

**CITY OF ALBANY
PLANNING AND ZONING AGENDA
STAFF REPORT**

Agenda date: 7/26/11

Prepared by: LJ

ITEM/

SUBJECT: Planning Application #11-038. Conditional Use Permit.

The subject property is a 17,498 square foot lot with an existing 6,528 square foot retail space along San Pablo. The applicant is requesting a conditional use permit to allow a donation reception center associated with their proposed retail store. No significant changes to the exterior of the existing building are proposed.

SITE: 501-505 San Pablo

APPLICANT/OWNER: Guy Swaggerty--Goodwill Industries of the Greater East Bay

ZONING: San Pablo Commercial

STAFF RECOMMENDATION

Staff recommends that the Planning and Zoning Commission approve the request for a conditional use permit to allow a donation reception center in a proposed Goodwill Retail store, subject to the attached findings and conditions of approval.

BACKGROUND/PROJECT DESCRIPTION

The subject property is a 17,498 square foot corner lot with an existing 6,528 square foot one-story retail building most recently used by Blockbuster Video. The building sits on the northwest corner of the lot along San Pablo Avenue and Brighton Avenue, and there are parking areas along the southern and eastern sides of the building. Driveway entrances to the property are located on San Pablo (20 foot-wide driveway), and along Brighton (25 foot-wide driveway). The southern side setback is approximately 68 feet and the eastern (rear) setback is approximately 50 feet. Twenty-nine parking spaces exist on site, and no proposed changes will be made to the parking. There is an existing retail use adjacent to the property on the southern side, and an R-3 District to the east, with multi-family residential buildings and a dental office. There are currently two entrances to the building, one on the southern side of the building and one on the eastern side, both facing the parking areas. No significant changes to the exterior of the existing building are proposed.

Environmental Analysis

Staff has determined that the proposed project is categorically exempt from the requirements of CEQA per Section 15301, "Existing Facilities" of the CEQA Guidelines, which exempts projects that involve negligible expansion of an existing use.

Discussion

Permitted Retail Use

The proposed retail use for a Goodwill Store is allowed under the City's Planning and Zoning Code, and does not require approval by the Planning and Zoning Commission. Approximately 80-85% of the store's square footage would be used for the sale of used goods merchandise. Access to this retail area would be through the southern side entrance of the building. The hours of operation for the retail store would be Monday through Saturday 9:00am-8:00pm, and Sunday 11:00am-6:00pm.

Conditional Use Permit

The applicant is requesting approval of a Conditional Use Permit to allow a Donation Reception Center at the rear of their proposed Goodwill Store. This area would comprise the remaining 15-20% of store square footage, approximately 1,200 square feet. The applicant has proposed two options for configuration of the donation reception center: one at the rear, northeast corner of the building, and the other along northern side of the building. In either case, the entrance to the donation reception center would be located on the eastern (rear) side of the building, and would not require significant modifications to the exterior of the building or changes to the parking configuration.

Drive-Through and Loading Uses:

There are no specific regulations for a donation reception center, but the function shares characteristics of both a drive-through use and an off-street loading area. According to the Albany Municipal Code, drive-through facilities must be designed to mitigate pollution, congestion, excessive pavement, litter, noise, and unsightliness. Off-street loading facilities must provide sufficient space to discourage on-street loading and to prevent traffic congestion and a shortage of curb space.

Donation drop-off would occur along the eastern side of the building, away from either street front. There is no designated drive-through aisle proposed. Goodwill Trucks will be making deliveries and collections along the same eastern entrance of the building, and will not obstruct the flow of traffic through the site. Staff recommends that provisions be made to ensure that no idling occurs in the loading area, including appropriate signage.

Because the proposed donation reception center abuts a residential district, there may be concerns about: 1) excessive noise from drop-off activities during the day, and 2) "nuisance donations" left outside the building after normal hours of operation.

Section 20.20.030 of the Albany Municipal Code requires drive-through uses to construct an eight-foot high solid decorative wall on each property line adjoining a residentially zoned parcel in order to mitigate the impact of such uses. Section 20.24.110G requires screening for loading areas in the form of a fence, wall, or compact evergreen hedge. There already exists a fence and considerable landscaping between the subject property and the adjacent R-3 zone, but if potential noise impacts are a significant concern, the Commission could require construction of a noise wall based on recommendations of an acoustical engineer.

The applicant has already agreed to several other conditions in order to deter non-business hour activity on the site, and to mitigate the impact of deliveries and collections on the site:

- (1) All donations will occur through the Donation Reception Center door in a manner facilitated and monitored by Goodwill Industries.
- (2) There will be no storage of trucks or trailers at the Retail Store and Donation Reception Center.
- (3) There will be no outside storage of equipment at the Retail Store and Donation Reception Center. All bins, dollies, and other equipment will be of size and shape such that they can enter and exit through the Donation Reception Center entrance and stored inside at all times.
- (4) All donations dropped off during non-business hours will be considered a nuisance. A Goodwill Industries employee will visit the location at least twice during non-business hours to monitor, and if necessary clean the storefront.
- (5) Removal of all donated durable goods will occur during business hours.
- (6) Goodwill Industries will install video security equipment, posting of such surveillance to discourage the dropping off of nuisance donations during non-business hours of operations.
- (7) Parking of Goodwill trucks will be in a manner not to obstruct traffic, to be monitored by Goodwill Industries. Deliveries will be made during business hours typical of a standard retail store.

Staff recommends that a sign be posted on the eastern side of the building notifying employees and patrons of these regulations. The sign should stipulate the following (at minimum): No idling, No outside storage of donations or equipment, No donations accepted after business hours, No obstruction of traffic while making donations or collections.

If problems with after-hour activity should arise, future options would be to install a low gate around the parking lot, which would be closed after business hours, or to install traffic spikes at the driveway entrances to the property, which would be raised after business hours.

Given these conditions of approval, Staff believes that the proposed donation reception center should have minimal impact on adjacent uses and recommends approval of the conditional use permit. Staff believes that the site's location and characteristics make it appropriate and suitable for a Goodwill drop-off center.

Appeals:

The Albany Municipal Code provides that any action of the Planning and Zoning Commission may be appealed to the City Council if such appeal is filed within 14 days of the date of action. Appeals may be filed in the Community Development Department by completing the required form and paying the required fee. The City Clerk will then schedule the matter for the next available City Council meeting.

Attachments:

1. Analysis of Compliance with Zoning Requirements
2. Findings
3. Conditions of Approval
4. Application

ATTACHMENT 1 - ANALYSIS OF COMPLIANCE WITH ZONING REQUIREMENTS

20.12 Zoning Districts and Permitted Uses

General Plan: San Pablo Commercial
Zoning: SPC (San Pablo Commercial)

20.16 Land Use Classifications

Surrounding	North - SPC	East - R-3
Property Use	South - SPC	West - SPC

20.20.080 Secondary Residential Units.

Not applicable.

20.24.020 Table Of Site Regulations By District.

Not applicable.

20.24.030 Overlay District Regulations.

Not Applicable

20.24.040 Hillside Residential Regulations.

Not applicable.

20.24.050 Floor-Area-Ratio.

Not applicable.

20.24.060 Setback Areas, Encroachments.

Not applicable.

20.24.100 Distances Between Structures.

Not applicable.

20.24.110 Fences, Landscaping, Screening.

See Discussion of Issues.

20.24.130 Accessory Buildings.

Not applicable.

20.40 Housing Provisions

Not applicable.

20.44 Non-conforming Uses, Structures and Lot

Not applicable.

20.48 Removal of Trees

Not applicable.

20.52 Flood Damage Prevention Regulations

Not applicable.

20.100.030 Use Permits.

See Discussion.

20.100.040 Variances.

Not applicable.

20.100.010 Common Permit Procedures.

Public notice of this application was provided on July 15, 2011 in the form of mailed notice to property owners and occupants within a 300-foot radius, and posted in three locations.

20.100.050 Design Review.

Not applicable.

ATTACHMENT 2 - FINDINGS

Findings for Conditional Use Permit approval (Per section 20.100.030.D of the AMC)

Required Finding	Explanation
<p>1. <i>Necessity, Desirability, Compatibility.</i> <i>The project's size, intensity and location of the proposed use will provide a development that is necessary or desirable for, and compatible with, the neighborhood or the community.</i></p>	<p>The General Plan designates this area for General Commercial. The project meets City zoning standards for location, intensity and type of development. The site is an existing commercial building, currently vacant, and the conversion of use into a Goodwill Store with a Donation Reception Center is an appropriate use of the site.</p>
<p>2. <i>Adverse Impacts.</i> <i>The project's use as proposed will not be detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity, or physically injurious to property, improvements or potential development in the vicinity, with respect to aspects including but not limited to the following:</i></p> <ul style="list-style-type: none"> a. <i>The nature of the proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;</i> b. <i>The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading;</i> c. <i>The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;</i> d. <i>Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs;</i> 	<ul style="list-style-type: none"> a. The proposal is in scale and harmony with existing development near the site. It is an already developed site. b. There already exist 29 parking spaces on-site, and no changes will be made to the parking configurations. There is sufficient space for a loading area on the eastern side of the building, where the proposed donation reception center is. c. The applicant will make provisions to ensure that no idling occurs in the loading area. Noise impacts will be mitigated by screening between the subject property and the adjacent R-3 zone. d. There exists significant landscaping between the property and the abutting R-3 district.
<p>3. <i>Consistency with Zoning Ordinance, General Plan and Specific Plan.</i> <i>That such use or feature as proposed will comply with the applicable provisions of this Chapter and will be consistent with the policies and standards of the General Plan and any applicable specific plan.</i></p>	<p>The proposed project will not be detrimental to the health, safety, convenience and welfare of those in the area and would not adversely impact property, improvements or potential future development in the area.</p>

ATTACHMENT 3 - CONDITIONS OF APPROVAL

GENERAL PROJECT CONDITIONS

Gen-1 - Project Approval.

This Design Review and Parking Exception approval is for Guy Swaggerty of Goodwill Industries of Greater East Bay, at 501-505 San Pablo Avenue, as substantially shown and described on the project plans, except as may be modified by conditions herein. Plans include preliminary master site plan, date received July 6, 2011 as presented to the Planning and Zoning Commission on July 26, 2011. For any condition herein that requires preparation of a Final Plan where the project developer has submitted a conceptual plan, the project developer shall submit final plan(s) in substantial conformance with the conceptual plan, but incorporate the modifications required by the conditions herein for approval by the City.

GEN-2 - Project Approval Expiration.

This Conditional Use Permit approval will expire on August 9, 2012 unless a building permit has been issued and construction diligently pursued. The approval may be renewed by the Community Development Director for a period up to an additional two (2) years, provided that, at least ten (10) days prior to expiration of one (1) year from the date when the approval becomes effective, an application for renewal of the approval is filed with the Community Development Department. The Community Development Director may grant a renewal of an approval where there is no change in the original application, or there is no request to change any condition of approval.

Gen-3 Fees.

The applicant shall pay all City and other related fees applicable to the property, as may be modified by conditions herein. Fees shall be based on the current fee structure in effect at the time the relevant permits are secured, and shall be paid prior to issuance of said permit or prior to any City Council final action approval. Notice shall be taken specifically of Plan Check, Engineering, Fire and Inspection Fees. The project developer shall also reimburse the City for direct costs of planning; building and engineering plan check and inspection, as mutually agreed between the City and developer.

GEN-4 Appeals.

The Albany Municipal Code provides that any action of the Planning staff may be appealed to the Planning and Zoning Commission, and any action of the Planning and Zoning Commission may be appealed to the City Council as per the procedures described in Section 20.100.080. The City Clerk will then schedule the matter for the next available City Council meeting.

GEN-5 Requirement for Building Permit.

Approval granted by the Planning and Zoning Commission does not constitute a building permit or authorization to begin any construction or demolish an existing structure. An appropriate permit issued by the Community Development Department must be obtained prior to constructing, enlarging, moving, converting, or demolishing any building or structure within the City.

GEN-6 Fire Department Approval.

As part of a building permit application, the applicant shall submit written documentation that all requirements of the Albany Fire Department have, or will be, met to the satisfaction of the AFD.

GEN-7 Engineering Approval.

As part of a building permit application, the applicant shall submit written documentation that all requirements of the Public Works Department have, or will be, met to the satisfaction of the City Engineer.

GEN-8 Construction Hours.

Construction activity shall be restricted to the hours of 8:00 a.m. to 6:00 p.m. Mondays through Saturdays, and 10:00 a.m. to 6:00 p.m., Sundays and legal holidays, unless otherwise approved in writing by the City Engineer for general construction activity. Failure to comply with construction hours may result in stop work orders or other administrative actions.

GEN-9 Archeological Remains.

In the event subsurface archeological remains are discovered during any construction or preconstruction activities on the site, all land alteration work within 100 feet of the find shall be halted, the Community Development Department notified, and a professional archeologist, certified by the Society of California Archeology and/or the Society of Professional Archeology, shall be notified. Site work in this area shall not occur until the archeologist has had an opportunity to evaluate the significance of the find and to outline appropriate mitigation measures, if deemed necessary. If prehistoric archeological deposits are discovered during development of the site, local Native American organizations shall be consulted and involved in making resource management decisions.

GEN-10 Modifications to Approved Plans.

The project shall be constructed as approved. Planning staff may approve minor modifications in the project design, but not the permitted land use (per Municipal Code Section 20.12). A change in an item requiring discretionary approval and any other

changes deemed appropriate by the Planning staff shall require further Planning and Zoning Commission approval through the Design Review process.

GEN-11 Hold Harmless Agreement.

Pursuant to Government Code Section 66474.9, the applicant (including any agent thereof) shall defend, indemnify, and hold harmless, the City of Albany and its agents, officers and employees, from any claim, action, or proceeding against the City or its agents, officers or employees to attack, set aside, void, or annul the City's approval concerning this application, which action is brought within the time period provide for in Section 66499.37. The City will promptly notify the applicant of any such claim action or proceeding and cooperate fully in the defense.

GEN-12 Public Improvements Standards.

Public improvements shall be designed and constructed in accordance with the City's Standard Specifications and Standard Details, unless specifically waived in writing by the City Engineer.

GEN-13 Title 24 Standards.

All construction shall be designed and built in accordance with California Title 24 disabled accessibility standards. Appropriate details and specifications shall be incorporated into the plans and submitted at time of building permit application.

GEN-14 Energy Conservation Standards.

All buildings shall be designed in accordance with the State of California energy conservation standards for non-residential buildings. The necessary plans and documentation shall be submitted at time of building permit application.

LIGHTING CONDITIONS

LGHT-1 Exterior Lighting.

All exterior lighting shall be installed in such a manner that glare is directed away from surrounding properties and rights-of-way. If required, exterior light fixtures shall be equipped with "cut off" lenses to minimize light and glare spill over onto adjacent properties.

LGHT-2 Shielding of Lighting.

Prior to the certificate of occupancy, all accent lighting shall be directed downward and, if necessary, fixed with cut-off lenses to ensure that no glare spills onto neighboring properties.

LANDSCAPING CONDITIONS

LNDSC-1 Tree Preservation.

All existing trees on the site shall be preserved to the fullest extent practicable. Removal will be allowed only upon prior written approval from the Community Development Department.

PARKING CONDITIONS

PARK-1

All parking solutions shall conform to the approved plans as shown in the plans, as described in condition GEN-1 and maintained available for parking as shown on approved plans.

SIGN CONDITIONS

SIGN -1 Signage Design Review Approval.

All construction/installation of signage shall conform to the approved sign plan and color samples approved the Community Development Department.

SPECIAL CONDITIONS

SPC-1 The applicant shall make provisions to ensure that no idling occurs in the loading zone, including appropriate signage.

SPC-2 All donations shall occur through the Donation Reception Center door in a manner facilitated and monitored by Goodwill Industries.

SPC-3 There shall be no storage of trucks or trailers at the Retail Store and Donation Reception Center.

SPC-4 There shall be no outside storage of equipment at the Retail Store and Donation Reception Center. All bins, dollies, and other equipment will be of size and shape such that they can enter and exit through the Donation Reception Center entrance and stored inside at all times.

SPC-5 All donations dropped off during non-business hours will be considered a nuisance. A Goodwill Industries employee shall visit the location at least twice during non-business hours to monitor, and if necessary clean the storefront.

SPC-6 Removal of all donated durable goods shall occur during business hours.

SPC-7 Goodwill Industries shall install video security equipment, and post such surveillance to discourage the dropping off of nuisance donations during non-business hours of operations.

SPC-8 Parking of Goodwill trucks shall be in a manner not to obstruct traffic, to be monitored by Goodwill Industries. Deliveries shall be made during business hours typical of a standard retail store.

SPC-9 Appropriate signage shall be posted on the eastern side of the building stipulating the above regulations, including the following: No idling, No outside storage of donations or equipment, No donations accepted after business hours, No obstruction of traffic while making donations or collections.

Appeals: The Albany Municipal Code provides that any action of the Planning and Zoning Commission may be appealed to the City Council, if such appeal is filed within 14 days of the date of the action. Appeals may be filed in the Community Development Department by completing the required form and paying the required fee. The City Clerk will then schedule the matter for the next available City Council meeting.