

## **SPECIAL CITY COUNCIL MEETING**

**APRIL 23, 2013**

Council President Beardslee called the special City Council meeting to order at 6:30 p.m. and asked to forgo the invocation and pledge. The following attendance was noted:

### **Council Members Present**

Ray Bagshaw, Mayor

Judy Beardslee, Council President

John Dowless, Council Member

Lee Chotas, Council Member

Neil G. Powell, DDS, Council Member

### **Council Members Absent**

Pam Henley, Council Member

### **Staff:**

Bea L. Meeks, City Clerk

Pete Marcus, Police Chief

Drew Smith, City Attorney

Ellen Hardgrove, City Planner

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Council President Beardslee stated the purpose of the meeting was to consider the Special Exception application for a thrift store in C-1 zoning. She referred to City Planner Hardgrove, who provided highlights of her report provided in the agenda packet:

You are to consider three things:

- Character of the neighborhood in which the proposed use is to be located,
- It's effect on the value of surrounding lands, and
- The area of the site as it relates to the required open space and off-street parking facilities.

A thrift store is compatible with surrounding zoning and uses provided conditions of approval are established to protect property values. Although thrift stores operate similarly to permitted retail uses, there are potential negative issues that could affect surrounding land values. Merchandise donation areas can become unsightly by creating outdoor storage issues and illegal dumping and collection of debris. Warehousing of secondhand goods can sometimes extend beyond the building to outdoor storage or use of outdoor storage containers, which can be unsightly and interfere with operation of a shopping center.

The existing multi-tenant building was constructed in 1963, prior to current parking standards. According to current code, the building would be classified as a "shopping center" and 143 parking spaces would be required. There are 24 parking spaces onsite, including two handicapped spaces. The site is considered legally nonconforming. Unlike retail stores, with scheduled arrivals and unloading of merchandise, thrift store donations can occur at random times. The random times of merchandise drop-off has the potential of creating entrance and/or exit obstacles on site since there is only one driveway through the parking lot and that driveway is one-way.

Conditions can be attached to the approval to avoid these situations.

In response to Mayor Bagshaw, Planner Hardgrove, said signage was addressed. Mayor Bagshaw said he wanted to make sure it is clear that the applicant is aware that there is a permitting process for signage in front of the business. Property owner, Richard Dawson, confirmed for Council President Beardslee that there is signage in front of the building. Council President Beardslee noted that if there is a change in the signage, the signage would have to comply with the current Ordinance.

City Attorney Smith confirmed for Council Member Dowless that the special exception stays with the property if it is the same use; a thrift store. Planner Hardgrove said if the use stop for more than six months, the special exception goes away.

City Attorney Smith confirmed for Council President Beardslee that displaying things in front of a business is not the same as outside storage. Dr. Powell said he wants the word "must" instead of "shall" (condition #3). City Attorney Smith confirmed for Council Member Chotas that there is no definition of a thrift store as opposed to any other store selling merchandise. Council Member Chotas inquired as to why the City requires a special exception for a thrift store. Planner Hardgrove said there is a potential for some negative impacts of a thrift store, and that retail is more controlled. Council Member Chotas said that a thrift store needs to be defined. Council Member Chotas asked if it would be appropriate to define what a thrift store is that is being permitted, and the City Attorney said yes.

Holly Sampson noted that the Party Store has items on display outside their store, and questioned why the thrift store can't do the same. Council President Beardslee said this is why she wanted to discuss the differences of a thrift store and retail.

***Council Member Powell made the Motion to approve as presented. Council President Beardslee added a friendly amendment to approve with the conditions provided in Planner Hardgrove's memo, including the definition of a thrift store. Council Member Dowless Second the Motion as amended.***

***After brief discussion regarding the definition of a thrift store, Council Member Powell withdrew his Motion to allow for the definition to be added.***

Planner Hardgrove provided the definition of a thrift store as follows: Thrift Store - Consisting of the re-selling of donated merchandise. Council Member Chotas requested that Planner Hardgrove's report be amended to include the definition of a thrift store, and be incorporated into the Motion. Planner Hardgrove confirmed her acceptance of the amendment to her report.

***Council Member Chotas moved to approve the Special Exception for a thrift store use at 5517 and 5521 S. Orange Avenue, as proposed in the Planner's report as amended, and with the conditions set forth by Planner Hardgrove, with the recommendations of the Planning & Zoning Board. Council President Beardslee Second the Motion, which was unanimously approved. (4/0)***

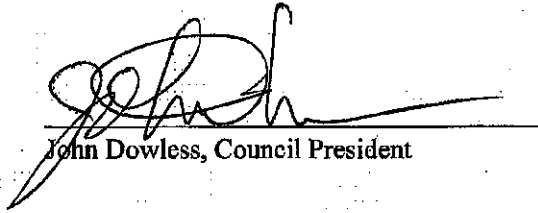
In response to the applicant, it was agreed that display cases can be outside during business hours if it is consistent with the City Code.

Council President Beardslee referred to City Attorney Smith who reminded the council that now that they have provided a definition for a thrift store, there are other definitions that need to be done. Council Member Chotas said that he would help and asked everyone to provide a memo to the City Clerk providing things that they thought needed to be changed. Council Member Chotas said he hoped to get together to review the checklists of the different revisions that need to be made, and ask Council Member Powell for his assistance. Council Member Powell said he does not have a list but is willing to help.

Council President Beardslee had two questions; first question: If a business operates their business differently from what their Business Tax Receipt was issued for, can they be shut down. City Attorney Smith said yes if what the business is doing is inconsistent with Code then it is a code enforcement issue. Second question, the Art Angels enjoy the benefit of sitting so far off the street, no one sees the stuff they sit out. She ask why can't you have something that says if you are back off the street it is okay to set merchandise out during business hours, and if you are not back off the street you cannot. Mayor Bagshaw said Art Angels' staging is a permanent display. Council President Beardslee said she feels the code should be consistent. Council Member Chotas said that when the Comprehensive Plan is

approved, he can review the Land Development Code and make the changes to be consistent with the Comprehensive Plan. He said then he would review the part of the code regarding code enforcement and make this consistent too. He said it would have to be done in phases.


Having no further business, Council Member Chotas made the Motion to adjourn the special meeting, with Second by Council Member Dowless. The special Council meeting adjourned at 7:10 p.m.



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John Dowless, Council President

**ATTEST:**



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Bea L. Meeks, MMC, CPM  
City Clerk

Approved by City Council on the 21<sup>st</sup> day of May, 2013.