



# Building the Big Box:

**Recommendations for a  
Comprehensive Big Box Ordinance  
in Los Angeles County**

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## Executive Summary

Los Angeles County should follow the lead of the City of Los Angeles and pass an ordinance to regulate big box stores in unincorporated areas, like the Florence-Firestone neighborhood. Wal-Mart is the world's largest corporation. While it has thousands of general merchandise stores and superstores – combination general merchandise and grocery, dubbed “Supercenters” by the company – nationwide, it has had a difficult time penetrating the markets of America's three largest urban centers: New York, Los Angeles, and Chicago. Wal-Mart, and its Supercenters specifically, are associated with a host of economic development problems that afflict surrounding urban communities whenever it builds in an urban neighborhood. They include: wage suppression, job displacement, the destruction of the local retail (“mom-and-pop”) economy, and the destruction of social capital. However, there is a debate over whether Wal-Mart and similar big box stores can bring benefits to a low-income community in the form of low-priced goods, access to fresh food in “grocery gaps,” and employment (albeit low paying). This dilemma has been a central point of contention in urban neighborhoods that Wal-Mart is proposing to enter, like Inglewood, California, where the company ultimately failed to enter after a controversial 2003 initiative allowing it to bypass the usual land use approval process was rejected by voters.

Recently, in February 2009, Wal-Mart briefly considered entering the Florence-Firestone neighborhood of unincorporated Los Angeles County. While the company ultimately did not pursue building in the community, the episode highlighted the fact that while individual cities like Los Angeles and Inglewood have passed big box ordinances, which regulate superstores, unincorporated Los Angeles County is at a disadvantage since it lacks an easy mechanism to independently draft a similar ordinance. In order to protect these communities, the county should pass a big box ordinance of its own, which includes regulations that address the undeniable negative impact retailers like Wal-Mart have on a community's economic development, but offers a method to assess and reconcile the potential benefits they may bring to communities, as well as an avenue for input by community residents, since they are the stakeholders primarily affected.

This report first examines the California land use process to critically assess how big box stores are regulated and, more importantly, where there are avenues for input by community groups. Big box stores must apply for a Conditional Use Permit, which includes at least one mandatory public hearing, in which community members in the vicinity of the proposed project can officially voice their concerns. Community groups have access to the process only through these public hearings. Development Agreements are negotiated between a developer and a city for a particularly large project, or a project in which public subsidies to the developer are involved. Usually, big box stores would not require a Development Agreement unless its developers are seeking subsidies. A Community Benefits Agreement (CBA) is a contract between the developer and various community groups that guarantees certain protection against the negative impacts of a development, which is included as a stipulation in the Development Agreement. For example, CBA's can mandate living wages, local hiring, a certain amount of low-income housing, or environmental standards. CBA's cannot be incorporated into a big box development unless it is exceptionally large or, more likely, the developer seeks public subsidies, in which case it requires a Development Agreement, allowing affected community groups to have an opportunity to negotiate a CBA.

This report also compares three big box ordinances adopted by the cities of Los Angeles, Oakland, and Inglewood. The case studies were selected because they all fall under California land use law, offer varying regulations, and affect urban communities – making them similar to conditions in unincorporated Florence-Firestone. All three ordinances regulated only superstores over 100,000 square feet in size and devoting more than 10% of their sales floor to groceries, and ignored general merchandise stores, despite their size.

The L.A. City ordinance, passed in 2004, applies only to Economic Assistance Zones, economically sensitive areas that the city has devoted significant investments to. Before a superstore can build in these areas, it must undergo the Conditional Use approval process and likewise commission an independent economic impact analysis, outlining the affects, positive and negative, the retailer is expected to have on the community it proposes to enter. Community input is available in the mandatory public hearing(s).

The Oakland ordinance, passed in 2003, applied to the entire cities. It puts superstores into the use of “Large Retail Store / Combined Grocery” and subsequently bans the use outright. The ordinance was drafted in order to protect supermarkets throughout the city, which are the so-called hubs of neighborhoods economically, and are central to maintain the “small retail” character of these neighborhoods.

The Inglewood ordinance, passed in 2006, closely mimics the L.A. City ordinance. The only differences are: it applies citywide, not just in economically sensitive areas, and can be applied, at the discretion of city council to developments that are less than 100,000 square feet in size that devote more than 10% of their sales floor to groceries. While community input is likewise only offered through the mandatory public hearing under the Conditional Use process, the ordinance was made specifically to empower residents of Inglewood and allow them to give their input, suggesting that their opinion is weighed heavily in the ultimate decision to approve or deny the applicant big box store.

The report recommends that the county draft an ordinance regulating big box stores in the following fashion:

- Include under its regulation any retailer over 100,000 square feet (including general merchandise stores), since general merchandise retailers can have a negative effect on the local economy. Wage suppression, job displacement, and the closure or harm of smaller, established, or mom-and-pop retailers are some of the negative effects associated with general merchandise big box stores, not just those that sell a high volume of groceries.
- Put big box retailers (general merchandise or superstores) over 100,000 square feet in a special use class, under which a Conditional Use Permit is required in order to incorporate public hearings in every big box application.
- Allow the Regional Planning Department to, at their discretion, apply the ordinance to retailers that are less than 100,000 square feet in size
- Require that a land use applicant fitting the above criteria commission an independent firm, approved by the Department of Regional Planning, to conduct an impact analysis of the proposed store in the surrounding neighborhood, similar to the analyses required by Los Angeles City and Inglewood.
- Include in the evaluation, the criteria listed under the Inglewood and LA impact analyses criteria, especially an evaluation of goods and services it can offer the community, like quality, low-priced food. The applicant will respond to negative impacts in the analysis with mitigation efforts, designed to offset these negative effects.

- Include as part of the impact analyses, a public opinion assessment, in order to officially incorporate community input.
- Make Community Benefit Agreements an official method of mitigation under the ordinance, in order to establish an official policy avenue for CBA's. Likewise, this will allow community groups to negotiate CBA's in the Conditional Use process, not just the Development Agreement process. By making CBA's an official mitigation technique, a big box store like Wal-Mart will most likely have to enter one if its wants a chance of being approved under the ordinance, since the impact analysis will undoubtedly find negative impacts associated with the proposed development.

## Introduction

### **The Wal-Mart Dilemma**

When the city of Inglewood passed an emergency ordinance in 2003 that barred big box retailers over 155,000 square feet from building within its borders, Wal-Mart, which was intending on building within the city and was the ordinance's explicit target, expectedly fought back by threatening legal action against the city council, claiming it had been unfairly targeted. In the face of these threats, the city council reneged on the ordinance.<sup>1</sup> Within a month of the tumultuous passage and recall of the ordinance, Wal-Mart gathered 9,250 signatures from sympathetic community members, enough to put a referendum on the local ballot that, if passed, would allow the company to exempt itself from the usual planning process.<sup>2</sup> The referendum failed. This example is repeatedly championed by activists that oppose Wal-Mart's notorious and irrefutable local impacts on labor and business. But the episode also drove home the point that while Wal-Mart does have an overwhelmingly negative reputation, there are a great number of local consumers that want it, and its low-priced goods and food, in their neighborhood. Undoubtedly, the 9,250 Wal-Mart-friendly signers were eager to have the mega retailer's famous low-prices nearby.

The Inglewood example brings up an important dilemma in the big box debate. Wal-Mart has become a world superpower simply because of its obsessive cost-cutting. It commands such a powerful economy of scale that bargaining over fractions of cents with its suppliers is not unheard of. This single-minded focus on cutting costs translates to its central philosophy: provide the customer with the absolute lowest price possible. Unfortunately, cutting overhead costs like

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<sup>1</sup>Wal-Mart Watch, "Shameless: How Wal-Mart Bullies Its Way Into Communities," 2005

<sup>2</sup> Nancy Cleeland and Abigail Goldman, "Grocery Unions Battle to Stop Invasion of the Giant Stores," *Los Angeles Times*, November 25, 2003

employee wages and benefits are an inevitable outgrowth of this philosophy. Wal-Mart reasons that if it raises its wages and offers better benefits to employees, the cost of goods for the consumer would necessarily increase. Indeed, its low-prices is its battle cry when Wal-Mart prepares to enter an unfriendly neighborhood. Following the Inglewood battle, Wal-Mart vice president of corporate affairs said, “We are disappointed that a small group of Inglewood leaders together with representatives of outside special interests were able to convince a majority of Inglewood voters that they don’t deserve... job opportunities and shopping choices.”<sup>3</sup> Its message to anti-Wal-Mart activists: you are denying people in need of affordable goods. When LA City Council contemplated a big box ordinance, Wal-Mart commissioned a report that expounded on the company’s positive effects on consumers’ buying power and how helped improve job offerings in a community (see “The Problem With ‘Independent’ Studies). Without a doubt, the content of Wal-Mart’s messaging centers around one of its few pros, how its low prices help consumers.

To be sure, Wal-Mart’s prices are low enough and attractive enough to fuel its massive expansion over the last century. And here lies the dilemma in low-income communities: should they fight against a retailer that can help them stretch their dollar? The in-fighting that occurred in Inglewood is a testament to the difficulty of this question. While the initiative did ultimately fail, the final outcome was 3-2, hardly a sweeping victory.<sup>4</sup> In fact, prior to the election, polls showed that 62 percent of residents favored Wal-Mart’s entrance while only 26 percent opposed it.<sup>5</sup> As Cleeland and Goldman point out, “Wal-Mart has won allies by providing people of

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<sup>3</sup> John M. Broder, “Voters in Los Angeles Suburb Say No to a Big Wal-Mart,” *New York Times*, April 8, 2004

<sup>4</sup> Wal-Mart Watch, “Shameless.”

<sup>5</sup> LAANE, “Wal-Mart and Beyond,” 37

modest means a chance to stretch their dollars.”<sup>6</sup> In Inglewood, Wal-Mart had allies who wanted to give their community access to low-priced goods. John Mack, president of the Los Angeles Urban League said, “We need to have retail outlets that are convenient and offer quality goods and services at low prices. I really think that there are potential economic benefits for this community with the addition of a Wal-Mart.”<sup>7</sup>

Nowhere is this dilemma between the opportunities present in big box retail and the negative impacts on the community as a whole more present than in the job market. Researcher Anmol Chaddha asks the poignant but challenging question, “Are bad jobs good for poor people?” In her article of the same name, Chaddha details the heated debate that erupts in low-income communities that Wal-Mart is proposing to enter. When Wal-Mart proposed stores in Chicago’s South and West Side, the usually-solid political bloc of working-class African Americans was divided over the “Wal-Mart question.” Wal-Mart, through a marketing campaign, enticed a number of the city’s African Americans with promise of jobs. Working class African Americans had seen themselves as excluded by the high-paying unions for years, so when the UFCW tried to ally with them, the union was snubbed.<sup>8</sup> Just as in Inglewood, neighborhoods were divided over Wal-Mart’s entrance. Some residents considered bad jobs to be better than no jobs. But others, like influential leader Rev. Jeremiah Wright, likened eagerness towards Wal-Mart’s employment to “prostitution.”<sup>9</sup>

The issue of food access, too, creates a difficult dilemma. In low-income communities, the lack of food security is a serious issue. As recently as 2005, over 40 percent of LA County

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<sup>6</sup> Cleeland and Goldman, “Grocery Unions Battle to Stop Invasion of the Giant Stores.”

<sup>7</sup> Ibid

<sup>8</sup> Anmol Chaddha, “Are Bad Jobs Good for Poor People? The Wal-Mart Question,” *JUST Jobs? Organizing for Economic Justice*, Vol. 14 No. 1, Spring 2007

<sup>9</sup> Ibid

residents living below the poverty line faced food insecurity.<sup>10</sup> The lack of low-priced, quality food in low-income urban neighborhoods is an all-too common problem in the Los Angeles area. This phenomenon of urban inequality is referred to as the “grocery gap” by activists, and it is a serious issue.<sup>11</sup> It is an issue of economic inequality. According to Pothukuchi, “Low-income urban residents typically pay more for groceries in nearby convenience stores, spend more time traveling to distant supermarkets, and possibly incur other costs related to forgone consumption or poor food habits.”<sup>12</sup> More importantly, the grocery gap is an issue of health inequality as well. When combined with poverty, lack of parks and other play-friendly areas, and limited access to healthcare, the grocery gap causes what Mark Vallianatos describes as, “a disturbing double bind of hunger and obesity.”<sup>13</sup> To put it simply, low-income inner city residents need a way to access affordable and quality food in their communities.

For better or for worse, big box stores like Wal-Mart’s Supercenters are capable of providing an immediate solution to the problem of the grocery gap. Its supply chains are specifically designed to provide the fastest, widest offering of food and other retail goods for the cheapest price possible – perfect for consumers in need. Inner city residents spend a higher proportion of their household income on retail goods like food and apparel, and Wal-Mart’s low price mission aligns well with this reality.<sup>14</sup>

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<sup>10</sup> LA Department of Public Health, “Food Insecurity,” [http://lapublichealth.org/ha/docs/food\\_insecurity.pdf](http://lapublichealth.org/ha/docs/food_insecurity.pdf)

<sup>11</sup> John Dicker, *The United States of Wal-Mart*, New York: Penguin Books, 2005, 185

<sup>12</sup> Kameshwari Pothukuchi, “Attracting Supermarkets to Inner-City Neighborhoods: Economic Development Outside the Box,” *Economic Development Quarterly*, Vol. 19, No. 3, August 2005, 232

<sup>13</sup> Mark Vallianatos, “Food Justice and Food Retail in Los Angeles,” *Ecology Law Currents*, June 25, 2009, 187

<sup>14</sup> Pothukuchi, 234

Unfortunately, big box's low prices are not created in a vacuum, they are a direct result of business practices that have serious and negative implications for employees, rival retailers, cities, and states. And once these factors are considered, it becomes difficult to reconcile a community's need for Supercenter food with the tangential effects on the community's economy that the Supercenter will undoubtedly have. As Gottlieb and Joshi write, "For food justice advocates, the debate over Wal-Mart also underlines the issue of how best to achieve food and related community, social, and environmental justice goals."<sup>15</sup> There is indeed debate within the food justice community over whether mega retailers can be a viable solution for these communities, or rather, whether the food justice concerns outweigh environmental and social justice concerns that accompany big box practices.<sup>16</sup>

Despite these potential benefits, this report is not a defense of Wal-Mart. The company's demonstrable negative impact on community economic development undermines what potential benefits it might have. However, these benefits, access to jobs and food, present legitimate issues in the dialogue of big box retailers. The dilemma also reflects a larger problem in this dialogue. It must be acknowledged that many of the reports and articles that expound on the ills of Wal-Mart are written by those for whom these scarce benefits that Wal-Mart offers are not important – academics and progressives that have had the luxury of developing what John Dicker, in his book *The United States of Wal-Mart Calls*, "a global social conscience."<sup>17</sup> Anti-Wal-Mart activists tend not to desperately need the low-priced goods that the mega-retailer offers. As Dicker puts it, "It's harder to care about sweatshop workers in Bangladesh" – or union-wage workers at a supermarket in a distant part of the city, for that matter – "when you can barely

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<sup>15</sup> Robert Gottlieb and Anupama Joshi, *Food Justice*, MIT Press: Cambridge, 133

<sup>16</sup> *Ibid*, 133

<sup>17</sup> Dicker, 186

afford your baby's formula, and when it's on sale at the Wal-Mart two blocks away, well, that's where you're going to buy it."<sup>18</sup>

That dilemma is what this report seeks to resolve, in part. With so many competing interests involved in the debate around Wal-Mart or any other big box store, a more nuanced approach must be taken towards examining its effects and drafting policy solutions that protect communities and provide their residents with the services they need. A comprehensive policy that addresses big box stores will examine and take into account the undeniably negative impacts of mega retailers on the economic development of a community, while balancing competing concern's for the communities access to affordable goods. Above all, in a debate that is so important to the lives and well-being of the community residents themselves, avenues for bottom-up community input must be necessarily protected by any top-down policy, in order to both empower residents and ensure that it does not reflect a sense of patriarchy by policymakers.

### **Big Box Retail**

A synecdoche is a literary device, a term that means "a part representing a whole." For example, when people talk about the movie industry by referring only to Hollywood, they employ a synecdoche. Wal-Mart is such a symbol. When people talk about "big box stores," "big box retail," "mega-retailers," "superstores," "supercenters," or any other combination of "giant" adjective and "store" noun, they are talking about Wal-Mart. Sam Walton's corporation is, and always has been, the prototype for big box stores. Its business model – employ economies of scale to lower the cost as much as possible for the consumer (and inevitable decrease in wages and benefits) – is the paradigm for large retailers. Its staggeringly low prices, and its ubiquity

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<sup>18</sup> Dicker, 186

nationwide, make it the leading retailer in the world, and force other the competition to similarly lower its prices in order to carve out a share of the market.<sup>19</sup>

I fully acknowledge that I use “big box retailers,” or equivalent terms, interchangeably with Wal-Mart throughout my report. However, while establishments like Target and K-Mart are indeed big box stores – their average size breaks the 100,000 square foot ceiling and they have combined retail/grocery formats like Wal-Mart – the negative effects they have on the communities they enter is not as serious or infamous. And I am not alone in my assessment. The number of reports condemning the practices of Wal-Mart dwarves the number of reports on other big box retailers, and outnumbers reports on big box stores in general. When reports do assess the effects of big box retailers in general, as the Boarnett and Crane report or the Rodino report (mentioned later) do, the authors inevitably use Wal-Mart as their primary example for the negative effects of big box retailers. When cities like Los Angeles, Oakland, Chicago, or Inglewood pass big box ordinances or emergency referendums to keep out “big box retailers,” it is more often than not a response – frequently drafted in panic – to Wal-Mart’s impending entrance into their city. But why all this attention paid to this one retailer? Why is it continually singled out by policymakers and activists? Nelson Lichtenstein beautifully answers this question in contextualizing the massive company by explaining that Wal-Mart’s business practices are “a legitimate subject of political debate” because “its employment policies are public issues.”<sup>20</sup>

### **The Final Frontier**

In an April 2006 speech in Chicago, Lee Scott, the former CEO and current board member of Wal-Mart announced the corporation’s intention to be an “urban pioneer” and

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<sup>19</sup> Wheatley, Abbey, “Challenging Wal-Mart in California,” Urban and Environmental Policy Institute, April 29, 2003, 11

<sup>20</sup> Jessica Garrison, “Battles Over Mega-Stores May Shift to New Studies,” *Los Angeles Times*, August 12, 2004

asserted that it “has never been afraid to invest in communities that are overlooked by other retailers.”<sup>21</sup> The statement implied that the urban was, and still is, an important untapped market, with the potential for huge profits. To the seemingly ubiquitous mega-retailer, with 3,400 locations worldwide,<sup>22</sup> urban centers are an ironically unconquered landscape. Until recent years, Wal-Mart has had a notoriously difficult time penetrating the markets of some of America’s largest cities. New York, Los Angeles, and Chicago, the country’s three largest cities – or more importantly to Wal-Mart, nearly 5% of the country’s population – remain exceedingly under-utilized markets. The likewise hard-to-penetrate areas of Detroit, Washington D.C., and Boston similarly represent Wal-Mart’s urban woes.<sup>23</sup> While the company’s extremely limited headway into Chicago, in the form of a single store in the city’s Westside neighborhood, was some welcome good news for Scott and his fellow associates, Wal-Mart’s losing battle in New York has since discouraged the Goliath. Following Wal-Mart’s yielding to opposition in New York, Scott remarked, “I don’t care if we are ever here” and “I don’t think it’s worth the effort.”<sup>24</sup> By 2008, Wal-Mart had cancelled 45 of its Supercenter projects across the country, aimed at penetrating urban markets. Community opposition was the primary deterrent against the company.<sup>25</sup>

### **Wal-Mart in Los Angeles and California**

Wal-Mart has successfully built thousands of stores across the country, yet despite its successes nationwide, it has yet to fully expand in California. As of 2009, there are only 33 Supercenters in the state of California, while Kansas, a state with far fewer residents hosts 48, not

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<sup>21</sup> Sandra M. Jones, “A closeout for Wal-Mart,” *Chicago Tribune*, May 8, 2008.

<sup>22</sup> “Wal-Mart at a Glance,” *Frontline: Is Wal-Mart Good for America?*, PBS, Nov. 16, 2004, <http://www.pbs.org/wgbh/pages/frontline/shows/walmart/secrets/stats.html>

<sup>23</sup> Wal-Mart Watch, “Wal-Mart’s Urban Problem,” [http://walmartwatch.com/pages/wal\\_marts\\_urban\\_problem/](http://walmartwatch.com/pages/wal_marts_urban_problem/)

<sup>24</sup> *ibid*

<sup>25</sup> Gottlieb and Joshi, 132

counting, non-grocery discount centers.<sup>26</sup> In 2002, Lee Scott, the CEO of the company, revealed Wal-Mart's plans to have at least 40 Supercenters in the state by 2008.<sup>27</sup> Seven years later the company is still short of this goal. This is unfortunate for the corporation, because when Scott's statement was made, analysts were proclaiming that Wal-Mart could not afford to expand into the Golden State, likening Southern California to "their most important market in the world right now," saying it "really should have been out there a long time ago."<sup>28</sup>

This is also unfortunate for Southern California, and Los Angeles in particular. Wal-Mart wants to expand into the Los Angeles market, but if it succeeds, it will bring a host of problems with it. Specifically, the entrance of Wal-Mart into a Los Angeles community threatens the welfare of its labor and its businesses. So far, Los Angeles has been successful in keeping the behemoth out. There are only a handful of traditional stores in the metropolitan area and none in the center of Los Angeles.<sup>29</sup>

This is not for lack of trying, though. With a population of over 4 million and a metro area that includes 17 million, Los Angeles is a prime area for untapped consumers.<sup>30</sup> Since 2000, Wal-Mart has given over \$4 million to pro-Wal-Mart political groups (referred to in some literature as "front groups").

### **The Inglewood Battle**

Six years ago, Wal-Mart was embroiled in a battle over the rights to build a Supercenter in the Los Angeles suburb of Inglewood. The area, an independent city within Los Angeles County, is a working-class neighborhood whose residents are roughly half African American and half

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<sup>26</sup> Wal-Mart Watch, "Los Angeles: No Salvation for Wal-Mart in the City of Angels," 2005, 1

<sup>27</sup> Nancy Cleeland and Debora Vrana, "Wal-Mart CEO Takes His Case to California," *Los Angeles Times*, February 24, 2009

<sup>28</sup> Ibid

<sup>29</sup> Wal-Mart Watch, "Los Angeles," 1

<sup>30</sup> Ibid, 1

Latino/a.<sup>31</sup> Wal-Mart had selected Inglewood specifically because of a large plot of land adjacent to the Forum, the former home of the Lakers. The Supercenter, which would require 180,000 to 250,000 square feet, not counting a massive parking lot, was to sit on one of the largest available plots of land in the county.<sup>32</sup> The proposal, had it been successful, would have been the size of 17 football fields.<sup>33</sup> Instead, the Inglewood City Council drafted an emergency ordinance prohibiting construction of retail stores larger than 155,000 feet. When the ban was subsequently dropped under threat of lawsuit, Wal-Mart sponsored an initiative (submitted to the city council by the three-member “Citizen’s Committee to Welcome Wal-Mart to Inglewood”<sup>34</sup>) that would allow the store to bypass the city’s planning process in order to avoid conflict.<sup>35</sup> Despite giving over one million dollars to Wal-Mart friendly groups in preparation for the city’s vote, the initiative lost by a margin of 3 to 2, keeping Wal-Mart out of Inglewood.<sup>36</sup> The grassroots effort to defeat the initiative was led by grocery workers, who feared negative effects on the grocery industry that Wal-Mart would bring, and faith leaders, who wielded significance influence in the neighborhood and opposed the corporation on grounds of social justice.<sup>37</sup> This victory also symbolized that a group of concerned citizens could successfully keep a harmful Goliath – the largest Goliath in the world, in fact – out of their community and neighborhood.

### **The Florence-Firestone Scare**

Recently, Wal-Mart threatened to try once more and enter the Los Angeles market, this time in the unincorporated neighborhood of Florence-Firestone. While the company is still

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<sup>31</sup> LAANE, *Wal-Mart and Beyond*, 35

<sup>32</sup> *Ibid*, 35

<sup>33</sup> Scott Gold, “Inviting Wal-Mart into Florence-Firestone,” *Los Angeles Times*, February 27, 2009

<sup>34</sup> LAANE, *Wal-Mart and Beyond*, 36

<sup>35</sup> Wal-Mart Watch, “Shameless”

<sup>36</sup> *Ibid*

<sup>37</sup> LAANE, *Wal-Mart and Beyond*, 36

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shopping around for potential sites to build, there is a group of pro-Wal-Mart residents preparing for its arrival. Eddie Caire, a resident of the Florence-Firestone community, has been actively soliciting signatures for a petition demanding support from local politicians. He hopes the opening of a Wal-Mart would help bring Florence-Firestone, a low-income neighborhood of color, out of the economic depression it has been trapped in for the last few decades. Wal-Mart is, of course, extremely receptive to Caire's campaign. A company spokesman told the *Los Angeles Times* it was "eager to be part of the solution" in Florence.<sup>38</sup> Surprisingly, there are other members of the community that are responding positively as well. Prominent leaders like Rev. Ramon Palomera of the St. Aloysius Gonzaga Catholic Church hopes it will bring jobs to the community.

Not every political leader, however, is thrilled. Dan Rosenfeld, of the County Supervisors office stated, "The medicine that will help cure our economic malaise will be small- and medium-sized businesses indigenously grown in our communities."<sup>39</sup> While there is no official bias against big-box retailers, officials are skeptical of the company's labor practices.

In addition to jobs and economic growth, those inviting Wal-Mart into the neighborhood hope it will improve their access to groceries. Currently, the neighborhood is a food desert without any supermarkets and few places to purchase fresh food, and residents have to travel by bus to reach affordable grocery stores or face paying inflated prices at convenience stores with little more than junk food.<sup>40</sup>

However, since February of 2009, the Wal-Mart's entrance in the neighborhood has not materialized. According to Eliot Perry of LAANE, Wal-Mart is not a threat in the neighborhood

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<sup>38</sup> Gold

<sup>39</sup> Ibid

<sup>40</sup> Ibid

as of now.<sup>41</sup> However, the big box-scare serves to illustrate that Wal-Mart can still potentially enter the Los Angeles region, and that its market is still highly vital. Florence-Firestone is a particularly interesting example because it lies in unincorporated Los Angeles County, where there is no regulation of big box stores nor is there any immediate city hall to pass such ordinances on the neighborhood's behalf.

### **The Continuing Threat in Los Angeles County**

While Wal-Mart is not currently conducting a campaign to enter Los Angeles currently, it does not mean that activists and community groups can ignore the issue of big box retail's entrance into the region. The example in Florence-Firestone, announced without any other warning by the *Los Angeles Times*, illustrates that Los Angeles is still a gem in the eyes of big box retail. Unincorporated Los Angeles County, especially, needs to keep a leery eye on the spread of big box stores. While incorporated cities like Los Angeles and Inglewood have city councils to draft emergency ordinances, communities like Florence-Firestone do not have the benefit of an immediate legislative body closer to the constituents in these neighborhoods than the County Supervisor's office.

The threat of Wal-Mart entering the county is quite real. Especially in light of LA City's Big Box Ordinance, it has been suggested by a number of sources that Wal-Mart would look to the county to fulfill its goals of expansion. For example, following the passage of the ordinance in L.A. City, Councilmember Bernard Parks, the sole "no" vote, suggested that "the law will send businesses fleeing the Los Angeles city limits for nearby cities, taking jobs with them."<sup>42</sup> Perhaps most ominous is the Wal-Mart-backed report by Los Angeles Economic Development Corporation that stated,

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<sup>41</sup> Correspondence with Eliot Perry, February 11, 2010

<sup>42</sup> Garrison

“The implications of a Los Angeles ringed by Wal-Mart Supercenters are clear. First, many residents of the City of Los Angeles will travel outside the city to shop. Consumers who live in the City of Los Angeles already spend tens of millions of dollars each year at traditional Wal-Mart discount stores located within the county but outside the city’s potential boundaries. The lure of inexpensive groceries – with the potential savings of up to 20 percent compared to the large supermarket chains – available just outside the city limits would accelerate this trend. We expect that even more city residents would shop outside the city than do today.”<sup>43</sup>

While the current recession may account for the slowing down of Wal-Mart’s usually aggressive expansion, the country’s economic malaise does not mean that the company has been significantly weakened at all. In fact, until very recently, the recession was a boon to Wal-Mart, whose low-priced goods appealed to cash-strapped Americans. Until January 2010, Wal-Mart had beat market analysts’ low expectations of big box retail’s performance in the recession enough to inspire *Forbes* to bestow unto the company the dubious title, “One of the only U.S. stores to thrive during the recession.”<sup>44</sup>

In addition to the success of its Supercenters during the recession, Wal-Mart is finding success through its smaller-format “Neighborhood Market” stores. These stores sell food primarily, including fresh produce, and are roughly the same size as traditional stores like Vons or Albertsons, averaging 42,000 square feet.<sup>45</sup> Neighborhood Markets are becoming increasingly popular because they offer supermarket selection at Supercenter prices, since the stores take advantage of Wal-Mart’s distribution system.<sup>46</sup> Of course, this also means that Wal-Mart’s labor standards are likewise applied to its Neighborhood Markets.

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<sup>43</sup> Gregory Freeman, “Wal-Mart Supercenters: What’s in store for Southern California?” Los Angeles Economic Development Corporation, January 2004

<sup>44</sup> Lisa LaMotta, “Wal-Mart Scoffs At Recession,” *Forbes Market Scan*, March 5, 2009

<sup>45</sup> Wal-Mart Corporate Website, <http://walmartstores.com/aboutus/7606.aspx>

<sup>46</sup> Mike Duff, “Wal-Mart’s Neighborhood Market Pushes Price in Recession,” *BNet.com*, March 12, 2009

### Research Questions

In an area as expansive as the concept of big box retail, coupled with the area of land use regulations, issues like labor rights, food access, community political empowerment, and the role of government and business in community sovereignty are highly interconnected. This study aims to answer the following questions, which touch on these relevant issues:

*With the continual possibility of the entrance of Big Box Stores into the Los Angeles area, what mechanisms are in place to regulate Big Box Retail in an unincorporated community like Florence-Firestone?*

The answer this question, I also need to answer these sub-questions:

- 1) *Does the county have regulations in place to protect communities from big box stores?*
- 2) *What protections and opportunities for community input (and self-determinance) does the California land use process have?*
- 3) *What best practices can be adopted from Big Box Ordinances from similar urban areas in California?*

### Methodology

Recommendations will be based on a critical analyses of three big box ordinances: the 2004 LA City Big Box Ordinance, which is my primary focus, the 2003 Oakland Superstore Ordinance, and the 2006 Inglewood Superstore Ordinance. I selected the three because, while they don't represent an exhaustive list, they represent ordinances established in urban centers under the California land use laws. Therefore, the areas, and the ordinances they have, are going to be comparable to circumstances in unincorporated Los Angeles County. Interviews with policymaking officials and researchers at community organizations will complement my analysis.

The following report will consist of a literature review that summarizes the research to-date on the effects Wal-Mart has on the economic development of a community. Then, the land use process in California will be examined for determine what approval process big box developments undergo and, more importantly, what avenues community groups have to leverage big box stores that are proposing to enter their neighborhoods. Finally, the county's approach towards big box stores will be compared to current ordinances in place in Los Angeles City, Oakland, and Inglewood. A series of recommendations to adopt on the county level will be determines through this analysis.

### **Literature Review**

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<sup>68</sup> Stephen Ciccarella, David Neumark, and Junfu Chang, "The Effects of Wal-Mart on Local Labor Markets," Institute for the Study of Labor, January 2007, 1

The promise of Wal-Mart is tempting: it claims it brings jobs to communities that need them and has the potential to offer cheap, healthy food to residents who otherwise have no access to it. However, much attention has been paid to the negative consequences of the Wal-Mart effect: the closure of mom-and-pop businesses, the low wages, the dismal health care benefits. But most of these stories of Main Street devastation come from rural America. Popular media and culture has painted a picture of Wal-Mart as the destroyer of small-town America. But little attention has been paid to what affect it has on the urban environment.

This literature review is intended to outline the research that has been done on Wal-Mart's effect on communities, in terms of wages, labor, and social capital, in general and on the more focused scale of inner cities.

### **Wal-Mart and Labor**

Wal-Mart is the world's largest corporation. As of 2005, the company reported total revenues of \$258 billion and employed over 1.2 million workers in the United States at over 3,600 stores nationwide. This means Wal-Mart employs just under 10 percent of all retail workers in the country.<sup>68</sup> Its employees account for 55 percent of all general merchandise workers and 71 of all big-box general merchandise workers nationwide.<sup>69</sup> While Wal-Mart may have started selling goods in the general merchandise sector, it has since expanded, started in the late 1980s, into the grocery sector, where it proves to be just as powerful. It is the number one grocer in the nation, which is a staggering fact considering that the top five grocers sell about 40% of the

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<sup>69</sup> Arindrajit Dube, T. William Lester, and Barry Eidlin, "A Downward Push: The Impact of Wal-Mart Stores on Retail Wages and Benefits," UC Berkeley Center for Labor Research and Education, December 2007, 2

nation's groceries, as of 2002.<sup>70</sup> Wal-Mart controls 19 of the grocery market, as of 2003.<sup>71</sup>

Additionally, it is the third largest pharmacy in the nation, with 16 percent of the market.<sup>72</sup>

Wal-Mart has moved beyond the general merchandise industry through the proliferation of "Supercenters" – the combination of discount retail and full-service grocery stores under one roof.<sup>73</sup> While other big-box retailers like Target and K-Mart have experimented with the concept, Wal-Mart is undoubtedly the most aggressive pioneer in their opening. There are 2,747 Supercenters nationwide.<sup>74</sup>

While Wal-Mart lauds itself for providing more jobs to Americans than any other company, the company has had a long history of being criticized for the treatment of their employees, specifically when it comes to wages and benefits. On average, general merchandise workers are paid less than grocery store workers. Especially in Southern California, grocery store workers have a strong union whereas Wal-Mart has been known to pursue an aggressive union-busting policy. So, when it comes to examining the wages that Wal-Mart pays its employees at a Supercenter, comparisons must be made to other general merchandise retailers *and* grocers.

In the general merchandise sector, Wal-Mart pays 17.4 percent less than its competitors. In the area of large general merchandise stores (a store that employs 1,000 or more workers) Wal-Mart pays 25 percent less than workers in competing stores.<sup>75</sup> A "large general merchandise store" includes other big box retailers like K-Mart or Target. The wage gap between retailers and large

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<sup>70</sup> Georgeanne Artz, Kenneth E. Stone, Albert Myles, "The Economic Impact of Wal-Mart Supercenters on Existing Businesses in Mississippi," 3

<sup>71</sup> Ciccarella, Neumark, and Chang, "The Effects of Wal-Mart," 1

<sup>72</sup> *Ibid*, 1

<sup>73</sup> Marlon Bournet and Randall Crane, "The Impact of Big Box Grocers on Southern California: Jobs, Wages, and Municipal Finances," Prepared for the Orange County Business Council, September 1999

<sup>74</sup> Wal-Mart Corporate Website, <http://walmartstores.com/aboutus/7606.aspx>

<sup>75</sup> Dube, Lester, Barry Eidlin, "A Downward Push," 3

retailers exists within the grocery sector as well. The wage gap between Wal-Mart grocery compared to all grocers is 7.5 percent, while the gap between it and other large grocers is 17.5 percent.<sup>76</sup> These findings were adjusted for location, which is especially important in regards to job displacement within a community and because Wal-Mart started in, as still has a huge presence, in lower-wage rural areas. Rodino Associates found Wal-Mart's grocery wages to be about \$8 lower than unionized wages.<sup>77</sup> As of 2005, the average hourly wage for a Wal-Mart employee was \$9.68 per hour.<sup>78</sup> It is important to remember that as far as wages and benefits go, Wal-Mart treats its general merchandise employees and its grocery employees roughly the same. The company itself admits that a full-time worker "might not be able to support a family on a Wal-Mart paycheck."<sup>79</sup> When pressed to answer for its significantly lower wages, Wal-Mart tends to offer vague, mixed messages to explain its behavior. Offered reasons include, "Retail and service wages are what they are, whether you look at the department store, a discount store, the local dry cleaners, the bakery or whatever" and "Wal-Mart is a great match for a lot of people. But if you are the sole provider for your family and do not have the time or the skills to move up the ladder, then maybe it's not the right place for you."<sup>80</sup>

One of the most common criticisms leveled at Wal-Mart is their lack of comprehensive healthcare for their employees. In 2003, while roughly 61 percent of all retail workers in California received healthcare coverage from their employers, only 48 percent of Wal-Mart's

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<sup>76</sup> Ibid, 3

<sup>77</sup> Nancy Cleeland, "City Report is Critical of Wal-Mart Supercenters," *Los Angeles Times*, December 6, 2003

<sup>78</sup> Dube, Lester, Barry Eidlin, "A Downward Push," 2

<sup>79</sup> Abigail Goldman and Nancy Cleeland, "An Empire Built on Bargains Remakes the Working World," *Los Angeles Times*, November 23, 2003

<sup>80</sup> Abigail Goldman and Nancy Cleeland, "An Empire Built on Bargains Remakes the Working World," *Los Angeles Times*, November 23, 2003

employees received coverage.<sup>81</sup> In the grocery sectors, Wal-Mart's sparse benefits meant that their 48 percent employee coverage compared to the 95 percent of unionized grocery workers that receive coverage from their employers in 2001.<sup>82</sup> In Southern California, unionized grocery employees (both full- and part-time) receive full health coverage from their employers for themselves and their dependants, with no co-payments or deductibles. Whereas Wal-Mart's health insurance is reserved only for full-time employees, its deductibles range from \$250 to \$1000, and employees must pay the full premium for dependents.<sup>83</sup>

Because it is the nation's largest employer, its approach to wages and health insurance has important implications on the state level. Specifically, because its employees are lacking in these faculties, they must (and are encouraged by their employer to) use state welfare programs. A 2004 study shows that California's Wal-Mart employees rely disproportionately on public safety net programs, to a cost of \$86 million in public assistance each year, which includes \$32 million for healthcare and \$54 million for other expenses.<sup>84</sup> This number is alarming because if Wal-Mart drives the wages of its competitors down, the number of big-box retail will increase. If every large retailer in California adopts Wal-Mart's wage and benefits policies (which they are increasingly forced to do), the cost of supporting the additional workers on public assistance would be \$410 million dollars. That would mean \$1.46 billion in public assistance to large retail employees.<sup>85</sup>

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<sup>81</sup> Arinhrajit Dube and Ken Jacobs, "Hidden Cost of Wal-Mart Jobs: Use of Safety Net Programs by Wal-Mart Workers in California," UC Berkeley Labor Center, August 2004, 5

<sup>82</sup> Ibid, 6

<sup>83</sup> Boarnet and Crane, "The Impact of Big Box Grocers," 40

<sup>84</sup> Dube and Jacobs, "Hidden Cost of Wal-Mart Jobs," 6

<sup>85</sup> Ibid, 7

### **Wage substitution and job displacement**

A common theme throughout the literature is Wal-Mart's effect on wages in the community. The combination of its low prices (which attract customers to its store and away from other businesses) and the low wages and benefits of its employees, forces competing businesses to pay their own employees less in order to get by. For example, in 2003, when Southern California unions renegotiated their contracts with grocery chains, wages were lowered and benefits were cut in direct response to competition from Wal-Mart.<sup>86</sup>

Much is said about what is called the "substitution effect." To put it simply, when Wal-Mart enters a community, not only does it depress wages, but it oftentimes puts competitors, especially mom-and-pop stores and grocers, out of business. Workers then seek out employment at the only business that is hiring: Wal-Mart. When it enters a community, the company essentially displaces jobs. It literally replaces better paying jobs with lower-paying jobs.<sup>87</sup>

The increase in the number of Supercenters is especially conducive to job displacement, because it displaces jobs in both the retail and grocery sectors.<sup>88</sup>

### **Effects on the county level**

Besides the extensive scholarship on Wal-Mart's effect on a rural level, some comprehensive studies have examined Wal-Mart's impact on counties nationwide. In a study by Goetz and Swaminathan, poverty levels were shown to increase in counties in which a Wal-Mart was located. The study, which examines poverty rates between 1987 and 1999, when Wal-Mart's expansion took off nationally, showed that "Counties with more Wal-Mart stores (in 1987) had a higher poverty rate in 1999 (or a smaller reduction in the rate) than did counties with fewer or no

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<sup>86</sup> Dube and Jacobs, "Hidden Cost of Wal-Mart Jobs," 3

<sup>87</sup> Dube, Lester, Barry Eidlin, "A Downward Push," 6

<sup>88</sup> Boarnett and Crane, "Impact of Big Box Grocers," 10

Wal-Mart stores in 1987.”<sup>89</sup> Specifically, the authors attributed the rise in poverty to the negative impact on local mom-and-pop stores and the subsequent displacement of employment from these businesses to the lower-paying Wal-Mart. Likewise, the philanthropic effect of mom-and-pop stores is undermined and is not replaced by Wal-Mart, despite the fact that it presents itself as a “good local citizen” and donates upwards of \$100 million dollars a year through its Sam Walton Foundation.<sup>90</sup> Unfortunately, the authors fail to specify what kind of philanthropy the mom-and-pop stores engage in.

Another study, by Neumark, Zhang, and Ciccarella, is oft-cited, very recent, and details the effect Wal-Mart has on labor markets on the county level. Using data from the Census Bureau’s County Business Patterns series, Wal-Mart store data provided by the company, and county population data, determined empirically that lead to decreased retail employment within a county. As the report states, “On average, Wal-Mart store openings reduce retail employment by about 2.7 percent, implying that each Wal-Mart employee replaces about 1.4 employees in the rest of the retail sector.”<sup>91</sup> The authors specify that their research only applies to the retail sector, but they suspect that Wal-Mart has no aggregate employment effects, because labor shifts to other sectors in the long run. However, the question must then be asked, what if the community in which Wal-Mart is located has a large retail economy and a limited showing of other sectors? In a low-income, Los Angeles neighborhood like Florence-Firestone, there are limited manufacturing or industrial jobs. Where will the jobs that Wal-Mart displaces shift to if there are limited opportunities outside the retail sector? Similarly, the author’s conclusion does not include labor in the grocery industry. In the case of Florence-Firestone, if a Supercenter is built, then

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<sup>89</sup> Stephen J. Goetz and Hema Swaminathan, “Wal-Mart and County-Wide Poverty,” October 18, 2004, 11

<sup>90</sup> Ibid, 11

<sup>91</sup> Ciccarella, Neumark, and Chang, “The Effect of Wal-Mart on Labor Markets,” 34

displaced jobs from both the retail and the grocery sector will have to be relocated in the other limited employment sectors. I would assume that this would indeed have an aggregate effect on employment in the neighborhood.

A 2007 study by the UC Berkeley Center for Labor Research and Education found that the opening of a single Wal-Mart lowers the average retail wage in the surrounding county by 0.5 to 0.9 percent, lowers the average general merchandise wage by 1 percent, and the average grocery wage by 1.5 percent.<sup>92</sup> This wage depression is attributed to two effects. First, as mentioned before, Wal-Mart substitutes higher-paying jobs with those that pay a lower-than-average wage. Second, anecdotal evidence suggests that wage decreases in the grocery sector are a direct result of cutting costs in response to competition by the low-price Wal-Mart Supercenters.<sup>93</sup> It is doubtful that the decline in wages is compensated by a growth in employment, because the fall in total wages was greater than the average decline in wages.<sup>94</sup>

Finally, a negative effect on labor, which is frequently cited by studies, is determined on the county level. Wal-Mart is famous for (and successful because of) its efficiency. As such, it sells more goods per employee than its competitors. Therefore, when Wal-Mart displaces jobs in a community, the number of employees it needs to operate is significantly less than its competitors needs to sell the same amount of goods. Each new Wal-Mart store reduces county-level retail employment by about 150 workers and each Wal-Mart worker replaces about 1.4 non-Wal-Mart retail workers.<sup>95</sup>

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<sup>92</sup> Dube, Lester, and Eidlin, "Hidden Cost of Wal-Mart Jobs," 5

<sup>93</sup> Ibid, 6

<sup>94</sup> Ibid, 6

<sup>95</sup> Ron Baiman, Julie L. Davis, Brian Flannigan, David F. Merriman, Joe Persky, and Lucia Samayoa, "The Impact of an Urban Wal-Mart Store on Area Businesses: An interim-evaluation of one Chicago neighborhood's experience," Presented to the Urban Affairs Association Baltimore, Maryland, April 15, 2008, 6

It is important to note that Wal-Mart, along with other retail stores like it, is part of what economists refer to as the “non-basic sector.” The role of the non-basic sector is to serve the basic sector, which commonly includes agriculture, mining, manufacturing, etc. These basic sector industries, which demand huge inputs and outputs of capital are commonly thought of as bringing “new money” into a community, which is spent repeatedly within the community and creates economic growth. The non-basic sector is not responsible for bringing new money into a community.<sup>96</sup> As such, the inclusion of a Wal-Mart into a community like Florence-Firestone is unlikely to drive economic growth radically.

### **Negative effects on social capital**

A small, but interesting, portion of research examines how Wal-Mart’s entrance into a neighborhood can adversely affect the local social capital stock. Research, especially by Stone, has repeatedly demonstrated Wal-Mart’s negative impact on mom-and-pop stores, usually resulting in their closure. A little-examined consequence of the closure of these, small local businesses is a drain on the neighborhood’s social capital. Goetz and Rupasingha found that social capital stocks, “as measured by the density of social capital-generating establishments and various measures of civic participation,” were lower in communities in which a Wal-Mart was recently built and in communities that had a Wal-Mart since the early nineties (the study measured between 1990 and 2000).<sup>97</sup> Local mom-and-pop stores are the home to important social relationships between the storeowners and their local patrons. This relationship creates a community network, which has the best interest of the community in mind. Storeowners, argue Goetz and Rupasingha, are part of a “local leadership class” that “can head off conflict and know how to get individuals to cooperate

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<sup>96</sup> Goetz and Swaminathan, “Wal-Mart and County-Wide Poverty,” 4

<sup>97</sup> Stephan J. Goetz and Anil Rupasingha, “Wal-Mart and Social Capital,” *American Journal of Agricultural Economics*, 88:5, 2006, 2

when a local problem requires group action.”<sup>98</sup> A similar study suggests that Wal-Mart destroys a local class of entrepreneurs, which in turn devastates the capacity for local leadership.<sup>99</sup> This loss of social capital has tangible effects on the neighborhood and its residents. A growing body of literature argues that social capital is necessary for economic growth and poverty reduction.<sup>100</sup> The destruction of a community’s civic capacity means it has less power among other stakeholders, and less control over its economic future. Likewise, the informal networks developed between residents, enabled through the operation of mom-and-pop stores, helps foster economic stability, especially among lower-class residents. Upon its arrival in a neighborhood, in addition to displacing jobs and lower wages, Wal-Mart disrupts the potential for the community’s economic growth by undermining its social capital stock. As Goetz and Swaminathan explain, “The elimination of local leaders for among a key group of entrepreneurs may be the single-most important and far-reaching impact of Wal-Mart Corp.”<sup>101</sup>

### **How Wal-Mart selects locations**

Wal-Mart has been shown to choose sites for new stores in communities that have more female-headed households, high rate of female labor force participation, longer commuting times to work (which increases the likelihood that shoppers will buy more at one time), more purchasing power, and lower poverty rates.<sup>102</sup> Wal-Mart intentionally avoids communities with higher levels of social capital, political competition, and self-employment, because they are better able to organize themselves in opposition to a Wal-Mart opening.<sup>103</sup>

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<sup>98</sup> Ibid, 2

<sup>99</sup> Goetz and Swaminathan, “Wal-Mart and County-Wide Poverty,” 12

<sup>100</sup> Goetz and Rupasingha, “Wal-Mart and Social Capital,” 1

<sup>101</sup> Goetz and Swaminathan, “Wal-Mart and County-Wide Poverty,” 12

<sup>102</sup> Ibid, 9

<sup>103</sup> Ibid, 9

Wal-Mart typically builds stores within one day's drive from its distribution center.<sup>104</sup> The nearest distribution center to the Los Angeles markets is in Mira Loma.<sup>105</sup>

### **Effects on non-retail, non-grocery businesses**

In rural areas, Wal-Mart has been shown to have positive benefits on some types of businesses, specifically restaurants. Restaurant sales in Wal-Mart towns grow faster than the state averages. This is due in part because families who travel into town to shop at Wal-Mart frequently stay and eat out.<sup>106</sup> There is no research so far on what effect Wal-Mart has on eateries in urban neighborhoods.

### **Urban Effects: Wal-Mart's Entrance Into Chicago**

Since 2002, Wal-Mart has attempted to build stores in Chicago. To date, the company has only been successful in building one, on the city's West side, despite their plans at one point to build as many as 20 stores in the metropolitan area.<sup>107</sup> There are two significant studies examining Wal-Mart's entrance into the Chicago area. These are important, especially to my research, because they deal with how Wal-Mart affects inner-city neighborhoods. The first, released by the UIC Center for Urban Economic Development before the store opened in 2004, speculated on the impact that Wal-Mart would have on the West side neighborhood. It rested its predictions on three assumptions: First, that "Wal-Mart uses fewer employees to generate the same amount of sales as its competitors."<sup>108</sup> Though as suggested earlier, there are a few different values in the literature for the number of Wal-Mart employees that it takes to complete the same amount of

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<sup>104</sup> Boarnett and Crane, "Impact of Big Box Grocers," 48

<sup>105</sup> Google Maps

<sup>106</sup> Kenneth E. Stone, "Competing with Discount Mass Merchandisers," Iowa State University, 1995

<sup>107</sup> Wal-Mart Watch, "Wal-Mart's Urban Problem"

<sup>108</sup> Ron Baiman, Chirag Mehta, and Joe Persky, "The Economic Impact of Wal-Mart: An Assessment of the Wal-Mart Store Proposed for Chicago's West Side," UIC Center for Economic Development, March 2004, 4

work as other, smaller retailers thanks to its incredible efficiency, this study claims that Wal-Mart employees generate 51 percent more in sales.<sup>109</sup> To put it simply, this means that Wal-Mart would only offer 49 percent of the jobs that it would displace in the community. The second assumption was that Wal-Mart would attract suburban customers back into Chicago to shop. The study assumes that 10 percent of Wal-Mart’s patrons will be Chicago residents who previously shopped in the suburbs.<sup>110</sup> Unfortunately, the study offered no reasoning behind their selection of 10 percent as the number to use, otherwise it might be useful to my research. Finally, because 12 percent of the customer base at the time was suburban shoppers and because 50 percent of Wal-Mart’s suburban customers come from other retailers, the study estimates that 6 percent of Wal-Mart’s customers will be new suburban shoppers.<sup>111</sup> Again, their methodology for determining these values is quite obtuse. However, one important piece of methodology the study does offer is that, because general merchandise stores like Wal-Mart typically have a three-mile service area, it focused its examination on businesses within a three-mile radius of the proposed site. This is a shared methodological feature with the other case study on Chicago.<sup>112</sup>

Using these assumptions, the study estimates the following:<sup>113</sup>

Direct Chicago jobs created in the general merchandising sector	200
Direct jobs held by Chicago residents lost in the general merchandising sector in Chicago	-254
Net direct jobs held by Chicago residents lost in the general merchandising sector of Chicago	-54
Net indirect jobs held by Chicago residents lost outside of the general merchandising sector	-11
Net direct loss of benefits to Chicago residents	-\$851,000
Net indirect loss of benefits to Chicago residents	-\$332,000

<sup>109</sup> Ibid, 4

<sup>110</sup> Ibid, 4

<sup>111</sup> Ibid, 5

<sup>112</sup> Baiman, Davis, Flannigan, Merriman, Persky, and Samayoa, “Impact of an Urban Wal-Mart Store”

<sup>113</sup> Baiman, Mehta and Persky, “Economic Impact of Wal-Mart,” 5

These numbers are very specific and show a clear negative impact on the employment and wages of neighborhood residents.

The second Chicago study, by Baiman et al. is important to my research because, as they explain:

“So far as we know, this is the first empirical study of the local economic impact of a Wal-Mart in a large city. As such its conclusions should be highly relevant for scholars, public officials and community activists seeking to understand consumer choices and improve economic opportunity for inner city residents.”<sup>114</sup>

Whereas most of the significant studies focus on the Wal-Mart effect on either the rural level (i.e. examining a specific town) or the country-wide county level, this study is one of the few, if not the only, that looks at the effect Wal-Mart has on an inner-city community.

The study brings a few important issues to light surrounding Wal-Mart's entry into an inner-city environment. Unlike in a rural or suburban setting, an urban Wal-Mart has a limited ability to attract customers from outside what the authors call its “political jurisdiction” because there are many other retailers located in the neighborhood.<sup>115</sup> Since there are a limited number of potential consumers within an area shared by other retailers, whatever business Wal-Mart attracts in an urban setting necessarily is taken from their competitors. More so than in a rural or suburban area, the urban business landscape is a zero-sum game. Whatever gains Wal-Mart makes come at the expense of other businesses.

The study's methodology included a survey of businesses within a three-mile radius of the West side Wal-Mart. The preliminary findings showed that while there were some small growth by non-Wal-Mart retailers between 2006 and 2007 (on average, these businesses enjoyed a 10%

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<sup>114</sup> Baiman, Davis, Flanagan, Merriman, Persky, and Samayoa, “Impact of an Urban Wal-Mart,” 5

<sup>115</sup> Ibid, 8

increase in employment and paid 5% more), 23 of the 191 businesses closed permanently.<sup>116</sup> The authors conclude that, “in an urban setting, proximity to Wal-Mart is associated with a higher probability of going out of business for local retail establishments.”<sup>117</sup> Likewise, they found that Wal-Mart replaced sales from its own and neighboring zipcodes.<sup>118</sup> Unfortunately, because the two studies in question examine two different (albeit related) issues – the 2004 study looks at employment and wages and this 2008 study looks at the effect on non-Wal-Mart businesses specifically – they cannot be directly compared, in that the findings of the predictive study cannot be validated. But the relationship between the two findings can be extrapolated.

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<sup>116</sup> Ibid, 11

<sup>117</sup> Ibid, 15

<sup>118</sup> Ibid, 15

<sup>140</sup> California Governor’s Office of Planning and Research, “The Planner’s Training Series: The Conditional Use Permit,” August 1997

### **Community Input in the Development Process: Land Use Permits and CBA's**

Before any development, retail or otherwise, can begin in the City of Los Angeles, the proposed development must undergo one of a few review processes. These reviews, depending on their depth, offer various levels of community input into the development process.

#### **Land Use Permits**

Every type of development or redevelopment must obtain a Land Use Permit before it can begin. Before gaining approval to begin working, a developer must submit a Land Use Permit Application to the Los Angeles City Planning Department. The Land Use Permit feature the most basic and least intensive of requirements that developers must meet. The permit confirms that the project meets city code, which in theory ensures that the project meets an acceptable level of safety, environmental standards as per the requirements of the California Environmental Quality Act, and is located within the correct zone, i.e. retail, residential, etc.

In and of itself, the Land Use Permit process doesn't offer an assessment of the project's effects on the local community or its economy, beyond the mandatory CEQA analysis. It also does not offer any avenue for community input on the project before the application is approved.

#### **Conditional Use Permits**

A Conditional Use Permit allows a city or county to evaluate special uses of a property that are not allowed as "a matter of right" under a particular zoning district. A Conditional Use Permit is designed to offer cities flexibility in approving projects within zoning ordinances. Typically, the Conditional Use Permit is utilized to accommodate uses that may benefit or be essential in a community or more importantly, prevent uses that may have a harmful effect on the community. For example, single-family residential districts are reserved exclusively for just that use. But with a Conditional Use Permit, a common tool for communities and developers,

other uses may be approved. As the Governor’s Office of Planning and Research describes, “These uses include churches, public or private schools, public building or utility structures, parking lots, temporary subdivision sales offices , and community care and health facilities.”<sup>140</sup>

The first step in the application for Conditional Use Permit is a public hearing. Which means before a development can undergo stricter scrutiny by the planning commissioner of the zoning administrator, the affected community will voice there concerns about the project, which will weigh on the commission’s ultimate decision to grant the permit. Owners of the properties near the proposed site are given notice in advance of the public hearing, since they are conceivably the stakeholders that will be affected by the development. Conceivably, stakeholders that are not within the vicinity of the development can also attend the public hearing and voice their concerns, if they have been alerted to it.

It is up to the discretion of the city or county to include in their zoning ordinance uses that are permitted under a Conditional Use Permit. In Los Angeles City, large-format retail stores require a Conditional Use Permit, as pointed out in the language of the city’s Big Box Ordinance.<sup>141</sup>

Because large developments like big box stores are subject to the Conditional Use review, the affected community necessarily has the opportunity to voice their concerns in a public hearing. Likewise, community organizations can mobilize to speak at the public hearings and address public officials overseeing the project’s approval. The Conditional Use review is a tool for the community stakeholders beyond the realm of big box stores. If any proposed use could have potentially negative impacts on the community, stakeholders have an opportunity to challenge it

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<sup>141</sup> City of Los Angeles Zoning Ordinance Number 176166

in public. According to Ben Beach of the Partnership for Working Families, the Conditional Use review is where “in the process the community has leverage.”<sup>142</sup>

Because the review process does not take into account effects on the local economy and certainly not the more qualitative effects like destruction of vital social networks, the public hearings are a vital opportunity for communities to organize and oppose the development *within* the planning process. The public hearings offer potentially the only opening for the community development perspective within the process from the community itself. The public hearings represent built-in empowerment: It “recognizes the importance of public participation in public hearings and expresses clear legislative intent that local agencies insure public participation at every level of the conditional use permit process.”<sup>143</sup> While the statute does acknowledge that public participation is vital in the planning process, it offers no formal reason why importance is put on the opinion of the community or how much influence it commends when the final decision is made by the commission. To be sure, the process requires that a great effort is made to attract stakeholders to the public hearings. The statute requires that notices are posted around the affected neighborhood, mailed to nearby property owners, and put into the local paper at least ten days before the hearing.<sup>144</sup> Clearly, community input is vital part of the conditional use review, at least in theory and by statute. However, an invitation for public input must be matched by strong organizing in the community in order to take full advantage of this avenue for public input.

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<sup>142</sup> Interview with Benjamin Beach, February 17, 2010

<sup>143</sup> Governor’s Office of Planning and Research

<sup>144</sup> Ibid

### Development Agreement

If a Conditional Use Permit offers a heightened level of flexibility when it comes to planning and zoning ordinances, a Development Agreement represents the ultimate level of flexibility for both developers and the city. Most importantly to community groups, Development Agreements allow for the possibility of a Community Benefits Agreement to be negotiated. Development Agreements are utilized when a development is of an extremely large scale, large enough to come up against zoning codes, and will take a long time to build, and therefore may be challenged by changing and ultimately impermanent zoning codes.<sup>145</sup> Essentially, a Development Agreement codifies a special set of circumstances for a specific development, agreed upon by both the developer and the city. It “provides the developer with a level of certainty about the land use requirements being imposed by a municipality, and it provides a city with the opportunity to undertake a comprehensive planning effort and to advance its local planning policies.”<sup>146</sup> Development Agreements are governed statewide. If an agreement is sought by a developer, it is usually to placate and ensure investors of the stability of the project in the future, as well as secure the favor of the city. If a city seeks a Development Agreement, it is usually to make sure that it protects certain interests that may be affected by the development, like sources of low-income housing or places of employment.<sup>147</sup> Development Agreements also determine what kind of subsidies, if any, the development will receive from the city.

It is important to note that Development Agreements are not common. They are a specific type of Land Use Agreements, but not every development calls for one. Once a

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<sup>145</sup> City of Long Beach, “Frequently Asked Questions About the Proposed Douglas Park Project”

<sup>146</sup> Ibid

<sup>147</sup> Ibid

Development Agreement is settled, it marks the end of the land use approval process.<sup>148</sup> In most cases, according to Beach, Development Agreements are “good for developers” because “it freezes land use controls” in a way that is amenable to their project.<sup>149</sup>

Development Agreements have the potential to be a powerful tool in a community’s arsenal, depending on the size of the proposed development, since they provide an avenue for Community Benefits Agreements to be established. However, only the largest projects call for Development Agreements. For example, the Staples Center planning process resulted in a Development Agreement because of the scope of the project (it included commercial, residential, and hotel uses), the likelihood that inflexible zoning ordinances would pose challenges, the chance that in the time it took to build the project there may be a change in the zoning code (perhaps if it falls out of political favor), fact that developers sought subsidies from the city, and the city’s eventual desire (thanks to the prodding of community coalitions) to protect low-income housing and employment. However, the proposed development of a big box store would most likely not result in a Development Agreement, only a Conditional Land Use Agreement. To be sure, big box stores are large, but they don’t command the same scope or physical presence that the Staples Center does, or say the redevelopments at LAX.

However, the size of these projects would most likely require public subsidies to be financially viable. Here, according to Beach, is where community groups can gain leverage.<sup>150</sup> Subsidies, especially grand figures like those that went into the Staples Center, are politically charged. Elected officials play a risky political game when they agree to give exorbitant numbers to particular interests, especially if the interest has a spotty record when it comes to issues like

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<sup>148</sup> Interview with Benjamin Beach, February 17, 2010

<sup>149</sup> Ibid

<sup>150</sup> Ibid

labor, for example. Community organizations can leverage this, especially if an election day is looming.

Development Agreements come into play when the developer seeks subsidies from the city in order to build. Normally, big box stores fall under a Conditional Use, but if the company seeks subsidies (or in some other way wants to diverge from the normal approval process, i.e. relaxed environmental reviews) then a Development Agreement is required. In this case, community organizations have an opportunity to negotiate a Community Benefits Agreement as part of the Development Agreement.

### **Community Benefits Agreements**

An increasingly popular tool for gaining community input in economic development is the Community Benefit Agreement (CBA). The Los Angeles Alliance for a New Economy, a pioneer in the CBA movement, defines a CBA as “a legally enforceable contract, signed by community groups and by a developer, setting forth a range of community benefits that the developer agrees to provide as part of a development project.”<sup>151</sup> A successful CBA protects interests in communities, particularly low-income communities of color, like wages, employment, housing, services, and the environment that would otherwise be detrimentally affected by a proposed development. Legally, it is not a land use agreement, or determined through an official process. Rather, it is a separate contract that becomes part of the Development Agreement.

CBA's are negotiated between community organizations, representing the affected stakeholders in the community, and the developer. CBA's are incorporated into the land use approval process, as LAANE says, since they must be determined before the Development

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<sup>151</sup> Julian Gross, “Community Benefits Agreements,” LAANE, 2005, 9

Agreement is signed between the developer and the government.<sup>152</sup> The CBA is arranged this way to ensure that it is adopted as a condition of the Development Agreement, and therefore is legally binding – thereby protecting the community's interests. A successful CBA provides for the confluence of the three main groups of stakeholders: the community, the developers, and the government. Since CBA's are a part of the Development Agreement, all three parties are essentially in agreement at the end of the process.

This, however, is not to say that there is an official policy or legal avenue that guarantees how a CBA is drafted, if at all. There is no state law or city ordinance that protects a community's right to craft a CBA prior to any Development Agreement. Instead, the CBA negotiation process lies outside of the formal land use process. This means it is the role of the community organizations to leverage the developer to engage in the CBA process and likewise leverage the government to convince the developer to agree to it.

The first task can be quite difficult, since it is up to the community organization to convince the developer that signing a CBA is in their best interest. This is where the official public approval process becomes useful. As LAANE explains, "Permit approvals almost always have some kind of public approval process, as do most development subsidies. For many projects, the degree of community support or opposition will determine whether developer will receive the requested approvals and subsidies."<sup>153</sup> Because approval by the city hinges on community support, mobilization for or against the development by the community organization is where it can find leverage. Organizing to protest the development, in the streets and public hearing, appeal to their elected officials, and disseminate information of the detrimental effects of the development to

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<sup>152</sup> Ibid, 11

<sup>153</sup> Ibid, 11

the outside public are all methods of creating disfavor for the project – enough so to convince the developers to negotiate a CBA.

The second task is much easier than the first, since Development Agreements, or at least those that necessitate a CBA, include an agreement on the subsidies that a city will provide the developer. The existence of subsidies provides an opening for community organizations to exercise leverage. In fact, subsidies are so central to idea of CBA's that organizations like LAANE don't define Development Agreements beyond the issue of subsidies, despite that facet that a Development Agreement is really about the re-negotiation of zoning ordinances. According to the organization, "A development agreement is a contract between a developer and a city or county, outlining the subsidies that the local government will provide to the project."<sup>154</sup>

Because the government provides subsidies to the developers, it is the government's prerogative, in theory, to ensure that those economic benefits extend to effected residents in the vicinity of the development. On one level, extending benefits of the subsidies to the local population is a moral issue – city leaders want to protect the welfare of the effected residents on principle. City money – taxpayer money – cannot go towards harming or displacing low-income communities. On another level, city leaders are politicians and they have a pragmatic interest in protecting their image by ensuring that subsidy benefits do not go only into the pockets of business. This is where community organizations have leverage over the government.<sup>155</sup> By putting pressure on elected officials to take a responsible approach to economic development, community organizations can make sure the city brings the developers to the table to negotiate CBA's.

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<sup>154</sup> Ibid, 9

<sup>155</sup> Interview with Benjamin Beach, February 17, 2010

While the CBA process is indeed a powerful tool, it has a few serious weaknesses. The first weakness is the quasi-legal nature of the negotiation process. As mentioned before, there is no “official” CBA process, so it is up to the community organization, the developers, and each groups’ lawyers to establish a system of negotiation. Establishing order in a policy realm that is essentially anarchical is a serious weakness of the CBA concept – the city, in some cases, officiates the process, but otherwise there is no streamlined process. There is no built in system for guaranteeing that community organizations have an equal voice. Instead, the community’s input is subjectively weighed by the planning commission. This puts the community organization at a disadvantage. Developers, especially in the case of larger developments, have money and influence that the community organizations must compete with. As LAANE acknowledges, “A community group’s ability to win a CBA is directly related to how much power it has organized.”<sup>156</sup>

### **Big Box Stores In the Land Use Process**

The CBA process occupies an awkward position in the land use process, specifically in regards to its application to big box retailers. Though mega retailers occupy huge swatches of land, enough to couple a sales floor that can exceed 200,000 square feet with sufficient parking, these projects usually fall below the virtual size and scope threshold that separates Conditional Use projects from Development Agreement-worthy projects. Big box stores typically adhere to one zoning type, commercial, and their construction does not violate scores of zoning ordinances or take years to develop, as CBA-winning projects like the Staples Center and LAX do. However, they are large enough, and usually have parking lots large enough, to necessitate special consideration under a Conditional Use Permit. The Big Box Ordinance reinforces this notion,

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<sup>156</sup> Gross, 7

since the impact assessment it requires is filed along with the Conditional Use Application (see Big Box Analysis later).

CBA's, as said before, are adopted into Development Agreements for two reasons. First, the Conditional Use process does not have a mechanism, or an opening, for incorporating CBA's into the permit. Second, Development Agreements are flexible enough to incorporate a CBA. Again, beyond the Conditional Use public hearing, the community cannot exercise much leverage over the developer.

Unfortunately, this means that CBA's are not typically associated with big box stores. They, ironically, are not "big" enough to be incorporated into the development process. According to Beach, it is uncommon to try to approach the problem of big box stores with CBA's.<sup>157</sup> This is doubly true for Wal-Mart, a company that notoriously refuses to negotiate its practices,<sup>158</sup> instead opting to abandon a proposed site if it is pressured to change. For example, as Wal-Mart was preparing to enter Chicago's South Side and West Side neighborhoods, the city council prepared for the mega retailer's impact by passing a big box ordinance. It required any retailer over 75,000 square feet to pay a living wage of \$10 an hour plus \$3 an hour in health benefits, local hiring requirements, and allow "free speech" demonstrations on its sidewalk.<sup>159</sup> However, Chicago mayor Richard Daley vetoed the ordinance (it was his first veto as mayor). When it was sent back to the council, it failed to win the number of votes required to override the veto.<sup>160</sup> The ordinance's ultimate failure is beside the point, because both Wal-Mart and Target made it clear publicly that it would abandon its plans in urban Chicago if a living wage law was

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<sup>157</sup> Interview with Benjamin Beach, February 17, 2010

<sup>158</sup> Ibid

<sup>159</sup> LAANE, "Wal-Mart and Beyond," 19

<sup>160</sup> Ibid, 22

implemented.<sup>161</sup> This anecdote reinforces the point that big box retailers staunchly refuse to change their labor practices on a store-by-store basis, making the success of CBA's or big box ordinances with wage mandates highly unlikely.

However, as said before, if a big box store seeks subsidies from the city to build, the project falls under a Development Agreement and a CBA can be negotiated.

### **Big Box Ordinances In California**

#### **Los Angeles County**

The County appears to be unprepared to respond to the entrance of a big box store like Wal-Mart into its unincorporated areas. In February of 2009, when a handful of Florence-Firestone residents were petitioning for Wal-Mart's entrance into the neighborhood, the county was quick to respond, albeit with a statement in the *Los Angeles Times*. Dan Rosenfeld, Senior Deputy for Economic Development, Sustainability and Mobility for LA County, was quoted as saying, "The medicine that will help cure our economic malaise will be small- and medium-sized businesses indigenously grown in our communities."<sup>165</sup> It was a bold and unequivocally "anti-big box" statement, suggestive that large, outsider chains would not serve to benefit the Florence-Firestone neighborhood.

However, when asked about the possibility of Wal-Mart trying to build within the county, he brushed it off as a non-issue, explaining that the Florence-Firestone Wal-Mart was an idea that never got off the ground. Rosenfeld said,

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<sup>161</sup> LAANE, "Wal-Mart and Beyond," 22

<sup>165</sup> Ibid

“The Wal Mart suggestion seems to have come from one individual and we heard no more. It seems they had no authorization from the company and no site...The proposition was never, to my knowledge, discussed with our office.<sup>166</sup>

This nonchalant attitude toward the possibility of a big box development is striking. Considering the high profile battles over Wal-Mart’s entrance that took place elsewhere within the county, it is surprising that the county has yet to develop a plan for big box stores.

There are no formal plans to introduce a big box ordinance on a county level. According to Rosenfeld, the issue has never been seriously discussed. He explained to me, “The County has no such ordinance, to my knowledge. I have heard it discussed, but never seen it formally introduced.”<sup>167</sup> The county must be completely unconcerned with the issue of big box retailers.

The Big Box Ordinances in the case studies presented here were all drafted as a response to the looming entrance of Wal-Mart. Inglewood’s first ordinance, passed as an emergency referendum, was reactionary on the part of Inglewood’s city council. This reactionism in part led to the intra-neighborhood turmoil that characterized the Wal-Mart debate. Had the Inglewood City Council taken a more measured approach and anticipated potential legal opposition from Wal-Mart, which felt “unfairly targeted,” the referendum and the subsequent initiative could have been avoided. LA City Council drafted their big box ordinance as a response to the site fight in Inglewood, the grocery strike, and most important, Wal-Mart’s announcement that it would be entering the state. Lastly, Oakland passed their ordinance because Wal-Mart was about to enter the Bay Area.

It seems that as soon as the “big box threat” ended for the time being, the county lost interest in it. Perhaps it should learn from the lessons of its neighbors and take a proactive

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<sup>166</sup> Correspondence with Dan Rosenfeld, April 8, 2010

<sup>167</sup> Ibid

approach to the issue of mega retailers. The Florence-Firestone episode is an example of the county’s under-preparedness to deal with big box stores. Had the Wal-Mart project actually broken ground, the county would have no means in place to regulate it. The best it could do is pass an emergency ordinance, but that, like in the Inglewood example, could land the county government in litigation. Instead, a proactive policy towards big box retailers needs to be established on a county level, in part to protect the unincorporated communities that include Florence-Firestone. The policy must protect the economic development of these communities, while being flexible enough to incorporate the few benefits that do come with big box stores.

### Typical Big Box Stores

In order to evaluate how effective a particular ordinance will be, particularly the quantitative measures (i.e. limits on square footage) it is necessary to know the sizes of typical retailers.

**Figure 1:** Large general merchandise and superstore sizes

Name	Avg. Square Footage
BJ's Wholesale Club	
Gen. merchandise	71,000
Superstore	113,000
Costco (superstore, membership)	142,000
Food 4 Less (groceries, part of Kroger)	56,000
Fred Meyer (Superstores)	150,000
Kroger	
Superstore	112,000
Meijer (superstore)	200,000-250,000
K-Mart	
Gen. merchandise	92,000
Superstore	165,000
Sam's Club (superstore, membership)	110,000-130,000
Target	
Gen. merchandise	126,000
Superstore	174,000
Walmart	
Gen. merchandise	107,000
Superstore	187,000

Source: Independently compiled

Figure 1 shows the average sizes for a number of nationwide large retailers and superstores. Every superstore (combination retail and grocery) is over 100,000 square feet. Large general merchandise stores are over, or nearly 100,000 square feet. For example, Target and Wal-Mart’s standard, general merchandise stores are top the 100,000 square foot mark. K-Mart’s general merchandise stores fall just under the threshold at 92,000 square feet. It is important to note that Wal-Mart’s *smallest* store format (the general merchandise format) is 107,000 square feet.

Big box ordinances aimed at superstores over 100,000 square feet will affect the largest and most prominent examples, including Target and Wal-Mart. However, since most big box ordinances, including my case study examples, exclusively affect outfits with at least 10% of the sales floor devoted to grocery, some large general merchandise stores will be exempt.

**Typical retailers and grocers**

Smaller retailers, those that typically sell a particular category of product (sometimes known colloquially as “category killers”) are familiar in urban environments.

**Figure 2:** Common retailers specializing in one type of merchandise

Name	Merchandise	Avg. Square Footage
Barnes and Noble	Books, music, videos	25,000
Bass Pro Shops	Hunting/Fishing/Camping	140,000
Bed Bath & Beyond	Furniture, housewares	45,000
Best Buy	Electronics	27,000
Books-A-Million	Books, music, videos	20,000
Borders	Books, music, videos	24,700
Cabella's	Hunting/Fishing/Camping	150,000
CarMax	Used car superstore	59,000
Circuit City	Electronics	30,000
Dick's Sporting Goods	Sporting goods	45,000
Home Depot	Hardware	130,000
Kohl's	Clothes	90,000
Staples	Office supplies	20,000
Toys "R" Us	Toys and games	40,000 - 50,000

Source: Independently compiled

Figure 2 shows the average square footage of some common retailers found in American cities. The list certainly isn't exhaustive but it offers a comparison in sheer size between this class of retailer and big box retailers like Wal-Mart. For the most part, these retailers are smaller in scope and in size. While some, like Home Depot or Cabella's may top 100,000 square feet, their footprints are a result of the type of merchandise they carry (i.e. hardware or sporting vehicles). These retailers, though sometimes referred to as "big box stores" by some media sources, carry neither the physical implications of large format retailers (i.e. business or home displacement, blighting), particularly since the smaller examples in particular can fit into existing or unused spaces; nor the social or economic impact of large format retailers (i.e. wage suppression or job displacement) since they do not command the same economies of scale or cannibalize local markets to the same degree as big box stores. The literature I have read has not analyzed these smaller, specialized format retailers as harmful to communities. Since most of them fall below the 100,000 square foot threshold (and those that are over 100,000 square feet are exempt thanks to their merchandise), typical big box ordinances exclude them.

Likewise, the size of grocery stores typically exclude them from being affected by big box ordinances.

**Figure 3: Examples of Southern California grocers**

<b>Name</b>	<b>Avg. Square Footage</b>
Albertsons	<48,000
Ralph's	45,000
Tesco Fresh & Easy	10,000
Vons	50,000
Wal-Mart Neighborhood Market	42,000

Source: Independently compiled

While grocery stores obviously have over 10% of their sales floors dedicated to groceries, since they fall well under the 100,000 square foot threshold, they are exempt from big box ordinances.

This does however, allow for the entrance of smaller-format grocery stores that may have low standards of labor. For example, Tesco's Fresh and Easy stores fall well below the 100,000 square feet mark, yet its labor practices have been questioned even before the company entered the Southern Californian grocery market. Its low prices (and low wages) could have the exhibit a wage suppression effect similar to Wal-Mart's, since the non-union grocer is competing in the grocery sector with other, unionized grocers. Likewise, as said before, Wal-Mart is experimenting with smaller-format "neighborhood markets" that sell groceries. Both of these examples could "slip through" big box ordinances and provide "big box prices" (and "big box impacts") from a smaller box.

### **Ordinance Case Studies**

The following section analyses three big box ordinances passed by cities in California. The examples of L.A. City, Oakland, and Inglewood were chosen because they a) exist under California land use law, b) regulate urban areas much like Florence-Firestone and other unincorporated communities in L.A. County, and c) offer examples of slightly different provisions that can be compared. The L.A. City ordinance is the main source of analysis, since it offers one of the most famous, innovative, and easily accessible example, and the Oakland and Inglewood examples over complementary analyses. By analyzing and comparing these three ordinances, a list of "best practices" can be compiled which will ultimately inform my recommendations to the county.

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<sup>175</sup> Mark Valliantatos, Amanda Shaffer, Moira Beery, Robert Gottlieb, and Abby Wheatley, "Thinking Outside the Big Box," UEPI Papers, October 2004, 19

## Los Angeles City Big Box Ordinance

### History and Context

By the end of the century, the rapid expansion of Wal-Mart and the devastating effect it has on communities, especially rural towns, was well-documented. In 2002, Los Angeles City Councilmembers Eric Garcetti and Ed Reyes began drafting a big box ordinance for the City of Los Angeles that would ban mega-retailers within city limits.<sup>175</sup> In March 2003, the council authorized the Community Development Department to commission a report to determine what effects the entrance of a big box store typically has on communities.<sup>176</sup> While the \$30,000 report, conducted by Rodino Associates, an independent firm,<sup>177</sup> was aimed at evaluating big box stores in general, the council wanted to address the growing concern that Wal-Mart in particular might enter the city.

It's no coincidence that council members began preparing for big box expansion in 2002, the same year that Lee Scott, Wal-Mart's CEO, announced the company's intentions of rapidly expanding into California by building at least 40 Supercenters by 2008. It went without saying that the Los Angeles area, the second-most populous metropolitan region in the United States, would be an important market beachhead for the retailer's hopes of Pacific Coast dominance.<sup>178</sup> If Wal-Mart planned on proliferating in the region, the council wanted to steel the city against its spread. Preventing blight and the devastation of communities, wages, and local businesses were cited by the council as reasons to be wary of big box retailers in the city.<sup>179</sup>

The 70-page report, submitted to the council in October 2003, offered a veritable laundry

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<sup>176</sup> Vallianators, Shaffer, Beery, Gottlieb, and Wheatley, 19

<sup>177</sup> Garrison

<sup>178</sup> Nancy Cleeland and Debora Vrana, "Wal-Mart CEO Takes His Case to California," *Los Angeles Times*, February 24, 2009

<sup>179</sup> Garrison

list of negative impacts associated with big box stores and Wal-Mart Supercenters in particular.

In response to the report's findings, Councilmembers Garcetti and Reyes drafted an ordinance that would ban big box stores outright. If passed, retailers would be prohibited from building non-warehouse stores larger than 100,000 square feet that devote more than 10% of their sales floor space to grocery items.

The inclusion of the grocery caveat was particularly prescient at the time. Shortly after Scott announced Wal-Mart's expansion campaign, the Southern Californian grocery industry erupted into a panic. The region's largest grocers considered lowering the wages of their employees in order to cut costs and protect themselves against the low-cost competition of the Supercenters. In turn, the United Food and Commercial Workers struck to protect their wages. When Ralphs, Vons, and Albertsons, South and Central California's largest grocers sought concessions from their employees, the UFCW stopped work.<sup>180</sup>

The high-profile strike made headlines and motivated the city council to revisit and re-evaluate its drafted ordinance. While the terrible effects on community development were already apparent to council members, the UFCW strike reinforced the importance of protecting the city's grocery sector and the living wages that came along with it. Josh Kamensky, a spokesman for Garcetti remarked that while the report made big boxes stores' negative effects on local economies clear, the council would take a special interest in protecting communities against those that sell a "high share" of groceries.<sup>181</sup>

By 2003, Wal-Mart's entry into the grocery sector caused 25 regional supermarket chains to close or declare bankruptcy. With these closures, at least 12,000 mostly unions jobs were lost.

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<sup>180</sup> Abigail Goldman and Nancy Cleeland, "An Empire Built on Bargains Remakes the Working World," *Los Angeles Times*, November 23, 2003

<sup>181</sup> Cleeland, "City Report Is Critical of Wal-Mart"

<sup>182</sup> Grocers and their employees were fighting for the same thing: A means of protecting their industry against the low-priced giant. Grocers feared losing vital business and the union feared losing jobs. As retail consultant Burt P. Flickinger III explained, “Every one of the giant stores sucks away about 200 UFCW jobs.” <sup>183</sup> That meant its members and their families could face hard times and the union would lose money and leverage in organizing and bargaining.

But the council’s original outright ban on big box stores neglected an important issue facing urban communities, especially low-income communities of color. The issue of food access factored importantly into the debate over Wal-Mart’s entrance into Inglewood, still fresh in policymakers’ minds. True, Wal-Mart and like mega retailers may suppress wages and decrease the overall number of jobs, but in neighborhoods where access to fresh, cheap foods in bulk – the kind of product Wal-Mart Supercenters specialize in – a grocer of its size and price is a boon to residents. The sad reality is, as John Dicker writes, “Wal-Mart moves in where its competition won’t.”<sup>185</sup> To communities in need, immediate access to necessities like food, as well as other consumables, often and justifiably takes precedence over long-term, unforeseeable consequences in the decisions of its consumers. Dicker writes, “Typically poor, and less concerned with Wal-Mart’s reputation for labor malfeasance or for squeezing out small businesses, these communities are far more interested – and in need of – affordable convenient places to shop.”<sup>186</sup>

The council chose to balance these competing interests – the protection of the established, economically more-responsible grocers and the need for cheap food in the inner city – by redrafting its concrete prohibition of stores of a certain size and instead opting to assess each

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<sup>182</sup> Goldman and Cleeland, “An Empire Built on Bargains”

<sup>183</sup> Ibid

<sup>185</sup> Dicker, 185

<sup>186</sup> Ibid, 185

proposed mega retailer on a store-by-store basis. After witnessing the struggle on both sides of the issue in Inglewood, which pitted “neighbor against neighbor in a war of propaganda” as Eliot Perry called it<sup>187</sup>, the city council wanted a more flexible tool to allow retailers to provide these sorely needed resources, granted they meet standards of economic responsibility. Not only would an individualized approach ensure each community’s needs are taken into account, it would also prevent legal wrangling by big box stores that would threaten to overturn it, as Wal-Mart did through the referendum process in Inglewood. Wal-Mart, for example, could not claim it was unfairly targeted by the council thanks to the provision. As Jessica Garrison writes, the city council “decided voters were more likely to support increased community input into development than outright bans.”<sup>188</sup> The idea to assess, rather than prohibit, was most likely a measure equally motivated by concern for communities as it was by a concern for legally protecting the ordinance.

Beyond the usual practice of “conditional use permits,” which grant a business the right to develop based on an evaluation of land, pollution, and parking impacts, the redrafted big box ordinance requires a developer seeking to build a retail establishment over 100,000 square feet that devotes more than 10% of its sale space to groceries, to commission an economic impact analysis on the surrounding community, conducted by an independent firm.

The ordinance was approved by the city council in 2004. The one dissenting vote originated from Bernard Parks, a future mayoral hopeful, who feared that the ordinance would scare away big business from the city’s core. Proponents considered the ordinance, an unprecedented, flexible model that assesses a retailer’s impact beyond its physical footprint a

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<sup>187</sup> Daniel B. Wood, “A New Twist in the Wal-Mart Wars,” *Christian Science Monitor*, August 12, 2004

<sup>188</sup> Garrison

success. To them, it acknowledged that each community is different and has different resources at stake as well as took steps to protect the city's investment in economic development.<sup>189</sup> Labor and city officials praised the ordinance, hoping that it would serve as a model nationwide and encourage communities and companies to engage in a dialogue about business practices and weigh economic effects.<sup>190</sup> Garcetti championed the ordinance, describing it as a tough but fair means to ensure that communities are protected while respecting business interests. He said of the ordinance,

If the piles and piles of reports that talk about additional public costs and the net loss of jobs are wrong, they [big box retailers] can try to express that. Similarly, if other studies say Wal-Mart is the best thing to happen to communities since crosswalks were invented, they will get a chance also to say otherwise.<sup>191</sup>

The passage of the big box ordinance, at least in the newspapers in the weeks that followed, was described as a breakthrough for the role of community input in the economic development of Los Angeles neighborhoods, as well as a pragmatic, levelheaded approach to negotiating the needs of communities and the rights of businesses.

#### *Big Box Ordinance Analysis*

Since its earliest version, City of Los Angeles Zoning Ordinance Number 176166, colloquially known as the Big Box Ordinance, was intended to protect the economic well being of communities that may become home to mega retailers. Its initial July 2004 draft, Council File Number 00-1675-S1, established that ensuring healthy community economic development was one of the council's primary objectives. While it acknowledged that big box stores might indeed bring a significant amount of business tax revenue to the city, it questioned the inevitable trade off. It reads, "However, the question is whether the revenue generated from Big Boxes business

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<sup>189</sup> Wood

<sup>190</sup> Garrison

<sup>191</sup> Ibid

taxes represents economic growth or economic development.”<sup>192</sup> The Rodino report submitted in October the year before greatly motivated the budding ordinance, and its authors Garcetti and Reyes, recognized that big box retailers can have hugely detrimental effects on developing communities.

Curiously, the council file in question evidences that the authors perhaps misinterpreted the Rodino report, in my opinion. The text of the council file explains, “Their [Rodino Associates’] report focused primarily on land use policy and the need for review of Big Box stores with certain specification,” like physical footprint and stock, and “does not address the economic impact that Big Boxes would have on the residents of the City of Los Angeles.”<sup>193</sup> However, as explained above, the Rodino report took a thorough and comprehensive look at most of the impacts of big box retail, including its effect on labor and taxes. This striking discrepancy between the contents of the Rodino report and its perceived relevance by the council members is indicative of the council’s approach to halfheartedly including the Rodino report’s recommendations.

### **The Los Angeles City Big Box Ordinance**

The ordinance begins by including definitions central to the discussion around big box stores, including “Economic Assistance Areas,” “Major Development Project,” “Non-taxable Merchandise,” “Sales Floor Area,” and “Superstore.” These definitions provide insight into what the ordinance aims to achieve and which interests, including industries, it seeks to protect.

**Economic Assistance Zones:** First, the ordinance defines “Economic Assistance Areas” as a conglomerate of already-protected zones throughout the city. These protected areas include the

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<sup>192</sup> Los Angeles City Council File 00-1675-S1

<sup>193</sup> Ibid

Five State Enterprise Zone, Federal Empowerment Zone, Federal Renewal Community Zone, thirty-seven Community Redevelopment Agency Project Areas, and Earthquake Project Areas.

Based on previous drafts of the ordinance and statements by Garcetti and other council members, the motivation behind the ordinance is to protect the economies of local communities. The Rodino report made it clear that big box stores negatively impact all communities and especially low income communities that were already at risk. However, by specifically defining certain areas as “Economic Assistance Areas” the city council has put a premium on protecting these at-risk communities, since the ordinance only affects these areas. Of course, it seems intuitive to protect already-marginalized groups and their local economies. Perhaps the council assumes that Wal-Mart or other mega retailers will only try to penetrate low-income communities, or can only find unused swatches of land large enough to occupy a Supercenter in already blighted areas. But by selectively protecting Economic Assistance Areas, the ordinance neglects a few realities about the big box trend. First, the Los Angeles area is still the last frontier for companies like Wal-Mart and any opening, even in higher income areas around the city, might appeal to the company. In fact, as some researchers have noted, while companies like K-Mart may be attracted to low income neighborhoods, Wal-Mart tends to avoid them, instead favoring middle class neighborhoods.<sup>195</sup> One doesn’t need to look further than the suburban landscapes around America to see a correlation between how Wal-Mart sites its stores and the relative affluence of the community.<sup>196</sup> While the spirit of the Economic Assistance Areas clause is commendable, it unfortunately completely misses the point when it comes to protecting

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<sup>195</sup> “The Battle of the Marts, Part II: When Wal-Mart is too high-falutin, there’s always...,” *Dirt Americana*, January 23, 2010

<sup>196</sup> Goetz and Swaminathan, “Wal-Mart and County-Wide Poverty,” 9

supposed community targets. Besides, considering Los Angeles is such a car-centric and car-tailored city, the retailer wouldn't have a problem attracting customers from nearby communities, protected or not,

**Major Development Project:** The ordinance defines a Major Development Project as 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... or 100,000 square feet or more of floor area in other nonresidential or non-warehouse uses.” The ordinance includes this definition in order to define, and contrast with, a so-called Superstore.

**Superstore:** A Superstore is a “Major Development 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.” The definition also excludes warehouses and wholesale clubs, like Costco or Sam's club, because the members pay dues in order to shop there.

The definitions of Major Development Project and Superstores are important in determining the motivations and implications of the Big Box Ordinance. First, those stores that fall under the definition of Superstore are regulated, meaning that the ordinance scrutinizes only mega retailers that devote a tenth of their sales space to groceries. The ordinance deliberately protects the local or existing grocery industry – the Vons and Albertsons – and curiously ignores the retail industry. The ordinance effectively allows general merchandise retailers, even if their stores are over 100,000, to build without being assessed.

Again, the grocery-only condition is a major oversight on the part of the ordinance and undermines its goal of protecting a community's economic development. The retail-

cannibalizing and job and wage displacement effects of big box stores and Wal-Mart in particular are not exclusive to those that sell groceries. Even the general merchandise Wal-Marts threaten to suppress the labor market and drive out mom-and-pop stores. And while it is true that Supercenters are the larger of the big box categories, the 100,000 square foot stipulation does not offer a respite for existing or smaller general merchandise retailers in the community that would be harmed. Most big box general merchandise retailers are over 100,000 square feet, including, most notably, Wal-Mart, whose standard stores are an average of 107,000 square feet.<sup>198</sup> If the aim of the ordinance was to protect the grocery industry in the city, then it takes some good steps. But unfortunately, the general merchandise sector, which is just as vulnerable to the Wal-Mart effect, is left to fend for itself.

Curiously, despite being known colloquially as the Big Box Ordinance, being listed in the City Clerk's database as a "Large Retail Stores / Big Boxes," and including the term "big boxes" as shorthand in the text of earlier council filings, the ordinance does not provide a definition of "big box." Judging by the stipulation of the ordinance, "big box" must be synonymous with Superstore and must include the sale of groceries in its operation. But this definition is disingenuous and only addresses part of the problem of big box retailers. The exclusive protection of the grocery stores may be a response to the turmoil in the grocery industry when the ordinance was passed, an attempt to simultaneously appease and respect the UFCW and its employees. But this precaution excludes the general merchandise sector, which is as central to the problem of big box retail as grocery is. At the time, grocery jobs were threatened by Wal-Mart's possible entrance into Los Angeles, but the retail sector was just as threatened. Ironically, the grocery sector took precedence in the drafting of the ordinance, even though it would maintain a higher

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<sup>198</sup> See Figure 1

average wage for its employees when compared to the general merchandise sector. If anything, this latter industry should have been included in the ordinance first, since its wages are lower.

Another flaw in the ordinance's definition of Superstore is the threshold of 10% total Sales Floor Area devoted to grocery. 10% is a surprisingly high ceiling. Wal-Mart does not necessarily have to devote 10% of its sales floor to groceries. It could easily reformat its stores to a size of 9.5% for example. It has gone to more absurd lengths to avoid zoning ordinances elsewhere, like building two adjacent "halves" of a Supercenter, each less than 100,000 square feet.

The ordinance has an obvious gap in its regulation of big box stores. It identifies that stores over 100,000 square feet are significant, at least significant enough to include in its definition of Major Development Projects, but under no circumstances are they assessed under the ordinance. Big box stores selling general merchandise are automatically exempt from the ordinance, since they do not sell groceries. Considering a store less than 100,000 square feet is atypical of big box stores, especially Wal-Mart's, these two lapses in regulation put local, smaller, and existing retail stores in jeopardy if big boxes choose to move in to town. Similarly, grocers are poorly covered, unless the Superstore happens to devote more than 10% of its floor to grocery, which is unlikely to happen. Finally, big box stores proposed outside of the limited Economic Assistance Zone areas are automatically exempt from scrutiny. Through the definitions offered in the ordinance alone, it is clear that the Big Box Ordinance at best only marginally protects the city from the big box effect. According to Josh Kamensky, no big box stores have attempted to enter Los Angeles City since the passage of the ordinance.

### **The Assessment Process**

The meat of the ordinance is its requirement that proposed Superstores conduct an impact analysis before the project is approved. The ordinance reads,

“Prior to the 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 submitted by the applicant.”

This report is then submitted along with other materials as part of the Conditional Use Permit application, to be reviewed by the Planning Commission or the Community Redevelopment Agency, depending on where the proposed site is located.

The analysis report must identify whether:

- 1) “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.”
- 2) “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.”
- 3) “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.”
- 4) “The Superstore would result in the destruction or demolition of any park or other green space, playground, childcare facility, community center.”
- 5) “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”
- 6) “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.”
- 7) “The Superstore would have a fiscal impact either positive or negative on City Tax revenue.”
- 8) “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.”
- 9) “The Superstore will result in any materially adverse or positive economic impacts or blight in the Impact Area.”
- 10) “Any measures are available which will mitigate any materially adverse economic impacts, if any, identified by the applicant, if necessary.”

The concerns addressed in the impact analyses reflect the concerns outlined in the Rodino report.

By requiring an impact analysis of this nature, the ordinance addresses most of the negative impacts associated with big box retailers, including job displacement and wage suppression (point 6). Notably, the impact analysis also requires an examination of some issues that are commonly

overlooked in the debate surrounding mega retailers, specifically the issue of physical land consumption. Points 2, 3, and 4 all address how a proposed big box, most likely well over 100,000 square feet, will negotiate with its physical surrounding in the neighborhood. The physicality of the big box store is extremely important to assess in order to promote livable neighborhoods. Walkability, aesthetics, heat, green space, and spaces to live and operate businesses are important factors in the health of any community, factors that may be negatively impacted by the construction of a big box store.

While the ordinance does a considerable job to include community development concerns – labor, employment, access to cheaper goods, and tax revenue – it does not offer any quantitative thresholds or limits for possible negative impacts. For example, in the very likely scenario that a Wal-Mart may increase the net retail jobs in a community but decrease all of the retail wages, it offers no guideline for when such a trade-off becomes unacceptable. How many new jobs is wage suppression worth? The fact that there are no figures defining acceptable trade-offs and losses is not problematic – after all, the council wanted a degree of flexibility in approaching big box retail and this vagueness reflects that. Rather, problems arise when it comes time to make a decision for or against these trade-offs. Who decides what is right for the community?

As it is written, the decision-making power lies in the hands of the City Planning Commission and the voice of the impact analysis, not the community members [awkward sentence]. The Planning Commission decides whether the community is willing to give up wages, jobs, or local business in the pursuit of cheap goods. And while community members can certainly give their input during the mandatory public hearings, which are part of the Conditional Use Permit process, the decision over the future shape of the community in question is in the

hands of city officials.

Likewise, Point 5 offers a similar flexibility by allowing Superstores to potentially fill in the grocery gap present in many low-income neighborhoods. A big box store's ability to provide higher-quality food at a lower cost is considered in the impact analysis.

This flexibility allows for Supercenters to potentially enter neighborhoods where quality, low-cost food is "currently unavailable from a cost benefit perspective within the Impact Area." The ordinance lacks specificity in its use of "cost benefit." It offers no quantitative method of determining the relative value of food access to economic health of a community. Once again, this choice is left up to city officials overseeing the assessment.

### **The Problem with "Independent" Studies**

An important, albeit problematic clause in the ordinance states that the final approval will be "based upon information contained in an economic impact analysis submitted by the applicant." In other words, the impact analysis is commissioned by the applicant retailer. Granted, the ordinance requires that the analysis is conducted by an independent, third party. But by making the impact analysis the responsibility of the applicant, it threatens the objectivity of the report and could allow the reports finding's to be "spun" in a favorable way.

Favorable, factual cherry-picking took place even before the ordinance was even finalized, while it was still being debated in the council. Wal-Mart commissioned its own report in 2004 to compete with the overwhelmingly negative findings in the council-commissioned Rodino report. The study, conducted by The Los Angeles Economic Development Corporation (LAEDC), found that Wal-Mart brings benefits to consumers and when it enters communities. The study cites the overwhelming price suppression by Wal-Mart in the grocery market as a boon to shoppers. According to the report, "Shoppers at food stores comprising 65 percent of the market will enjoy

some price relief as the major grocery chains lower prices in response to increased competition.”<sup>199</sup>

The study conveniently omits how competition by Wal-Mart similarly suppresses wages in the same grocery markets.<sup>200</sup> Likewise, the report details how Wal-Mart’s low prices increase consumer buying power and therefore stimulates job production.<sup>201</sup> The study explains, “Wal-Mart’s presence in Los Angeles will effectively increase real household spending”<sup>202</sup> and that increased buying power translates into an average savings of \$524 a year per household.<sup>203</sup> The 2004 study estimated that Wal-Mart’s entrance into the Los Angeles area, through the increase in consumer spending, would generate 6,500 “full-time equivalent”<sup>204</sup> jobs in the city and 17,300 in the county.<sup>205</sup>

The LAEDC report was conducted by a third party, but the fact that was paid for by Wal-Mart and is one of only a few reports to laud the effects of the company on a community’s economy suggests that the study might not have been so “independent” after all. This example highlights a huge flaw in the foundation of the ordinance’s assessment mandate. If big box

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<sup>199</sup> Freeman, Gregory, “Wal-Mart Supercenters: What’s in store for Southern California?” Los Angeles Economic Development Corporation, January 2004, 15

<sup>200</sup> Abbey Wheatley, “Challenging Wal-Mart in California,” April 29<sup>th</sup>, 2003, 25

<sup>201</sup> Patrick Burns, a senior researcher at Economic Roundtable in Los Angeles, a nonprofit that studies the region’s economic development, points out the logical fallacy in Wal-Mart-friendly report: “Among the working-poor families of Los Angeles, what would be gained from a small amount saved on household food costs if wages are declining and other costs, such as healthcare, keep rising? It seems like an empty proposition...L.A. County already suffers from an overabundance of low-wage jobs with few, if any, benefits, not to mention a disproportionate share of the nation’s ‘under the table’ jobs.” Taken from: Abbey Wheatley, “Challenging Wal-Mart in California,” April 29<sup>th</sup>, 2003, 33

<sup>202</sup> Freeman, 21

<sup>203</sup> Ibid, 21

<sup>204</sup> This specific phrasing suggests that Wal-Mart, painfully true to form, would avoid providing its associates with *actual* full-time jobs and instead give them *almost* full time jobs

<sup>205</sup> Freeman, 21

retailers are given such leeway in commissioning the study, the final assessment may reflect a disingenuously positive view of the company's effects on communities.

### **The Need for Community Input**

Besides the limited chance for input given to communities in the land use process, the neighborhoods that may host proposed big box stores have little agency in the approval process. Ironically, the stakeholder that will be affected most by the entrance of a big box store into a neighborhood, the residents themselves, have the least control over their neighborhood's economic future. Instead, the agency is held by a remote city council and an impersonal, multinational corporation, who – especially in Wal-Mart's case – has more interest in unyielding efficiency than making accommodations for the unique needs and makeup of the community it occupies.

There is no official, institutionalized method for ensuring a community's residents are empowered. The ordinance institutionalizes the input of the big box retailer, in the form of the applicant-commissioned impact analysis. But there is no equivalent, automatic method for the community to assess the impacts and present it to the body making the final decision for approval.

While the aim of the ordinance might have been to protect local economic interests in Los Angeles neighborhoods – the mom and pop stores, the wages and jobs of already low-income workers, fragile housing situations – the protection is patriarchal. The big box ordinance offers no avenues for a community's self-determination, which is especially harmful to already marginalized communities. In none of the criteria outlined in the ordinance is there a mention of any qualifier that would necessitate a survey, public participation, public opinion, or input on the ground level. The ordinance operates in an entirely top-down fashion. If any grass roots

effort is to be made by any group to determine the future of their community, they have to fight to get their voice heard in the already limited scope of the public hearings in the land use process.

### **Interview with Josh Kamensky**

The reason for the lack of input by the community as well as the apparent oversight in permitting Superstores but not equally-large and equally-damaging general merchandise retailers, is that despite media reportage of the ordinance, the City Council's ultimate objective was not to protect local business and communities, but to protect the city's monetary redevelopment investments in very specific parts of the city. Josh Kamensky, former spokesman for Eric Garcetti, explained:

I wouldn't look at it as a way to protect grocery industry or local business. It was really more about protecting good jobs. The basic argument behind the ordinance was "We have Economic Assistance Zones, where there are city interests that need to be protected." We wanted to protect good jobs and eliminate blight in these areas of the city. Arrival of superstores would hurt that that interest. Allowing superstores to enter those areas is the exact opposite of what we were trying to do there.<sup>206</sup>

The city has an agenda to invest money in protecting good jobs in economically sensitive areas of the city. The ordinance's specific focus on the grocery industry was due to the fact that it offered comparatively high wages in these areas.

Essentially, [Economic Assistance Zones] are sections of the city marked off as places to dedicate special revenue and provide tax breaks to businesses. They are locally focused incentives. The goal in these areas is to create good jobs and eliminate blight.<sup>207</sup>

The city council believed that mega retailers like Wal-Mart, and their effects on industry, are antithetical to the policy actions in these areas.

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<sup>206</sup> Interview with Josh Kamensky, April 7, 2010

<sup>207</sup> Ibid

Superstores had a demonstrable effect that challenges what we were trying to accomplish there. We said, “It would be suicidal to permit a use that contravenes this principal.” The city council has policy commitments to improve the city and it saw Superstores as being a threat to this policy. It would be like putting a fox in the henhouse.<sup>208</sup>

The flexibility of the ordinance, its advantage in individually evaluating applicant stores was mostly a political and legal consideration, not to ensure that the businesses entering neighborhoods were appropriate to the community.

We worked that out with the city attorney. It was the best choice because it was legally and politically defensible. The argument was made for the entire city. But in the end, they decided to tailor the ordinance to those areas where the city was doing the most economic work.<sup>209</sup>

However, he acknowledged that the consideration to evaluate the potential benefits of a retailer, in terms of low-priced goods and food, was a consideration in drafting the ordinance.

That consideration is definitely put into the overall analysis, whether or not the Superstore can bring food to a community.

### **Oakland Big Box Ordinance Case Study**

#### **History and Context**

October 2003, the Oakland City Council voted 7 to 1 to approve of an ordinance limiting the size of big box grocers within city limits.<sup>210</sup> The ordinance’s passage was the final step in the city council’s nearly year-long campaign to keep big box stores, namely a proposed Wal-Mart, out of Oakland. Previously, in April of the same year, the city council passed an emergency ordinance that established a forty-five day moratorium on the construction of superstores in the city. The emergency ordinance, banned superstores that were larger than 100,000 square and

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<sup>208</sup> Ibid

<sup>209</sup> Ibid

<sup>210</sup> Terence Chea, “Oakland City Council Approves Ban on ‘Big-Box’ Grocery Stores,” Associated Press, Wednesday, October 22, 2003

devoted more than 10% of its sales floor to grocery, was extended after the initial forty-five days until the final, permanent ordinance could be approved.<sup>211</sup>

The ordinance is a deliberate attempt to protect the local businesses that make up Oakland's neighborhoods. Ignacio De Le Fuente, City Council President and the original sponsor of the ordinance with Councilmember Jane Brunner, explained why the ordinance is important to the city, "Supercenters are going into communities and doing damage to local economies."<sup>212</sup> However, the protections offered to the neighborhoods by the ordinance are very specific in nature. According to councilmembers, the ordinance is only aimed at protected the grocery sector within Oakland. By design, the ordinance only affects big box retailers that sell a high share of groceries, since council members don't want to discourage other, non-grocery large retailers from entering the city. The council deliberated on the ordinance, "The establishment of large-scale combined retail and grocery establishments is likely to threaten the viability of Oakland's neighborhood shopping districts, particularly if it draws grocery sales away from traditional supermarket's located in the districts."<sup>213</sup>

The rationale for the ordinance's specificity towards superstores is based in the council's belief that local grocery stores serve as the crux of thriving neighborhoods. In other words, in order to protect the vitality of local businesses in neighborhoods, local supermarkets must be protected. Indeed, the council expounded on the central importance of supermarket, "Many of the local commercial districts are 'anchored' by a grocery store that allow local residents to buy day-to-day essentials, and while in the neighborhood, patronize other local businesses."<sup>214</sup> The council's desire to protect what they saw as the retail hub of neighborhood – an economic concern

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<sup>211</sup> Ibid

<sup>212</sup> Ibid

<sup>213</sup> Oakland City Planning Commission Staff Report, Ordinance ZT03-393, 3

<sup>214</sup> Ibid, 3

Justin Young

– was similarly matched by a desire to protect the more qualitative value of neighborhoods built around small, local business. It made an intentional effort to protect the “small retail character” of Oakland neighborhoods. Clearly, aesthetic and livability concerns factored greatly into the council’s decision to pass the ordinance.

The city council considered a more flexible approach to big box stores before electing a rigid, outright ban on superstores. A two-tiered approach was considered briefly, in which superstores would be subject to an outright ban in economically sensitive zones (similar to the Economic Assistance Zones protected in the LA City Big Box Ordinance) and would require a Conditional Use Permit in all other areas of the city. However, the city council decided against the two-tiered approach in favor of an outright ban because it wanted the ordinance to reflect “clarity and certainty” about Oakland’s approach and opinion towards superstore retailers.<sup>215</sup>

### **Oakland Big Box Ordinance**

The Oakland Big Box Ordinance creates an outright ban on the construction of superstores that are over 100,000 square feet and devote more than 10% of their sales floor to groceries. Specifically, the ordinance creates a new land use, “Large-Scale Combined Retail and Grocery,” and prohibits it. Reflecting the supermarket-friendly views of the city council, the ordinance reads, “The proposed new regulation would not affect large retail establishments that do not include a sizable grocery component.”<sup>216</sup>

### **Big Box Ordinance Analysis**

The provisions of the ordinance certainly protects against the negative effects of superstores like Wal-Mart through its outright ban of the particular land use. Oakland

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<sup>215</sup> Ibid, 4

<sup>216</sup> Ibid, 2

neighborhoods are effectively protected against effects like wage suppression and job displacement. Importantly, the city council's remarks during the process of drafting the ordinance indicate that is as symbolic as it is economic. The council clearly wants to protect the character of individual neighborhoods, beyond the concern for the survival of mom-and-pop shops. The ordinance protects the inherent – if hard to quantify – value in keeping businesses local and free from the threat an impersonal “outsider” like Wal-Mart might pose. The council's emphasis on the supermarket as a crux of the neighborhood suggests that neighborhoods consist of different networks, economic and social, that can and will be disrupted by the presence of a superstore.

While the ordinance certainly protects neighborhoods from new, damaging superstores from being established, its inflexibility means that there is now no chance for superstores to provide cheap, quality food to neighborhoods. Without a flexible, case-by-case approval process for superstores, even socially responsible companies are barred from building in the city. Where there was little chance of negotiating better labor standards out of Wal-Mart for permission to build in low-income neighborhoods (for example, through CBA's), there is absolutely no chance for any superstore to provide this needed service in neighborhoods in need of groceries. The ordinance's focus on local business brings with it a “building up” of economic vitality from the inside out, but the flip side of the coin is that the responsibility to provide quality, low-priced food to poorer neighborhoods falls on these same local businesses. The ordinance acts as another obstacle in plugging the grocery gap in Oakland's low-income neighborhoods.

## Inglewood Big Box Ordinance Case Study

### **History and Context**

In July of 2006, the Inglewood City Council passed a big box ordinance to surprisingly little fanfare, considering the disruption surrounding its previous attempt in 2003. Inglewood's ordinance 06-12 was deliberately closely modeled after the LA City Big Box Ordinance. The ordinance was not a response to the impending entrance of a Wal-Mart or other mega retailer. Instead, the Planning Manager Sheldon Curry remarked, "Superstore regulations have become an increase in point and contention for discussion and controversy for many jurisdictions as they resolve new land issues regarding the potential impacts of these uses against potential benefits they bring."<sup>217</sup>

The City Council, in its deliberations, remarked repeatedly about the importance of public input in land use issues, and that its ordinance was drafted with that ideal in mind. Councilmember Price explained, "Wal-Mart's proposal since the election has alerted citizens by making them aware of the role they play in planning and land use decisions."<sup>218</sup> The ordinance requires big box stores to obtain a Special Use Permit before construction. Like a Conditional Use Permit, a Special Use Permit requires a public hearing to take place before approval of the big box development. By defining big box retail as a Special Use, the council stated that they wanted to put more power into the hands of the Inglewood residents in determining their economic future. Councilmember Franklin said of the importance of public input, "The purpose of bringing in this superstore ordinance is to reach out to the residents so that they would have an opportunity for economic empowerment" and that "too often elected officials make decisions without reaching

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<sup>217</sup> Inglewood City Council Minutes, July 11, 2006, 8

<sup>218</sup> Ibid, 8

out to the public for comment and this now gives them an opportunity to have a say in that process.”<sup>219</sup>

The ordinance also requires, like the LA City ordinance, that applicants for a big box Special Use Permit commission and submit an economic impact analysis. This too, in part, was a conscious decision on the part of the City Council to inspire public input in the process. According to Price, the impact analysis “provides the kind of information that is needed not only as elected officials but as residents so that informed decisions could be made on how unusual large projects might impact the community.”<sup>220</sup>

### **Inglewood Big Box Ordinance**

The Inglewood big box ordinance defines a Superstore as:

The construction of, the addition to, or the alteration of any building or structures, for the purpose of containing a retail business that sells from the premise goods and merchandise, primarily for personal or household use, and whose total sales floor area exceeds one hundred thousand square feet and which devotes more than ten percent of sales floor area to the sale of nontaxable merchandise.<sup>221</sup>

Again, the 100,000 square feet and over 10% of sales floor for groceries serves as the threshold, as it did in the LA City ordinance and the Oakland ordinance. The Inglewood ordinance, too, requires proposed retailers over this limit undergo an evaluation. The applicant must commission an independent review of the economic impact on the surrounding neighborhood before it can build. However, there is an important caveat in the text of the ordinance. City council, according to the ordinance, reserves the right to apply the ordinance’s impact analysis process to retailers that are *under* 100,000 square feet but devote more than 10% of their sales floor to grocery.

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<sup>219</sup> Ibid, 9

<sup>220</sup> Ibid, 9

<sup>221</sup> Inglewood City Municipal Code

The ordinance sets forth the criteria that is to be evaluated in the economic impact analysis, which is nearly identical to the impact analysis requirements in the LA City Ordinance. It must determine whether:

- 1) The proposed use will have an adverse impact or economic benefit on grocery or retail shopping centers in the City
- 2) The superstore would result in physical displacement of any businesses, and, if so, the nature of the displaced businesses or whether it would create economic stimulation to the city of Inglewood
- 3) The superstore would require the demolition of housing, or any other action or change that results in a decrease or negative impact on the creation of extremely low, very low, low or moderate income housing in the City
- 4) The superstore would result in the destruction or demolition of park or other green space, playground, childcare facility, community center
- 5) The superstore would provide lower in cost and/or higher in quality goods and services and access to such goods to residents than currently available within the City of Inglewood
- 6) The superstore would have a fiscal impact either positive or negative on City tax revenue
- 7) Any restrictions exist on the subsequent use of the property on which the superstore is proposed to be located, including 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
- 8) The superstore will result in any other adverse or positive economic impacts or blight
- 9) Any measures are available which will mitigate any materially adverse economic impacts, if any, identified by the applicant, if necessary<sup>222</sup>

Overall, despite differences in wording, the ordinance is similar in its methods to the LA City ordinance, which it was intentionally modeled after.

### **Big Box Ordinance Analysis**

The Inglewood ordinance uses language that takes a big box store's ability to deliver food into account in Point 5. The ordinance is smart because it allows city council to apply it to stores under 100,000 square feet, meaning that it is able to address the new smaller-format stores being introduced by Wal-Mart and other big box retailers, like "the neighborhood market" concept. However, the ordinance doesn't specify what *how* city council will single out smaller-format stores. For example, will the city council selectively target Wal-Mart's "neighborhood markets" and ignore other smaller-format stores with better labor practices? This opens the ordinance,

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<sup>222</sup> Inglewood City Municipal Code

when applied in such a manner, up to challenge or criticism by retailers who will claim they are being “singled out.”

Again, like the Oakland ordinance, the symbolic meaning behind the ordinance is almost as important as the economic criteria it outlines. The Inglewood City Council drafted the ordinance specifically with the public in mind. Superstores are placed in the Special Use category specifically to provide the *public* with an avenue for speaking out about the project and the impact analysis is meant to provide the *public* with information about the proposed superstore. While on paper, this might be seem so different than the approval process in LA City, after all, it too allows for public input in the Conditional Use process. But since the City of Inglewood ultimately decides on the application, its interest in public input suggests that the will hold the opinions of its constituents in high regard.

**Analysis**

**Figure 4: Comparison of Ordinances**

City	Square footage	% grocery	Use	Impact analysis ?	Affected areas	Notes
Los Angeles	100,000	10	Conditional	Yes	Economic Assistance Zones	No regulation in other zones
Oakland	100,000	10	Large Scale Retail/Grocery	No	All-city	Outright ban
Inglewood	100,000	10	Conditional	Yes	All-city	Can apply to < 100,000

All three of the ordinances examined approach the issue of square footage correctly. Every major superstore is at least 100,000 square feet, including, most importantly Wal-Mart. Every proposed superstore, then, falls under the regulation of the big box ordinances.

However, all of the ordinances make a distinction between large general retail stores and large combined grocery and retail. In other words, the ordinances specifically regulate superstores that sell groceries. This is a peculiar feature. The negative “Wal-Mart effect” was a phenomenon

even before the genesis of the Supercenter explosions, and the negative impacts of Wal-Mart's low wages and low prices is not restricted to the general retail sector. Both the retail sector and the grocery sector are susceptible to "wage suppression" by Wal-Mart's entrance into the community. Perhaps priority is placed on the grocery sector because the wage suppression will most likely be more detrimental in that sector, considering the unionization of grocery workers and the lack of unionization the retail sector.

The 10% sales floor devoted to groceries criterion seems to common among most big box ordinances, and these examples in particular. However, as mentioned before, superstores can alter their format in order to comply.

100,000 square footage and 10% coupling has a few downsides. It necessarily exempts large general merchandise retailers and any superstore with less than 10% grocery floor space. A possible back-door for Wal-Mart in this situation is their new neighborhood market format. Wal-Mart can elect to build a neighborhood market nearby (if not adjacent) to a general merchandise format store and a Superstore would essentially be in the neighborhood without any big box regulation.

The ordinances in Inglewood and Los Angeles offer a unique opportunity for superstores, granted they agree to socially conscious wages and benefits, to offer low priced goods and food to communities in need of this product. While in the case of Los Angeles City, this may not have been the intention of the "flexibility" of the ordinance, but it can conceivably serve this purpose.

The impact analyses required by the Los Angeles City and Inglewood ordinances correctly identify economic criteria that must be addressed before a superstore can be approved. Wage suppression and job displacement, among the other quantifiable effects discussed in the Literature Review, are topics of investigation under the impact analyses. However, there is a glaring lack of

an assessment of the qualitative effects that big box stores have on communities. For example, big box stores harm important social networks within a neighborhood and they undermine the local entrepreneurial and leadership class in the community.

Finally, Community Benefits Agreements are only a viable option for community groups to resist a big box store's entrance in the case that an applicant retailer is seeking public subsidies from the city. Without the subsidies component, the big box development does not qualify for a Development Agreement – it is not large enough. Without a Development Agreement, there is no avenue for a community group to leverage a CBA with the developer, since a Development Agreement allows for the city and developer to negotiate completely new land use terms (which can include a CBA). Unless the developer seeks subsidies, the big box project falls under a Conditional Use, and only warrants mandatory public hearings.

### **Recommendations**

The county should draft an ordinance modeled after the following. It should:

- Include under its regulation any retailer over 100,000 square feet (including general merchandise stores), since general merchandise retailers can have a negative effect on the local economy. Wage suppression, job displacement, and the closure or harm of smaller, established, or mom-and-pop retailers are some of the negative effects associated with general merchandise big box stores, not just those that sell a high volume of groceries.
- Put big box retailers (general merchandise or superstores) over 100,000 square feet in a special use class, under which a Conditional Use Permit is required in order to incorporate public hearings in every big box application.
- Allow the Regional Planning Department to, at their discretion, apply the ordinance to retailers that are less than 100,000 square feet in size

- Require that a land use applicant fitting the above criteria commission an independent firm, approved by the Department of Regional Planning, to conduct an impact analysis of the proposed store in the surrounding neighborhood, similar to the analyses required by Los Angeles City and Inglewood.
- Include in the evaluation, the criteria listed under the Inglewood and LA impact analyses criteria, especially an evaluation of goods and services it can offer the community, like quality, low-priced food. The applicant will respond to negative impacts in the analysis with mitigation efforts, designed to offset these negative effects.
- Include as part of the impact analyses, a public opinion assessment, in order to officially incorporate community input.
- Make Community Benefit Agreements an official method of mitigation under the ordinance, in order to establish an official policy avenue for CBA's. Likewise, this will allow community groups to negotiate CBA's in the Conditional Use process, not just the Development Agreement process. By making CBA's an official mitigation technique, a big box store like Wal-Mart will most likely have to enter one if its wants a chance of being approved under the ordinance, since the impact analysis will undoubtedly find negative impacts associated with the proposed development.

### **Conclusion**

While the established big box ordinances in L.A. City, Oakland, and Inglewood all go to great lengths to protect communities against overwhelmingly negative effects of Wal-Mart and other big box retailers, they have flaws in terms of regulating only superstores, and ignoring the almost equally-negative general retail formats, and lack an official, ordinance-protected avenue to ensure community input is taken and is valuable in the final decision to allow or prohibit

specific big box stores. Each ordinance, by itself, addresses part of the big picture, but does not offer a holistic approach towards the big box problem in which the community and the needs of the community are both taken into account. Community development should not be a top-down process. While city officials can draft laws that will ultimately protect communities, it is up to the communities to determine the direction of their neighborhoods. When the time comes for Los Angeles County to adopt an ordinance of its own, the residents of Florence-Firestone should be empowered to decide if and how Wal-Mart will enter their community through built in mechanisms that provide flexibility in the approval process and, most importantly, community input.

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