Store with lumber, drywall, or masonry (hardware stores w/o lumber drywall or masonry are considered "basic retail")	N	N	N	N
	Auxiliary Flower, Plant, Fruit, or Vegetable Sales (outdoor stand or nursery)	A	A	A	A
	Flower Stand or News Stand	Y(I)	Y(I)	Y(I)	Y(i)
	Gun Shop	N	N	N	N
	Itinerant Vendor	T	T	T	T
	Major Household Appliances (refrigerators/stoves/etc)	AP	Y	Y	Y
	Manufacture of Products Sold on Site	A	A	A	A
	Merchandise Mall, Indoor Swap Meet	N	N	N	N
	Outdoor Sales Events (flea mkts/ swap meet)	C	C	C	C
	Pawn Shops	N	N	N	N
	<u>Superstore</u> (Retail > 100,000 SF with > 10% non-taxable merchandise - see 21.15.2985)	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>
	Thrift Store, Used Merchandise	N	N	C	C