Regulatory Strategies for Big Boxes

By Jennifer Evans-Cowley, AICP

Big box retail has opened for business in communities of nearly every size, economy, and density in America.

As a result, planners have long sought (often in vain) to strike the right balance between supporting big business and retaining the local identity that, sadly, disappears when big boxes move to town. Though the determinants for approving large-scale retail have broadened beyond land-use via bility—a few communities base their decisions, in part, on economic impact—this issue of Zoning Practice is far places that already have them or will in the future. It offers a preview of the zoning strategies covered in the forthcoming Planning Advisory Service Report, Meeting the Big Box Challenge: Planning, Design, and Regulatory Strategies, due for publication in the spring. The findings reported here are based on a survey of more than 600 planners, conducted by the author and APA’s Planning Advisory Service (PAS), on zoning strategies for big box retail, including development moratoria, size limitations, formula business ordinances, design standards, impact studies, and closed store policies.

MORATORIA
For developments with potentially significant local or regional impacts—big box developments are certainly among them—temporary moratoria give planners time to make an assessment and a chance to review, and possibly revise, the comprehensive plan and zoning regulations. When Wal-Mart proposed a new store in Austin’s Edwa d’s A quifer in 2003, the city placed a 45-day moratorium on supercenters and large retail stores, allowing the city to draft a permanent ordinance protecting the aquifer.

SIZE LIMITATIONS
Cities can use size limits to confine big box retailers to specified districts or keep them out of the community altogether. Planners should use this regulatory tool cautiously. For example, a size cap of 100,000 square feet can result in the construction of a big box just under that size. Size limitations can also prevent otherwise desirable uses, including department stores.

To stave off supercenters, which combine general merchandise and food (perishable and non-perishable), some communities limit the amount of space for grocery items. For example, in Arroyo Grande, California, stores larger than 90,000 square feet can dedicate only 3 percent of the total floor area for non-taxed items, which, in California, includes groceries. Kansas City, Missouri, limits maximum gross floor area for groceries to 25,000 square feet per floor. Conversely, Stamford, Connecticut, requires that at least 25 percent of the gross floor area of each retail floor be devoted to grocery sales.

Unfortunately, retailers now skirt size limitation requirements by physically separating specialty sections of the store (often yard and garden supply) from the general merchandise, literally dividing the store into half and creating two adjacent stores which meet the city’s size requirements.

In 2004, Turlock, California, amended the specific plan and zoning ordinance for the city’s Northwest Triangle area. The changes included adding a definition for “big box retail,” requiring a conditional use permit for large-scale retail developments, and prohibiting retail stores greater than 100,000 square feet with more than 5 percent of the sales floor area devoted to grocery items. Wal-Mart responded by filing suit in state and federal court, claiming the ordinance stifled competition and was not related to the public welfare, and that the city did not comply with environmental review laws. The state denied Wal-Mart’s request for relief from the regulations.
THE FORMULA BUSINESS ORDINANCE

The City of San Francisco defines “formula business” as one with at least 12 outlets in the United States sharing common features such as merchandise, trademark, architecture, employee uniforms, or decor. The goal of the ordinance is to encourage local businesses to purchase services and supplies locally.

Formula business ordinances mitigate the potential impacts of chain restaurants, coffeehouses (e.g., Starbucks), and large-scale retailers by requiring conditional use review or an economic impact assessment. San Francisco requires notification of neighborhood residents when a formula business owner applies for a permit. The residents can request a public hearing and the applicant may have to meet a list of criteria, which include an assessment of the potential concentration of formula retail businesses in the neighborhood, the availability of similar goods and services in the area, the compatibility of the proposed business with neighborhood character, local retail vacancy rates, and the balance of businesses that serve the neighborhood versus those serving the city or region. The planning commission establishes the discretionary review guidelines for evaluating proposed formula retail uses.

A community’s location, economy, and political climate can determine the viability of a formula business ordinance. In 2001, Calistoga, California, updated its ordinance to require a conditional use permit for “structures or multiple structures in a single development in excess of 2,000 square feet of gross floor area.” The ordinance has thus far gone unchallenged in this Napa Valley bastion of liberal politics. A handful of other cities also have them, including Bristol, Rhode Island; Coronado, California; and Port Townsend, Washington.

DESIGN

Design review helps new retailers meet aesthetic standards for buildings, parking areas, signs, landscaping, storage facilities, and more. However, it also requires staff time and training for commissioned projects that may be unfamiliar with review procedures and general design principles. Of the planning agencies responding to the survey, 23 percent use design review.

Building requirements. Most communities are tired of the prototypical materials, colors, and facade styles of big box buildings.

De laure, Ohio, calls for design review of new retail from the beginning—in its comprehensive plan. In 2004, the city council said projects larger than 100,000 square feet must incorporate specific architectural and design elements on the building and lot to bolster visual appeal, and make them cohesive with surrounding properties and friendly to pedestrians. Among the many specific requirements of the De laure ordinance are facades with subtle, neutral, or earth tone colors of lower reflectivity and a continuous internal pedestrian walkway provided from the perimeter public sidewalk to the principal customer entrance.

Parking. Vast expanses of impervious surface from high-impact uses such as big box retailers are especially detrimental to the environment. In Donald Shoup’s The High Cost of Free Parking (Planning Press, 2005), the author strongly encourages communities to abandon conventional methods of parking calculation—most base it on building size—and consider a market-based approach for a more accurate projection of parking need.

Though most cities use general retail parking requirements for big box stores, some now have standards expressly for them. Augusta, Georgia, requires six spaces per 1,000 square feet of gross floor area for its big box retailers. Fort Collins, Colorado, restricts the amount and placement of parking for big box retail: No more than 50 percent of the off-street parking area for the entire property shall be located between the front facade of the principal building and the primary abutting street. The city also places a cap on parking equal to 125 percent of the city’s minimum parking requirement.

And for communities that take exception to big box lots playing host to recreational vehicles for free overnight a community, a Chandler, Arizona, provision prohibits overnight parking of recreational vehicles anywhere within the site development.
If opposition prevents the reduction of parking requirements, cities can negotiate the ecofriendly alternative of “green” overflow parking—provided there is available land. Green parking lots have a sub-base to support heavy wheel loads and high traffic volume, and an interlocking grid of rings that hold sand and topsoil with turf on top. The retailer maintains the turf by mowing and plowing. Home Depot has a green lot at its Enfield, Connecticut, store. And the nearby cities of West Hartford and Farmington denied a 310,000-square-foot expansion of the Westfarms Mall until green paving and the addition of more than 800 trees convinced them otherwise. The green paving created overflow parking for 700 vehicles.

**Signs.** Big box retailers prefer large signs donating trademarked logos that are easily visible from roadways. Sign standards should generally be consistent citywide, but planners can also write standards for specific uses such as shopping centers, major retail projects, or commercial corridors, maintaining consistency within the areas and developments.

In the survey, only four sign codes had provisions for big box retail. Deltona, Florida, requires big box retailers to comply with the general sign code but adds requirements for sign color and materials, which must be compatible with the site’s architecture:

> The sign shall be designed as a sympathetic architectural element of the building to which it is principally related; free standing signs should have landscaping at their bases; commercial centers should have a project name that is easy to identify, relates well to the site, is not similar to other project names, does not result in any public safety issues, is in good taste and is approved by development services, and can be integrated with site identification signage to provide a unified theme.

Bend, Oregon, asks for a signage plan as part of the site plan. The city also assists developers with a color guide. The difference between the city’s general sign requirements and those for large-scale retailers is that, for the latter, pole signs are prohibited; ground mounted signs cannot exceed 15 feet in height and 8 feet in width; wider signs may be allowed provided the total sign area does not exceed 120 square feet; all sign bases shall be constructed of materials compatible with the architecture of buildings located on the premises; and white, ivory, and yellow backgrounds of internally illuminated signs shall not exceed 20 percent of the total sign area, including reader boards.

Finally, design standards should be specific. Subjective language, including words such as “sympathetic,” “relates well,” “in good taste,” and “coordinated and complementary,” should be accompanied with photos or graphics to avoid costly court battles resulting from the developer’s misinterpretation of city codes.

**Landscaping.** Some communities have special landscape provisions for big box sites, including landscaping that helps to break up the parking lot, provides buffering at the edge of the site, and softens the entrances to buildings. In fact, Moline, Illinois, requires one and a half times more landscaping in paved areas and around the building foundation of big box retailers than the general landscaping code requires. Parking lots for large-scale retailers are divided into “pods” with landscaping requirements for each portion.

Queen Creek, Arizona, requires a 30-foot-wide landscaped buffer along the front property line and abutting roadways. Where the landscape faces adjacent residential uses, the developer must plant evergreen trees every 20 feet or in clusters. A minimum of 20 percent of parking areas is to be landscaped, with no parking space located more than 100 feet from a landscaped area. Landscaped planters are to be provided at a minimum of one for every 10 parking spaces.

**Storage.** Many big box retailers use outdoor display and storage for seasonal promotions. To limit their impacts, communities should regulate the amount, location, and design of the areas through screening and aesthetic requirements. For example, in Queen Creek, non-enclosed areas for the storage and sale of seasonal inventory must be “permanently defined” and screened (or covered) with walls or fences of the same materials and colors of the building.

Temporary sales and displays, such as Christmas trees, landscape materials, and fireworks, must adhere to the outdoor requirements for specified business and commercial districts. The planning director or appointed designee reviews and approves the location, time, and duration of the sales and displays.

For permanent fixtures, such as loading docks, truck parking, utility meters, HVAC equipment, trash containers, trash compaction, and other service functions, the city requires 1) that such areas be incorporated into the overall design of the building and landscape plan; 2) that they be screened from visibility from all property lines and separated from pedestrian areas; 3) that screening struc-

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**RESOURCES**

- American Independent Business Alliance. Helps citizens regain decision-making ability over their community’s future and shifts consciousnes...www.amiba.net
- Community & Environmental Defense Services. Dedicated to helping people defend their community and environment from the impacts of sprawl and other poorly planned land development activities. www.ceds.org
- Main Street Center. A program of the National Trust for Historic Preservation combining historic preservation with economic development to restore prosperity and vitality to downtowns and neighborhood business districts. www.mainstreet.org
- SprawlWatch Clearinghouse. Web and print resources, including articles, reports, books, organizations, and demographics. sprawlwatch.org
atures be made of the same materials as the principal structure; 4) that mechanical appurtenances be located within the structure and external ones be screened and finished to match the colors of adjacent building materials; and 5) that these areas be located in the rear of the lot, or if not possible, the side yard. In no case can the areas be located within 20 feet of (or visible from) public streets, sidewalks, or internal walkways.

For shopping center containment areas, Chandler's ordinance states: “Any areas used for shopping center containment as may be provided adjacent to building shall be fully enclosed and screened by a minimum of four-foot-high masonry wall, with berming and landscaping in quantities set forth in the municipal code.”

And finally, mulch storage cannot “displace any portion of the site development intended for parking, access, landscaping, or loading and shall be screened in the manner specified in [the] code.”

Community amenities. A growing number of communities require public amenities in large-scale retail developments, including plazas, water features, clock towers, and outdoor play areas. When properly sited, the facilities improve the look of the development and provide a place for shoppers to interact outside of the store. While such facilities provide an appealing respite from an otherwise intensive, auto-dependent land use, planners should govern the process carefully, not allowing the developer too much freedom in determining the type of amenity that works for the community. Most developers are willing to accommodate.

Deltona requires developers to arrange new buildings to complement outdoor spaces of existing buildings. Walkways, entrances, and gathering areas must have shading features such as trees, landscaping, trellis structures, projecting canopies, covered walkways, arcades, and porticos. The ordinance also encourages seating (built into the wall) and drinking fountains that are shaded and located in circulation routes. Outdoor employee areas should be integrated into the site design, lighted, shaded, and screened from the public.

Delaware requires that retail developments have at least two community amenities for public space. Developers can choose from patio/seating areas, pedestrian plazas with benches, outdoor play areas, kiosks, a water feature, clock towers, and others, and the amenities must connect with or be incorporated into a public sidewalk. Similarly, Queen Creek's large-scale retail amenities should connect “with the remainder of community” (through bus stops and customer drop-off/pick-up locations) and “be integrated with traffic patterns on site.”

Even public art is an amenity option in a few communities. The public art installations at big box developments in Queen Creek must reflect the community's agrarian heritage. Deltona offers a broader selection of public art options, which includes water features and other forms of “nontraditional art.”

Deltona's bike facilities requirements include wide, striped bike lanes, off-road pathways, and parking facilities. Bike parking must be close to the building entrance and visible. The city prefers the areas to be covered, providing shade and protection from sun and rain. The city even recommends the type of bike rack (U-shaped loop instead of ribbon or wave-type). Bike facilities on the sites of large-scale retail developments in Moline must connect to existing and planned pedestrian/bicycle facilities in the community and surrounding neighborhoods. Developers provide secure bicycle parking areas.

TRAFFIC IMPACT STUDIES

Large-scale retail developments generate significant traffic and congestion. In Tucson, a certified traffic engineer performs a traffic impact analysis at the time of the site plan review. The city's department of transportation approves the scope and criteria for the analysis prior to submittal. The report must identify the impacts of traffic flow on public streets and recommend mitigation measures in case the impacts fall below the standards of the city's mobility management plan. Finally, the report must show how the applicant will make recommended improvements.

GHOST STORES

Vacant big box stores are difficult to fill. Still, cities around the country have responded to the proliferation of these white elephants with programs that provide funds for demolition, redevelopment, and tenant replacement.

Demolition bonds. Forsyth County, Georgia, requires a demolition bond for large-scale retail stores when they remain empty longer
than 12 months. Applicants must post a bond valued at 110 percent of the present cost for demolishing a similar building and have it renewed each year under threat of business license non-renewal. When vacancy surpasses 12 months, the city can use the money from the bond to demolish the structure.

Opponents of demolition bonds argue that big box retail in unfairly targeted. Indeed, annual renewal is burdensome and creates higher administrative costs. Also, there is the question of the party responsible for paying and maintaining the bond—the landowner, building owner, or retailer? In some cases, big box retailers lease the space. Conversely, the retailer may own the building but lease the land.

Finally, planners need a methodology for calculating demolition fees, considering the basis for the fee (e.g., demolition costs per square foot versus a flat fee) and assurances of the bond’s capacity to cover the costs of demolition. Also, should other building types be considered?

**White elephant ordinances.** This year, Wauwatosa, Wisconsin, adopted an ordinance requiring big box retailers to set aside demolition money in case of abandonment. The ordinance requires projects with 50,000 or more square feet of retail to contribute to the city’s Land Conservation Fund prior to issuing a building permit. The fee is $0.20 per square foot of retail space. Community Development Director Nancy Welch says a fixed cost was strongly supported by the development community because it “represented a specific amount that could be included in the development costs for the site.” The property owner or operator must submit a plan for the removal or reuse of the facility within 12 months of closure. The city uses the fund when there is a failure to provide a plan for redevelopment of the facility.

**Adaptive reuse.** Giant buildings of vacated large-scale retailers are difficult to fill and expensive to adapt for other purposes. “If the building didn’t work for the biggest retailer, then they’re probably not going to work for other retailers,” says Ron Kichens, president of the Corpus Christi, Texas, Regional Economic Development Authority. “Communities have to be creative,” he says. As a result, some cities work diligently with large-scale retailers to find viable use once the building gets vacated.

When Wal-Mart plans to close a store, the company notifies the mayor and economic development officials approximately two years in advance. When the city identifies a future tenant, Wal-Mart works with local and state economic development officials to create an incentive package. For example, when the company announced plans to close a store near Mobile, Alabama, it worked with staff from the local chamber of commerce to find a replacement for the site. The St. Francis-Thomas Medical Center was looking for a flexible space with ample parking. The result was the transformation of an 81,000-square-foot former Wal-Mart store into a center for outpatient services, radiation therapy, and other medical uses. The conversion was expensive, however, with renovation costs reaching nearly $100 per square foot, according to Larry Patrick, manager of economic development for Wal-Mart Realty.

Not all adaptive reuse projects are as expensive. Call centers, which provide technical support and help desk functions for software companies and similar businesses, fit nicely into former big box stores. Of course, the match is in part driven by the availability of skilled labor. Improvements for call centers typically cost $25 to $40 per square foot and include the addition of UPC panels and generators, says Patrick. Wal-Mart works with national firms to identify possible call center locations. Firms such as Price Waterhouse

This former Wal-Mart is now a medical center in Daphne, Alabama. Adaptive reuse should be a viable option for any community courting (or being courted by) a big box retailer.
### BIG BOX TYPES

**Large General Merchandise:** Large general merchandise stores are 30,000 to 260,000 square feet. They offer a wide selection of merchandise at discount prices. Examples include Wal-Mart, Target, and K-mart. Supercenters include grocery items.

**Grocery:** Grocery stores are 20,000 to 100,000 square feet. They offer a variety of groceries and limited household goods. Examples include Wal-Mart Neighborhood Market, Whole Foods, and Kroger.

**Specialized Product:** Specialized product stores are 20,000 to 120,000 square feet. They offer a large selection of a single product type at low prices. Examples include Best Buy, Staples, and Home Depot.

**Outlet:** Outlet stores are 20,000 to 178,000 square feet. They offer overstock, discounted, or dated items from department stores and manufacturers. Examples include Burlington Coat Factory, Big Lots, and Nordstrom Rack.

**Warehouse Club:** Warehouse clubs are 70,000 to 190,000 square feet. They offer a limited selection of goods in bulk at a discounted price, but require a membership. Examples include Costco and Sam's Club.

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obtain basic labor information and then work with Wal-Mart to identify available buildings.

### RECOMMENDATIONS

When planning for large-scale retail developments, consider the following:

- The amount of land (acres and square feet) in the community that is currently used for retail. Compare this amount with other cities in the region.
- The amount of land zoned for future retail use. Consider whether the city is over- or under-zoned for retail, and if the amount and type of retail development is in line with the community's vision for its future.
- The location of big box developments and the reasons for choosing such locations. Also, determine whether these locations are in line with the goals of the comprehensive plan and intent of the zoning ordinance. If not, consider an audit of the city's plan and regulations, perhaps even a moratorium.

When courting (or being courted by) large-scale retailers:

- Consider using abandoned or obsolete industrial zones or facilities as infill opportunities for large-scale retail.
- Look for underserved sections of town that have a difficult time attracting small, local businesses such as a grocery market. Such areas may do well with a big box retail development.

- Develop a plan for white elephants before they become a problem. How can existing retail sites be adapted for future use should vacancy or abandonment occur?
- Look at the community's existing regulatory options for big box retail. For example, does the community have a triggering device (e.g., permit applications for construction, rehabilitation, or expansion of an existing use) for design review? Does it have an adequate "catalog" of design alternatives, such as photographs, to help retailers and citizens choose a design that is right for the community?

For planners or elected officials to not plan for large-scale retail is to negate the relevance of these stores and to undermine the retailers' ardent interests in pursuing new markets. Indeed, most planning offices have little understanding of how large-scale retailers operate or how the stores influence the development of a city and region. Therefore, communities must start from the beginning first through careful study of the land-use and economic implications of large-scale retail development, then by incorporating big box policies into the comprehensive planning process—perhaps the economic development element. The plan will provide a legal basis for the zoning regulations that follow. For regulations, planners need to evaluate their administrative costs. For example, design or site plan review requires more time from the staff and planning commission. Furthermore, the requirements should be clear so big box retailers and developers can submit quality proposals. Planners also need to understand the limits to what a big box retailer can realistically provide—all of the parking in the rear, for example, may not always be possible. Still, planners can effectively use zoning to improve the appearance and location of big box retailers.

A collection or ordinances featured in this issue of Zoning Practice is available to Zoning Practice subscribers by contacting Michael Davidson, editor, Zoning Practice, at the American Planning Association, 122 South Michigan Avenue, Suite 1600, Chicago, IL 60603, or by sending an e-mail to mdavidson@planning.org.

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Cover photo: A LEED-certified Target store in Chicago’s South Loop. The city’s PUD ordinance requires LEED compliance. Photo by Michael Davidson; design by Lisa Barton.

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Can Communities Really Control Their Big Boxes?