Zoning Administrator
Agenda Item

October 12, 2011

TO: **Rick Otto**
Zoning Administrator

THRU: **Leslie Aranda Roseberry**
Planning Manager

FROM: **Chad Ortlieb**
Senior Planner

SUBJECT

PUBLIC HEARING: CONDITIONAL USE PERMIT 2785-10 – COMMUNITY OF CHANGE CLOTHING BIN – 3301 E. CHAPMAN AVENUE

SUMMARY

The applicant proposes to place a clothing donation bin at a gas station. The unattended green metal bin would be four feet long, four feet wide, and six and a half feet high.

AUTHORIZATION/GUIDELINES

Orange Municipal Code Table 17.18.03 and Section 17.18.070K. require a Conditional Use Permit for collection facilities including the subject clothing donation bins. Orange Municipal Code Sections 17.08.020C.2., 17.10.030E.1.c., and 17.18.070K. authorize the Zoning Administrator to review and take action on Conditional Use Permits for collection facilities.

PUBLIC NOTICE

On September 29, 2011, the City sent a Public Hearing Notice to a total of 107 property owners/tenants within a 300-foot radius of the project site, and persons specifically requesting notice. A notice was published in the Orange City newspaper on September 29, 2011. The project site was also posted in one location with the notification on that same date.

ENVIRONMENTAL REVIEW

Categorical Exemption: The proposed project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per State CEQA Guidelines 15311 (Class 11 –

Accessory Structures) because the project is a minor accessory structure compared to the on- site service station. There is no environmental document requiring public review.

PROJECT BACKGROUND

Applicant:	Community of Change
Property Owner:	Taniel Keheian
Property Location:	3301 E Chapman Avenue
Existing General Plan Land Use Element designation:	General Commercial (GC)
Existing Zoning Classification:	Limited Business (C-1)
Old Towne:	Not Applicable
Redevelopment Project Area:	Not Applicable
Specific Plan/PC:	Not Applicable
Site Size:	22,500 square feet
Circulation:	Access to the site is provided by two driveways off Chapman Avenue, two driveways off Prospect Street, and from interconnection to the adjacent shopping center.
Existing conditions:	The site is constructed with a Vallero service station that contains three auto repair bays, a small convenience/cashier area, and two fuel pump canopies.
Surrounding land uses and Zoning:	The site is nestled within a commercial zoning district and is surrounded by commercial uses on all sides. The site is on the corner of an existing retail center and shares reciprocal ingress and egress with the center.
Previous Applications/Entitlements:	None applicable to the proposal.

PROJECT DESCRIPTION

The applicant proposes to place a clothing donation bin at the rear of the service station occupied site (Attachments 2, 3 and, 4 – Site Plan, Aerial Photo, Container Photo). The unattended green metal bin would be four feet long, four feet wide, and six and a half feet high. The clothing is reused or recycled to help less fortunate families. The bin would be emptied according to the volume of donations received. A pick up phone number would be on the side of the bin to request emptying in the event someone wishes to report a full bin.

Development Standards (General)

	Required	**Proposed**	**Code Section**
Building Height	32 feet	6 feet	17.18.120
Distance between	Not Applicable	Not Applicable	Not Applicable

structures			
Fence height	Not Applicable	Not Applicable	17.18.140
Floor Area Ratio (FAR)	1.0 FAR (maximum)	Less than 1.0 FAR	General Plan Map
Landscaping (non-residential)	Not Applicable – existing site. No landscaping to be removed or added.	Not Applicable – existing site. No landscaping to be removed or added.	17.18.160
Loading area (non-residential)	Not Applicable – existing legal non-conforming site.	Not Applicable – existing legal non-conforming site.	17.34.160
Lot frontage	Not Applicable	Not Applicable	No standard exists
Lot depth	Not Applicable	Not Applicable	No standard exists
Parking (non-residential)	3 spaces per bay x 3 bays = 9 spaces	Not Applicable – existing legal non-conforming site with 3 marked spaces	17.34.060.B
Setback, Front	10 feet	140 feet	17.18.130
Setback, Rear	0 feet	5 feet	17.18.130
Setback, Interior Side	0 feet	70 feet	17.18.130
Setback, Corner Side	10 feet	70 feet	17.18.130

Development Standards (Small Collection Facilities)

Required	**Proposed**	**Code Section**
The use shall be in conjunction with an existing commercial use in compliance with current codes	Complies. The use is on a commercial zone in a commercial center. The gas station is in compliance with the legal non-conforming section of the code with regard to parking spaces and landscaping.	17.18.070K.2.a.
Maximum area of 500 sq. ft.	The bin is 8 square feet.	17.18.070K.2.b.
The bin shall not occupy more than 5 parking spaces	No parking spaces are occupied.	17.18.070K.2.b.
The bin shall Meet setbacks	Setbacks are exceeded.	17.18.070K.2.c.
The bin shall not obstruct circulation	Circulation is not obstructed.	17.18.070K.2.d.
The bin shall accept only, glass, metals, plastic containers, papers and reusable items. No motor oil	As a matter of interpretation by the Department with guidance by the Community	17.18.070K.2.e.

	Development Director, clothing could be recycled or reused and therefore clothing donation bins accomplish waste diversion and meet the requirement under the reusable items definition.	
Storage shall occur in a durable water and rust proof material secured from unauthorized entry or removal	A water and rust resistant secured/ access restricted metal bin is proposed.	17.18.070K.2.f.
The operator shall ensure removal of items by a sufficient collection schedule.	The applicant states that bins are emptied every 5 days and some are emptied as frequently as 4 times per week. The bins also have a telephone number on them to report overflow bins. Condition 2 is proposed to bolster City enforcement ability for routine and appropriate bin emptying.	17.18.070K.2.f
All materials must be in the container and may not be outside of the container.	See the above response and Condition 2 which is anticipated to prevent overflow of donation items outside of the container.	17.18.070K.2.g
The site shall be maintained free of litter and undesirable materials	Condition 3 is proposed to require the operator to remove litter and undesirable materials and to state such obligation on the sign associated with the bin.	17.18.070K.2.h
The use shall not exceed noise levels of 60 dBA	The use is not anticipated to generate noise beyond the ambient noise level for the adjacent arterial roadway.	17.18.070K.2.i.
The bin shall be at least 30 feet from any zoned or occupied residential property	The bin is at least 180 feet from residentially occupied property and more than 400 feet from residentially zoned property.	17.18.070K.2.k.
Containers must be clearly marked as to the type of materials which may be deposited.	The bin signage clearly states that only clothing donation items are to be deposited in	17.18.070K.2.l

	the bin.	
The containers must include: the entity name, contact telephone number, hours of operation, and a notice stating no material shall be left outside the bin.	Staff shall verify that this code requirement is fulfilled in the sign placed on the bin.	17.18.070K.2.l
Bin signage must be non-illuminated.	The sign is non-illuminated	17.18.070K.2.m.ii.
The bin may not be located in required landscape area(s)	The bin is located on an existing asphalt surface.	17.18.070K.2.n.
No additional parking needs shall be created.	The bin will not generate additional parking needs. Users will pull up next to the bin, deposit the donation items, and immediately leave. The volume of donated items dropped off in the bin is anticipated to result only one vehicle at a time. Users of the service station may also deposit clothing donation items concurrently with meeting fueling needs.	17.18.070K.2.o.
Occupation of parking spaces may not reduce available parking spaces below the minimum required for the host use unless a parking analysis or code specified conditions (17.18.070K.2.q.ii.) exist.	The bin is not in a parking space.	17.18.070K.2.q.

APPLICATION(S) REQUESTED/ REQUIRED FINDINGS

Conditional Use Permit: The applicant is requesting a Conditional Use Permit to place a four by four square foot clothing donation bin at the rear of the service station occupied site.

Required Findings:

1. *A Conditional Use Permit shall be granted upon sound principles of land use and in response to services required by the community.*

   The clothing donation bin helps the operator to provide clothing to less fortunate persons and accomplishes City waste diversion goals.

2. *A Conditional Use Permit shall not be granted if it will cause deterioration of bordering land uses or create special problems for the area in which it is located.*

   As conditioned with a routine pick up and emptying schedule, the clothing donation container is not anticipated to generate overflow donation items or trash and debris. The container is also not anticipated to create parking problems due to the drop off nature of the use and the expanse of asphalt parking in the area to accommodate an idle vehicle while drop off occurs. The container location also does not impede trash collection or emergency vehicle path of travel due to the expanse of area where the bin is located.

3. *A Conditional Use Permit must be considered in relationship to its effect on the community or neighborhood plan for the area in which it is located.*

   There is no community or neighborhood plan for the area. The project complies with the General Plan goals to enhance an activity that is mutually beneficial to both the environment (waste diversion and reuse) and the community (recipient users of the used clothing and those benefiting from eliminating energy needs and air pollution that would otherwise result from new clothing production and transportation).

4. *A Conditional Use Permit, if granted, shall be made subject to those conditions necessary to preserve the general welfare, not the individual welfare of any particular applicant.*

   Conditions 2 and 3 have been placed on the project to preserve the general welfare in that appropriate provisions for donation overflow, debris, and litter removal can promptly occur at the site (see Issue 1 below).

ANALYSIS/STATEMENT OF THE ISSUES

Issue 1: Overflow of donations and/or accumulation of trash or litter/frequency of hauling

The bin has the potential to be overloaded with donation items including items too large to be place in the bin or for items that are considered litter or debris rather than reusable. The provisions of the Orange Municipal Code as stated in the development standards section of this staff report are sufficient to require pick up of donated items on an as needed basis and for requiring the maintenance of the site in a litter free condition. Staff has proposed Condition 2 to allow the applicant to determine a pick up schedule for the bin based on actual demand but to also allow the Community Development Director (or designee) to establish the pick-up schedule, if the need arises. The bin will also have a contact phone number on it for any complaints of an overfilled bin, or for debris or litter conditions. Condition 3 is proposed to allow City staff the ability to determine what litter or debris is directly associated with the bins and to allow the Community Development Director (or designee) to assign a routine clean up schedule to be completed by the bin operator, if necessary.

Issue 2: Potential interference with future correction of a legal non-conforming parking deficiency

The existing site requires a minimum of nine parking spaces. However, only three spaces are striped and there is no evidence that those parking spaces are in a location approved by any prior site plan approval. The site appears large enough to accommodate the parking spaces and landscaping that would be required if a new comparable service station were built on the site or if the legal non-conforming status of the site were lost, forcing site upgrades conforming to the current code. The area where the bin is proposed to be placed could place limitations on future site reconfiguration needed to accommodate additional code dimensioned parking, associated drive aisles, and landscaping. However, it may also be possible to accommodate all current parking, drive aisle, and landscape requirements while keeping the bin in the same location.

The recycling facilities section of the code does not have parking requirements for small collection facilities. It only states that additional parking needs may not be created by the facility and occupation of parking spaces by a container may not reduce available parking spaces below the minimum required for the host use. In this case staff does not believe that the immediate drop off nature of the bin merits a parking space given the amount of paved area behind the service station and the bin is not being placed in any designated parking for the site, thereby not diminishing existing parking for the host use.

ADVISORY BOARD RECOMMENDATION

No advisory board review occurred or was merited for the project.

STAFF RECOMMENDATION

Staff recommends the Zoning Administrator approve the clothing donation bin, subject to the following conditions:

1. The size and location of the clothing donation container shall be consistent with the plan (date stamped June 8, 2010) and as recommended for approval by the Zoning Administrator.
2. The applicant may initially determine a pick up/emptying schedule for the bin based on actual demand. However, the Community Development Director (or designee) may, at any time, override the applicant and/or operator schedule and establish the pick-up/emptying schedule, if problems with overflowing occur.
3. City staff may determine what litter or debris is directly associated with the bins and the Community Development Director (or designee) may, at any time, assign a routine clean up schedule to be completed by the bin operator, if staff determines that problems with trash or debris exist. The identification sign located on the container shall state the operator's obligation to remove litter and debris from the site in addition to overflow conditions of donated goods. The operator phone number listed on the bin shall be the same contact number for litter, debris, and overflow conditions.

4. The container shall be maintained without graffiti. Any signs that have graffiti placed over them shall be replaced on the bin within 5 days after observation of the graffiti or within 5 days of the operator being notified of the graffiti.

ATTACHMENTS/EXHIBITS

Attachments to Report:

1. Vicinity Map
2. Site Plan
3. Container Photos
4. Aerial Photo
5. Brochures

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