

ORDINANCE NO. 1843

AN ORDINANCE OF THE CITY OF SANTA CLARA, CALIFORNIA, ADDING SECTIONS 18.06.010(n) and (s) ("DEFINITIONS") TO CHAPTER 18.06 ("DEFINITIONS") AND CHAPTER 18.72 ("PROHIBITION OF SUPERSTORE ESTABLISHMENTS") TO CHAPTER 18 ("ZONING") OF "THE CODE OF THE CITY OF SANTA CLARA, CALIFORNIA," TO PROHIBIT RETAIL USES OVER 80,000 SQUARE FEET WITH A GROCERY COMPONENT

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SANTA CLARA AS FOLLOWS:

WHEREAS, at its July 16, 2008, meeting, following discussion at the Council and Committee level earlier in the year, the City's Economic Development Committee ("Mission City 21") discussed the potential impact of entry of a big box food retailer ("Superstore") on the competitive retail environment for grocery stores in the City, and recommended to the City Council that an analysis be conducted regarding such impacts; and

WHEREAS, at its meeting of August 19, 2008, the City Council directed the City Manager to conduct such an analysis and present the results to the Council; and,

WHEREAS, the City thereafter retained the services of economic consultant Keyser Marston, who issued their "General Plan/Evaluation of Big Box Food Retailer" ("Evaluation") on November 11, 2008; and,

WHEREAS, the Evaluation, along with written and verbal testimony from staff and the public, was duly considered at the City Council meetings of November 18, 2008 and December 2, 2008; and,

WHEREAS, the City Council, having duly considered the written and verbal testimony, including the Evaluation, at its November 18, 2008 and December 2, 2008, meetings, adopted an interim policy

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requiring that all retail projects for buildings greater than 90,000 square feet be referred to the City Council for final review; and,

WHEREAS, on February 24, 2009, the City Council evaluated the Interim Policy, and based on all written and verbal testimony presented to it on that date and previously, directed that an amendment to the Zoning Code be drafted to prohibit all retail projects greater than 90,000 square feet with a significant grocery component; and,

WHEREAS, the current General Plan of the City of Santa Clara (including but not limited to the General Plan – Land Use Element map), in order to achieve community needs to address traffic congestion, improve the pedestrian and bicycle use within neighborhoods, and encourage considered business growth, establishes locations for regional and neighborhood retail centers, encouraging neighborhood centers to be equally dispersed throughout the City, and encouraging regional shopping centers to be located near major transportation routes; and,

WHEREAS, task force meetings regarding revision of the current General Plan have also discussed maintaining and enhancing local neighborhood shopping centers to allow residents to walk, bicycle or make short automobile trips for their daily shopping needs, thereby reducing the impact on the City's transportation system, with resultant improvement of air, noise and quality of life issues; and,

WHEREAS, task force meetings regarding revision of the current General Plan have also discussed maintaining and enhancing regional shopping centers to encourage regional commercial districts to be equally distributed throughout the City to allow for distribution of traffic, land use development patterns, and other impacts; and,

WHEREAS, the City Council hereby finds, based on the evidence before it, that the City's current distribution of neighborhood and regional shopping and commercial districts would be negatively affected by Superstores, which would draw business away from current distribution patterns; and,

WHEREAS, the City Council hereby finds based on the evidence before it that Superstores will generate more automobile trips, thereby impacting the traffic patterns and levels of service on roads within the City, and creating more congestion, local air quality problems, and contributing to climate change; and,

WHEREAS, the Evaluation stated that the supply and demand for grocery stores in the City is currently “closely in balance,” and that foreseeable market conditions would support a “niche store such as Trader Joe’s but [are] inadequate for a full line market or [Superstore]”; and

WHEREAS, the City Council finds, based on the evidence before it, and having duly considered the written and verbal testimony, including the Evaluation, at its November 18, 2008, December 2, 2008, and April 21, 2009, meetings that Superstores over a total square footage of eighty thousand (80,000) square feet with at least five percent (5%) of their floor space devoted to non-taxable retail sales pose a risk to the economic viability of local and regional businesses by drawing market share away from such businesses, thereby threatening the continued operations of such businesses and their ability to provide services to the community and jobs to their workers.

NOW THEREFORE, BASED UPON THE FOREGOING AND ALL WRITTEN AND VERBAL TESTIMONY SUBMITTED TO IT, BE IT FURTHER ORDAINED BY THE CITY COUNCIL OF THE CITY OF SANTA CLARA AS FOLLOWS:

SECTION 1: That Section 18.06.010 (“Definitions”) of Chapter 18 (“Zoning”) of “The Code of the City of Santa Clara, California” (“SCCC”) is amended to read as follows by adding the following provisions:

“(n) “N” Definitions

(1) “Non-taxable merchandise” means products, commodities or items the sale of which is not subject to California State sales tax.

(s) "S" Definitions

(1) "Sales floor area" means interior building space which is designated for the sale of merchandise, and which does not include restrooms, office space, storage space, automobile service areas or open-air garden sales space. For the purpose of determining whether the total sales floor area of a single business establishment exceeds eighty thousand (80,000) square feet, total aggregate square footage of all adjacent uses which share common check stands, management, controlling ownership interest, warehouses or distribution facilities shall be considered a single establishment. This definition shall apply to the cumulative total square footage of related or successive permits which are part of a larger project, such as additions or expansions to a building, or multiple buildings on a single lot.

(2) "Superstore" means a business establishment engaged in retail sales to the general public, whose total sales floor area exceeds eighty thousand (80,000) square feet and that designates more than five percent (5%) of the total sales floor area to the sale of non-taxable merchandise. Discount club stores, where users pay a membership fee in order to shop, contain a wide variety of items such as food, clothing, tires and appliances, and sell many items in large quantities or bulk, are exempted from the definition of Superstore."

SECTION 2: That Chapter 18.72 ("Prohibition of Superstore Establishments") of Title 18 ("Zoning") of "The Code of the City of Santa Clara, California," ("SCCC") is added to read as follows:

"18.72.010 Intent.

This Chapter is intended to prevent the adverse effects of large retail stores that include a significant amount of floor space for grocery sales, including but not limited to the following: negative impacts on vehicle, bicycle and pedestrian circulation patterns; an increase in noise,

parking, light and glare resulting from intensification and concentration of such retail uses; conflict in adjacent land uses; economic effects on the residential and business community; and potential adverse effects on real property values resulting from diminished and/or neighborhood and regional shopping centers. The regulations will also serve to promote the orderly planning, development and utilization of neighborhood and business premises.

18.72.020 Activities prohibited.

Superstores, as defined in Section 18.06.010(s)(2), shall be prohibited in all zoning districts, including Planned Development districts, within the City of Santa Clara.”

SECTION 3: Savings clause.

The changes provided for in this ordinance shall not affect any offense or act committed or done or any penalty or forfeiture incurred or any right established or accruing before the effective date of this ordinance; nor shall it affect any prosecution, suit or proceeding pending or any judgment rendered prior to the effective date of this ordinance. All fee schedules shall remain in force until superseded by the fee schedules adopted by the City Council.

SECTION 4: Constitutionality, severability.

If any section, subsection, sentence, clause, phrase, or word of this ordinance is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of the ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more section(s), subsection(s), sentence(s), clause(s), phrase(s), or word(s) be declared invalid.

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SECTION 5: Effective date.

This ordinance shall take effect thirty (30) days after its final adoption; however, prior to its final adoption it shall be published in accordance with the requirements of Section 808 and 812 of "The Charter of the City of Santa Clara, California."

PASSED FOR THE PURPOSE OF PUBLICATION this 21st day of April 2009, by the following vote:


AYES:	COUNCILORS:	Caserta, Kornder, Matthews, McLeod and Moore
NOES:	COUNCILORS:	Kennedy and Mayor Mahan
ABSENT:	COUNCILORS:	None
ABSTAINED:	COUNCILORS:	None

ATTEST: 

ROD DIRIDON, JR.
CITY CLERK
CITY OF SANTA CLARA

FINALLY PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SANTA CLARA this 5th day of May 2009, by the following vote:

AYES:	COUNCILORS:	Caserta, Kornder, Matthews, McLeod and Moore
NOES:	COUNCILORS:	Kennedy and Mayor Mahan
ABSENT:	COUNCILORS:	None
ABSTAINED:	COUNCILORS:	None

ATTEST: 

ROD DIRIDON, JR.
CITY CLERK
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Attachments Incorporated by Reference:
None