



**Council Meeting: January 8, 2008**

**SUBJECT: Zoning Code Enforcement and Fines for the Goodwill Donation Trailer at Lakewood Shopping Center at Lawrence Expressway and Lakehaven Drive.**

**REPORT IN BRIEF**

At the December 11, 2007 City Council meeting, a representative from Goodwill Industries informed the City Council that the Neighborhood Preservation (NP) Division had recently issued several administrative citations to Goodwill. The citations were issued to Goodwill because their donation trailer was parked on private property that is not zoned to allow donation trailers. The Goodwill trailer is parked on the Dick's Lakewood Shopping Center property located at 1145 Lawrence Expressway. The donation trailer is located in a C-1 zoning district (Attachment A). Donation trailers are only allowed in C-2, C-3, and C-4 zoning districts.

The City Council directed staff to report back to provide information about the pertinent zoning code violation and the administrative citations that were issued to Goodwill. Also included in this report is the citation history pertaining to Goodwill.

Staff recommends that the Council takes no action at this time. The property owner and Goodwill would have the options of removing the trailer or applying for a zoning code amendment. Staff could assist Goodwill in evaluating alternative locations in the City.

**BACKGROUND**

On July 3, 2007, the NP Division received a complaint from a resident about the Goodwill donation trailer parked at Dick's Lakewood Shopping Center located at 1145 Lawrence Expressway. On the same day, NP staff conducted a site inspection and verified that the donation trailer was located on the property which is zoned C-1/PD. Donation trailers are not allowed in C-1 zoning districts; they are only allowed in C-2, C-3, and C-4 zoning districts with a Use Permit. The complaint was about the trailer being located in a zoning district where it is not allowed; however, staff also inspected the area surrounding the donation trailer and noticed that the area was very clean and well kept. Donation trailer locations often experience frequent instances of illegal dumping; however, this was not observed at this site. NP staff does not proactively look for this type of zoning violation throughout the city since it is

not a first priority issue or a threat to health and safety. Of course, staff would respond to any complaints about donation trailers.

In July and August of 2007, NP staff conducted a significant amount of research and had numerous discussions with Goodwill, the property owner of Dick's Lakewood Shopping Center, and Planning staff about the donation trailer. Goodwill and the owner of the shopping center claimed that because the donation trailer was parked on San Francisco Water District land, specifically on the Hetch Hetchy right-of-way, they did not need to comply with local zoning requirements. Staff determined that while the trailer was parked on San Francisco Water District land, Goodwill and the property owner were still required to adhere to the City of Sunnyvale's zoning code requirements.

On August 14, 2007, NP staff issued a compliance letter to Goodwill and the property owner of Dick's Lakewood Shopping Center (Attachment B). The letter stated that the donation trailer was in violation of the following Sunnyvale Municipal Code (SMC) provision:

- SMC TABLE 19.20.030

Permitted, Conditionally Permitted and Prohibited Uses  
in Commercial Zones

In the table, the letters and symbols are defined as follows:

P = Permitted use

UP = Use permit required

MPP = Miscellaneous plan permit

N = Not permitted, prohibited

COMMERCIAL ZONES	C-1	C-2	C-3	C-4	C-4 FAR
E. Donation centers for used goods*	N	UP	UP	UP	N/A

\*Donation centers shall have a minimum separation of 1.5 miles.

- SMC 19.20.020. Commercial zoning districts. Definitions.
  - (a) The C-1 neighborhood business district is reserved for the construction, use and occupancy of commercial buildings providing retail commercial shopping and service facilities to the adjacent neighborhood residential areas.

(b) The C-2 highway business district is reserved for the construction, use and occupancy of retail commercial buildings, tourist accommodations and service facilities adapted to principal highway commercial districts.

The letter also required that the donation trailer be removed from the property or an application be submitted by the property owner for a zoning district change from C-1 to C-2. If a zoning district change were to be approved, then the property owner/applicant would need to apply for a Use Permit to allow the donation trailer to be located at the property. If the Use Permit was granted, Goodwill would then be allowed to have the donation trailer at the property. The compliance deadline was September 17, 2007. The deadline was not met.

After several more discussions with Goodwill and the shopping center owner, NP staff issued a second compliance letter on September 27, 2007 (Attachment C) with a new compliance deadline of October 29, 2007. On October 29, 2007, a representative of Goodwill contacted NP staff and requested an additional two week extension. NP staff was reluctant to grant the extension because they felt that Goodwill was already provided with a sufficient amount of time to comply. However, the extension was granted because Goodwill expressed the need to have more time so that they could talk to Planning staff to get clarification on additional issues. NP staff informed Goodwill that this extension was final and that if they did not comply by November 12, 2007, they would be issued administrative citations until compliance was met.

On November 13, 2007, NP staff conducted a site inspection and the donation trailer remained at shopping center. Also, the property owner had not filed an application for a zoning district change from C-1 to C-2. The following citations were issued to Goodwill for non-compliance. Also, a copy of each citation was mailed to the owner of the shopping center.

November 13, 2007	\$50
November 20, 2007	\$100
November 28, 2007	\$200
December 5, 2007	\$500
December 12, 2007	\$500
December 19, 2007	\$500
December 26, 2007	\$500
January 2, 2008	\$500

As of January 2, 2008, NP staff had issued a total of eight administrative citations to Goodwill totaling \$2,850 in fines. The citations issued are in

accordance with the city's fee schedule. Staff will issue administrative citations on a weekly basis until compliance is met.

Goodwill may request a hearing to appeal the citation(s) within 30 days of each citation date by filling out the "Request for Hearing" information on the back of the citation and mailing it to the city, along with a deposit of the total fine amount. (Specific instructions for hearing requests are provided on the administrative citation) (Attachment D). The hearing officer may uphold or rescind all or part of the fines. To date, Goodwill has not submitted a request for hearing.

### **EXISTING POLICY**

#### **Land Use and Transportation Element:**

**Goal C1** – Preserve and enhance an attractive community, with a positive image and a sense of place, that consists of distinctive neighborhoods, pockets of interest, and human-scale development.

Policy C1.1 Recognize that the City is composed of residential, industrial and commercial neighborhoods, each with its own individual character; and allow change consistent with reinforcing positive neighborhood values.

Policy C1.1.2 – Promote and achieve compliance with land use and transportation standards.

Policy C1.1.4 – Require that commercial activities be conducted primarily within a building

**Goal N1** – Preserve and enhance the quality character of Sunnyvale's industrial, commercial, and residential neighborhoods by promoting land use patterns and related transportation opportunities that are supportive of the neighborhood concept.

Policy N1.1 Protect the integrity of the City's neighborhoods; whether residential, industrial or commercial.

Policy N1.1.1 – Limit the intrusion of incompatible uses and inappropriate development into city neighborhoods.

Policy N1.3 – Support a full spectrum of conveniently located commercial, public, and quasi-public uses that add to the positive image of the City.

Policy N1.13 – Promote and attractive and functional commercial environment.

#### **Housing and Community Revitalization Sub-Element:**

**Goal B** - Ensure A High Quality Living and Working Environment.

Policy B.1 Continue to encourage property owners to maintain existing developments in a manner which enhances the City. Properties should be aesthetically pleasing, free from nuisances and safe from hazards.

Policy B.2. Continue to implement the Neighborhood Preservation Program.

Policy B.2.a. The City should review existing codes, ordinances and use permit conditions with the possibility of increasing enforcement or developing new codes where neighborhood and community preservation issues are involved. The emphasis, however, will be on promoting voluntary compliance.

Policy B.2.c. The City shall coordinate the Neighborhood Preservation Program with other programs, in order to avoid duplication of activity and maximize efficiency.

## **DISCUSSION**

Discussed in detail in this section of the report is the history of donation trailers city-wide, the history of the Goodwill Donation Trailer at Lakewood Shopping Center, the zoning history of the Lakewood Shopping Center, jurisdiction of the San Francisco Public Utilities Commission land that the trailer sits on, options for a rezoning study and zoning code amendment, and the administrative citation process.

### **Donation Trailers-Legislative History**

In 1982 a study was conducted to consider the use of permanent trailers in commercial zones as donation centers for used household goods. The study acknowledged that several trailers were in place illegally at shopping centers in the city. The report states that the activities and trailers were prohibited. A comprehensive staff report was prepared presenting the rationale for the regulations and the potential changes. Specific to the C-1 zoning district, the report states the use would be out of place in a neighborhood shopping center and recommended that the trailers be limited to Highway Business (C-2) zoning districts. The issue was reviewed by the Planning Commission in July 1982 and by the City Council in August 1982 (RTC 82-491). The City Council directed the preparation of code amendments that would allow donation trailers only in the C-2 (and C-2/PD) zoning district and the preparation of policy guidelines on their use.

During the course of the study, staff sent letters to numerous service organizations that accept donations of used household goods, including Goodwill of Santa Clara County and Salvation Army (both of which were permitted to operate their facilities until the policy matter was decided).

In January 1983, the Planning Commission reviewed the ordinance and draft policy and recommended approval to the City Council. In February 1983 the

City Council approved the ordinance (Ord. 2055-83) and a policy on “Trailer Donation Center for Used Household Goods” in February 1983. After the adoption of the ordinance the operators of the donation centers identified in the report obtained approval for their facility or relocated them to a permitted zoning district after obtaining use permit approval for a new location. In May 1983 Goodwill Industries obtained approval of the first use permit (Special Development Permit) for a donation trailer at the shopping center on Sunnyvale-Saratoga Road that now includes Trader Joe’s and Big 5.

In 1999 the zoning code was restructured and use tables were created for each of the zoning districts. The code was amended to permit donation centers in the C-3 and C-4 zoning districts, in addition to the C-2 zone. The donation centers were marked as not permitted in C-1.

### **Goodwill Donation Trailer at Lakewood Shopping Center**

In March 1989, a Use Permit application was filed by Goodwill Industries of Santa Clara County and Dicks Lakewood Corp. to allow locating an “Attended Donation Station” at Dick’s Lakewood Shopping Center. The application was withdrawn and the application fee was refunded after staff determined that the use was not allowed in a C-1 zoning district. The 1982/1983 staff reports on donation trailers did not mention whether there was a donation trailer illegally located at this shopping center during the preparation of the study. There is no evidence that a donation trailer has ever been permitted on this site.

### **Lakewood Shopping Center-Zoning History**

Dick’s Lakewood Shopping Center has been zoned C-1 (Neighborhood Commercial) since at least since 1963. In March 1980, the site was rezoned from C-1 to C-1/PD (Neighborhood Commercial/Planned Development) as part of a city-wide study to apply the Planned Development (PD) combining district to properties throughout the city. The intent of the rezoning was to assure the city had adequate oversight and control of use and development of the subject properties. The PD combining district requires the approval of a Special Development Permit (SDP) for any use that requires a Use Permit, for any establishment or change in use, or construction or alteration to any building on a site with such zoning. A change to C-1/PD does not allow uses that are not permitted in the base zoning district (i.e. C-1) including uses requiring a Use Permit such as donation trailers.

After a comprehensive review of all the reports related to this property (including staff reports, conditions of approval, letters from neighbors, etc.) staff found no mention of a Goodwill donation trailer. In 1997 the Dicks Lakewood Corporation received approval for a Special Development Permit for a “facelift” to the shopping center. The staff report, Planning Commission and City Council (on appeal) included much discussion about the maintenance of

the shopping center. No mention was made of a donation trailer; however, there was considerable discussion about the condition of the trash enclosures on the site and a requirement for a maintenance agreement to address refuse pick-up, parking lot sweeping, landscape maintenance and graffiti removal.

None of the staff reports, correspondence, or NP files discuss if or why the Goodwill donation trailer was ever located or relocated on the property. If the donation trailer had been located on another part of the property, staff would not have authorized the relocation. However, as mentioned before, Goodwill applied for a Use Permit in 1989 but withdrew the application after staff determined that the use was not allowed in a C-1 zoning district.

### **San Francisco Public Utilities Commission**

The San Francisco Public Utilities Commission (SFPUC) wrote a letter dated October 25, 2007 in support of the continued operation of the donation center. A question arose whether the SFPUC has any independent land use authority that would bear on the City's code enforcement actions. The SFPUC has no land use jurisdiction over this property, especially concerning activities of a private nature which do not relate to the municipal function of delivering water. The source of City power is California State Constitution Article 11, section 7, and *Candid Enterprises, Inc. v. Grossmont Union High School Dist.* (1985) 39 Cal. 3d 878. The *Candid* court said specifically:

"Under the police power granted by the Constitution, counties and cities have plenary authority to govern, subject only to the limitation that they exercise this power within their territorial limits and subordinate to state law." *Candid*, at page 886.

SFPUC is a department of the City and County of San Francisco. It provides municipal water, water treatment services and sells water to other jurisdictions. SFPUC leases a portion of its property to the owner of Dick's Lakewood Shopping Center. The fact that SFPUC does not object to the operation of the donation center within the leased premises is strictly a private property matter between the landlord, the tenant and the occupant. The fact that SFPUC has no objection to the use has no legal effect on whether the occupant's use is allowable under the City of Sunnyvale's ordinances. Nor does the land use authority of the City and County of San Francisco prevail over property located in another chartered city's jurisdiction, such as the City of Sunnyvale.

### **Zoning Code Amendment Options**

In order to legalize the Goodwill donation trailer at Dick's Lakewood Shopping Center, two rezoning options could be considered:

## **1. Zoning Code Map Amendment**

The property could be rezoned from C-1/PD to C-2/PD. The essential difference in the two zones is that C-2 allows more uses including donation centers, mini-storage, vehicle repair, car washes, new and use car sales, and hotels/motels. The C-2 also allows buildings up to 75 feet in height where C-1 allows 40 feet.

Commercial zoning districts (C-1 through C-4) are discrete zoning areas provided for in SMC. The C-1 district is reserved for retail shopping and service facilities to the *adjacent neighborhood residential areas*. The SMC excludes donation centers from C-1 because this use was deemed incompatible with residential serving objectives of this zoning district.

The properties zoned C-1 are generally located at intersections of major streets/arterials (e.g. Mathilda, Fremont, Mary, Wolfe, Sunnyvale-Saratoga) adjacent to residential neighborhoods, although there are a few sites located at the intersection of arterials with residential collectors (e.g. Duane and San Rafael, Lawrence and Lakehaven). C-1 sites vary in size from less than 7,000 s.f. (0.1 acre) to more than 500,000 s.f. (12 acres).

By way of comparison, the C-2 zoning district is a highway business district adapted to principal highway commercial districts (primarily along El Camino Real but also on Mathilda north of Maude, at Tasman and Fair Oaks and on Wildwood facing U.S. Highway 101). C-3 is a regional business district reserved for providing extensive retail, commercial and shopping facilities to serve the entire city or greater regional area (located along Evelyn Avenue near the Caltrain Station). Finally, the C-4 service commercial district is reserved for service rather than retail facilities (such as repair shops, custom fabricators, contractor offices, as well as residential uses) and are located along Evelyn Avenue, between Mary and Fair Oaks. Donation centers are allowed in each of these districts.

Staff would not encourage an application to rezone to the C-2 zoning district. C-2 would introduce a whole new character of shopping center into an area that has traditionally been neighborhood serving.

## **2. Zoning Code Text Amendment**

The City Council could consider a zoning code text amendment to allow donation centers in C-1 districts subject to the same Use Permit requirement in C-2, C-3, and C-4 districts. Or, the Council could consider allowing donation centers on C-1 properties with specific criteria (e.g. location, size of shopping center, etc.) Because this zoning code text amendment would affect all properties currently zoned C-1, the staff analysis would consider the land use implications on all C-1 sites.

If a zoning code text amendment was approved and/or the property changed to a C-2/PD zoning district, a minor Special Development Permit (SDP) would still be required.

## **Zoning Code Amendment Process and Fees**

### **1. Fees**

If a rezoning study is initiated by a property owner, the Zoning District Change fee is \$4,540 plus an environmental assessment fee of \$625. These fees are used to offset the costs associated with processing the request, including staff hours to evaluate the request, prepare and review staff reports, attendance at Planning Commission, City Council and any appropriate neighborhood outreach meeting plus publishing and mailing required legal notification. An additional approval for minor SDP would be required to legalize the donation trailer at the Dicks Lakewood Shopping Center. The fee for this minor permit is \$1,282 and can be considered at an administrative hearing.

Total fees for a rezoning study and a minor SDP are \$6,447.

### **2. Process and Time**

Both rezoning options raise larger policy issues beyond the subject shopping center or the Goodwill trailer itself. Both require a zoning amendment (text or map) which are legislative actions that involves a review and recommendation by the Planning Commission and final action by the City Council. The time frame for a zoning text amendment would be approximately three months to allow time for sufficient research on other C-1 shopping centers. The time frame for a zoning map amendment would take a similar amount of time to allow for more extensive outreach to the nearby residential neighborhood. A Special Development Permit application could be filed concurrently and decided on at the time the rezoning study is considered. Should there be a desire to consider either option (rezoning text or map), the timeframe would be about five months.

## **Administrative Citation Process**

The City issues administrative citations pursuant to Sunnyvale Municipal Code Chapter 1.05 for violations of the Sunnyvale Municipal Code. NP issued citations to Goodwill once it was determined that there was a violation of the Code. Citations were issued to Goodwill in accordance with the City Council approved Citywide Fee Schedule which details a tiered fine for administrative citations in Section 3.13: \$50 for the first violation; \$100 for the second violation; \$200 for the third violation; and \$500 for the fourth and any subsequent violations.

Under SMC section 1.05.060 the administrative citation may be appealed to a hearing officer within thirty days of the issuance of the citation. The hearing officer holds a hearing with both NP staff and the party receiving the citation and both sides are given the opportunity to present evidence. The hearing officer then issues a written decision which may be appealed to the Superior Court in accordance with state law.

The Director of Community Development is the hearing officer. The hearing officer bases a decision to uphold, waive, or reduce the fine(s) based upon the testimony and evidence (of the party who received the citation and city staff) presented at the hearing. The hearing officer may rescind or waive the citations for other compelling reasons, for example if he or she feels the citations were excessive or substantial compliance was met prior to the issuance of the citation.

Currently there is no process or Municipal Code authority allowing Council to waive citations since the City Council is not currently the "hearing officer" for administrative citation appeals. Similarly, City Council does not currently review or waive traffic or parking citations issued by the Department of Public Safety.

If the City Council, as a matter of policy, decides to hear appeals for administrative citations, then the administrative hearing process would need to be restructured with the City Council designated as the "hearing officer" or additional appeal body. Council would then hold hearings for any administrative citations that are initially appealed or appealed after the administrative hearing. Generally, the City Council's role is to make and act upon legislative policy, rather than deliberate on administrative matters.

Staff believes that this would introduce an administration function for the City Council that would be burdensome and require an additional time commitment by the City Council and staff. Further, if Council were to become the hearing officer, this would differ from other administrative hearing processes, such as those that are conducted by the DPS. Therefore, staff recommends maintaining the current administrative hearing procedure.

### **FISCAL IMPACT**

If Council decides to initiate a zoning map or text amendment, then the City would absorb the application fees of \$5,165. If the Council decides to do nothing and the property owner/applicant files an application, appropriate fees for the zoning amendment would be incurred by the applicant. Additionally, Goodwill would also be required to apply for a minor permit and pay the applicable fees. If the Council determines to modify the administrative hearing process there would be staff costs associated with preparing modifications to

the code and administrative procedures. This action will affect the amount of time available to spend on other policy work.

### **PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, in the Council Chambers lobby, in the Office of the City Clerk, at the Library, Senior Center, Community Center and Department of Public Safety; posting the agenda and report on the City's Web site; and making the report available at the Library and the Office of the City Clerk. Goodwill Industries of Santa Clara County, Dicks Lakewood Corporation and the City and County of San Francisco (SFPUC) were advised of the Council meeting and provided a copy of the staff report.

### **ALTERNATIVES**

1. The City Council initiates one of the following two rezoning studies:
  - a. A zoning code map amendment of the property from C-1/PD to C-2/PD.
  - b. A zoning code text amendment to consider allowing donation centers in the C-1 district subject to the same permit (approval process) as C-2, or consider allowing them only on C-1 properties over a certain size or other criteria.
2. The City Council takes no further action. Under this alternative, the property owner and Goodwill would need to either remove the donation trailer or apply for a zoning map or text amendment and a Special Development Permit. Staff would assist Goodwill in evaluating other alternatives for their donation trailer.
3. Direct staff to return to the City Council with a study to restructure the administrative hearing process by designating the City Council as the "hearing officer" or additional appeal body.

### **RECOMMENDATION**

Staff recommends Alternative 2. Staff finds that this alternative is consistent with prior Council actions to specifically disallow donation centers in the C-1 zoning district and confirms that the Dicks Lakewood Shopping Center is intended to be a neighborhood serving center rather than a more intensive highway oriented center. Although the Planned Development combining district provides extra controls to regulate the use and development of the property, it would not serve the property owner to set up expectations of uses that may not be compatible with the surrounding neighborhood.

Staff is not recommending Alternative 1 because the City Council considered the matter of donation centers in C-1 zoning districts as recently as 1999 during comprehensive zoning code updates. At that time the Council confirmed the policy to preclude donation centers on C-1 zoned property, and expanded the opportunities for location in other commercial zoning districts (C-3 and C-4) in addition to C-2.

Because C-1 zoned properties are more widely distributed in the community the Council may alternatively wish to reconsider the matter for the potential convenience to the general public. If the City Council finds that there is a compelling reason to revisit this issue, then the Council may wish to select Alternative 1b. to initiate a zoning text amendment study. A text amendment would preserve the essential zoning character of the Dick's Lakewood Shopping Center and allow a donation trailer to be considered through a minor Special Development Permit.

Staff finds that Alternative 3 would set an undesirable precedent for Council involvement in administrative activities. Staff believes that this would introduce an administration function for the City Council that would be burdensome and require an additional time commitment by the Council and staff. Further, if Council were to become the hearing officer, this would differ from other administrative hearing processes, such as those that are conducted by the Department of Public Safety, and could result in expectations to amend those processes as well.

Reviewed by:

Hanson Hom

Director, Community Development

Reviewed by: Trudi Ryan, Planning Officer

Prepared by: Christy Gunvalsen, Neighborhood Preservation Manager

Approved by:

Amy Chan

City Manager

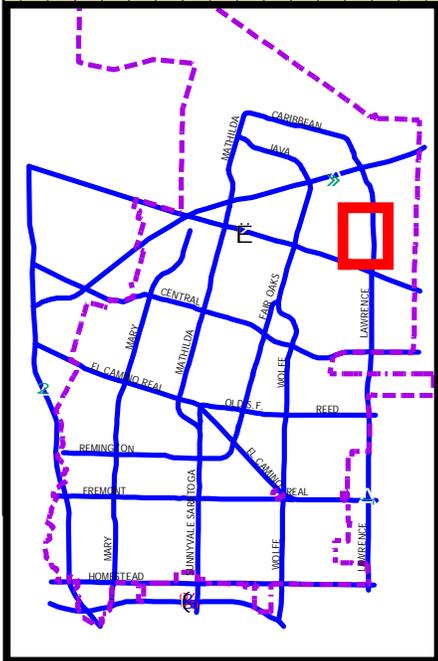
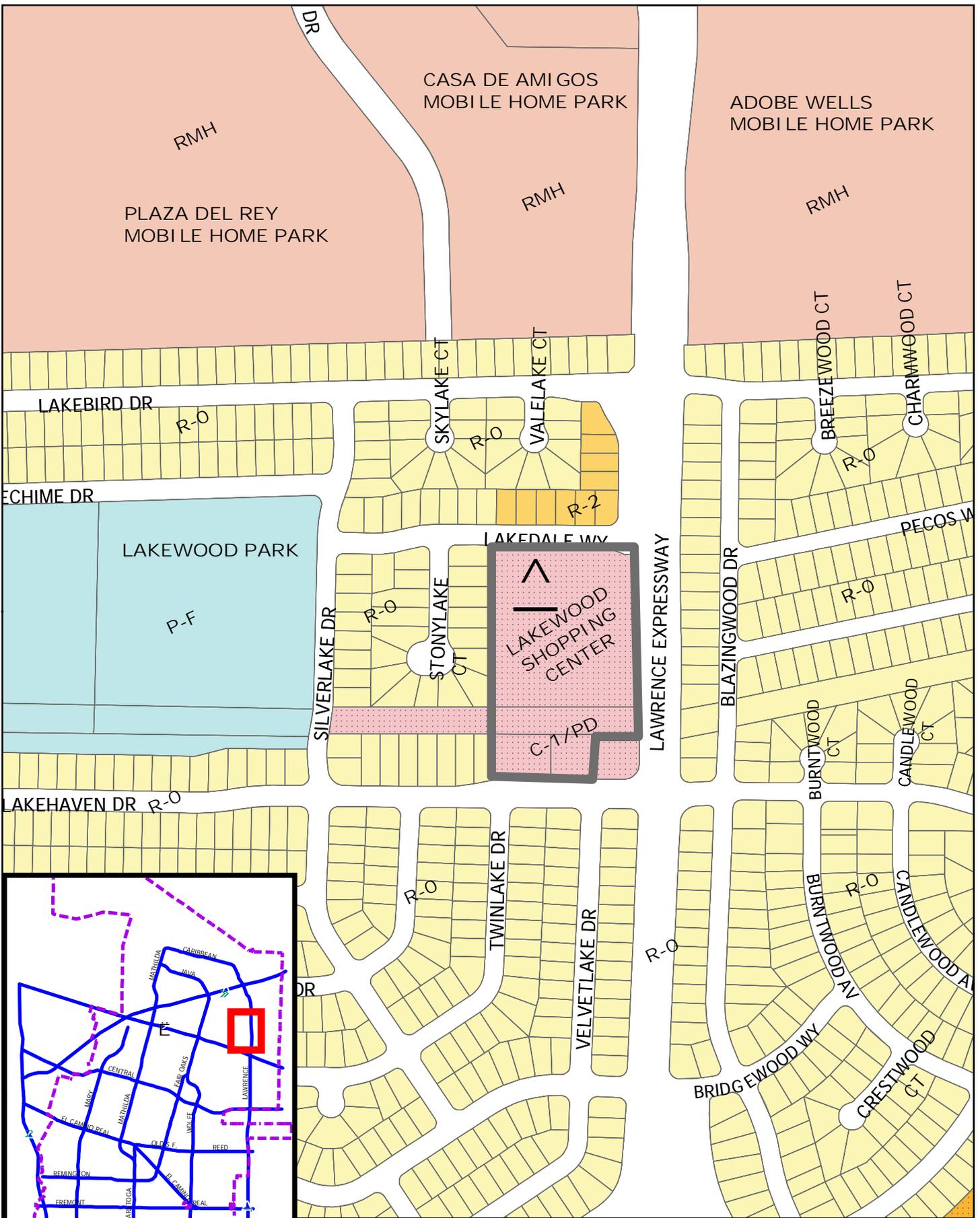
**Attachments**

Attachment A – Map of Dick’s Lakewood Shopping Center and vicinity

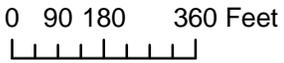
Attachment B – Compliance letter dated August 14, 2007

Attachment C – Compliance letter dated September 27, 2007

Attachment D – Administrative Citation



1119 N. Lawrence Expwy  
Lakewood Shopping Center





August 14, 2007

Stan Yee  
Dick's Lakewood  
1119 North Lawrence Expressway  
Sunnyvale, CA 94089-2057

RE: Goodwill Donation Center  
Neighborhood Preservation Case # 2007-1741  
**Compliance Letter**

Dear Mr. Yee:

As a property owner in the City of Sunnyvale, you may know that the City takes a great deal of pride in the health, safety, and quality of life for our residential and business communities. Neighborhood Preservation, a division of the Community Development Department, is responsible for upholding the standards set forth in the Sunnyvale Municipal Code to maintain this quality of life.

Neighborhood Preservation received a complaint regarding the status of your property at **1145 Lawrence Expressway**. The nature of the complaint was a Goodwill donation center located in the parking lot.

Upon further research of the history of your property about the Goodwill donation center, I have obtained the following information:

ADDRESS ALL MAIL TO: P.O. BOX 3707 SUNNYVALE, CALIFORNIA 94088-3707  
TDD (408) 730-7501

 Printed on Recycled Paper

Planning:

Project #	Description	Decision/Status
1989-0172	To allow Goodwill Trailer on the property	<u>Withdrawn</u>

I understand that the Goodwill donation center, positioned in your C-1 zoning district property, serves a good purpose and has noble intentions for the community. However, situating a donation center in the said district is prohibited.

Please be advised that this is a violation of the following Sunnyvale Municipal Code (SMC):

- **SMC TABLE 19.20.030**

**Permitted, Conditionally Permitted and Prohibited Uses in Commercial Zones**

In the table, the letters and symbols are defined as follows:

- P = Permitted use
- UP = Use permit required
- MPP = Miscellaneous plan permit
- N = Not permitted, prohibited

COMMERCIAL ZONES	C-1	C-2	C-3	C-4	C-4 FAR
E. Donation centers for used goods <sup>2</sup>	N	UP	UP	UP	N/A

- **SMC 19.20.020. Commercial zoning districts. Definitions.**

(a) The C-1 neighborhood business district is reserved for the construction, use and occupancy of commercial buildings providing retail commercial shopping and service facilities to the adjacent neighborhood residential areas.

(b) The C-2 highway business district is reserved for the construction, use and occupancy of retail commercial buildings, tourist accommodations and service facilities adapted to principal highway commercial districts.

**In order to be in compliance with the Sunnyvale Municipal Code, you must do one of the following:**

1. Remove the Goodwill donation center from the property.
2. You may apply for a zoning district change from C-1 to C-2. If approved, you could then apply for a Use Permit to allow the Goodwill donation center on the property.

Please be advised that the fee for a Zoning District Change Application is \$4,540.00 and it can take up to three to four weeks to process. We can not guarantee that staff would support such an application.

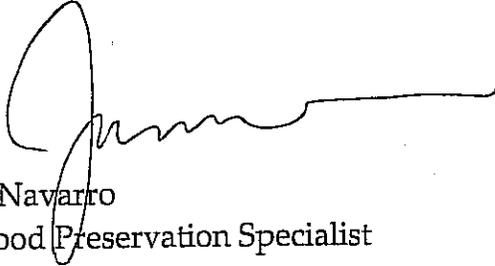
City Staff is currently looking for other options for you and your case. (For example, it may be possible but unlikely to initiate a Study Issue to consider a code change allowing donation centers in the C-1 zoning district.) Nevertheless, until other options become available, we need you to seriously consider the first two that we proposed above.

You are required to be in compliance by **September 17, 2007**. Failure to meet the compliance deadline will result in additional code enforcement action, including administrative citation(s) until compliance is met.

The One-Stop Permit Center is located at 456 West Olive Avenue. Planners are available to assist you, Monday through Friday, 8:00 a.m. to 12:00 p.m. and 1:00 p.m. to 5:00 p.m.

Thank you in advance for your cooperation in resolving this matter. If you have any questions, please feel free to contact our Planning Division at 408-730-7440 or you may call me directly at 408-730-7447.

Sincerely,



Jhoanne L. Navarro  
Neighborhood Preservation Specialist  
City of Sunnyvale  
Community Development Department  
jnavarro@ci.sunnyvale.ca.us  
Phone # (408) 730-7447

Cc: John Cho, Goodwill Manager  
Goodwill Industries of Silicon Valley  
1080 North 7th Street  
San Jose, CA 95112

Enclosures: Public Hearing Application  
Planning Fees  
Administrative Citation Schedule of Fines



September 27, 2007

Barbara Alvarenga  
John Choe  
Goodwill Industries of Silicon Valley  
1080 North 7th Street  
San Jose, CA 95112

RE: Goodwill Donation Center  
Neighborhood Preservation Case # 2007-1741  
**Warning Letter**

Dear Barbara and John:

You may know that the City takes a great deal of pride in the health, safety, and quality of life for our residential and business communities. Neighborhood Preservation, a division of the Community Development Department, is responsible for upholding the standards set forth in the Sunnyvale Municipal Code to maintain this quality of life.

Neighborhood Preservation received a complaint regarding the Goodwill donation center located in the parking lot within the Lakewood Shopping Center at **1119 -1161 Lawrence Expressway**. The parking lot area (Hetch Hetchy R.O.W., APN# 110-23-104), which is owned by the San Francisco Water District, is zoned as C-1 district which prohibits a donation center.

On August 14, 2007, I mailed a compliance letter to Mr. Choe and to Mr. Yee, property owner of the Lakewood Shopping Center, regarding the violation. You were required to remove the donation center or the property owner may apply for a zoning district change from C-1 to C-2 by September 15, 2007.

I understand that you are currently working with the San Francisco Water District staff to resolve the issue. However, please be advised that the condition of the property is in violation of the following Sunnyvale Municipal Code (SMC):

**ADDRESS ALL MAIL TO: P.O. BOX 3707 SUNNYVALE, CALIFORNIA 94088-3707  
TDD (408) 730-7501**

Printed on Recycled Paper

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(b) The C-2 highway business district is reserved for the construction, use and occupancy of retail commercial buildings, tourist accommodations and service facilities adapted to principal highway commercial districts.

**In order to be in compliance with the Sunnyvale Municipal Code, you must do one of the following:**

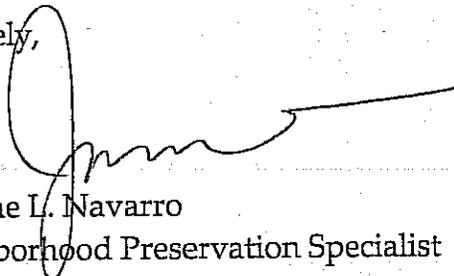
1. Remove the Goodwill donation center from the property.
2. Apply (property owner) for a zoning district change from C-1 to C-2. If approved, you could then apply for a Use Permit to allow the Goodwill donation center on the property.

You are required to comply by **October 29, 2007**. Failure to meet the compliance deadline will result in additional code enforcement action, including administrative citation(s) until compliance is met.

The One-Stop Permit Center is located at 456 West Olive Avenue. Planners are available to assist you, Monday through Friday, 8:00 a.m. to 12:00 p.m. and 1:00 p.m. to 5:00 p.m.

Thank you in advance for your cooperation in resolving this matter. If you have any questions, please feel free to contact our Planning Division at 408-730-7440 or you may call me directly at 408-730-7447.

Sincerely,



Jhoanne L. Navarro  
Neighborhood Preservation Specialist  
City of Sunnyvale  
Community Development Department  
jnavarro@ci.sunnyvale.ca.us  
Phone # (408) 730-7447

cc: Mr. Gary Dowe  
San Francisco Water District  
P.O. Box 7369  
San Francisco, Ca 94120-7369

Mr. Stan Yee  
Dick's Lakewood  
1119 North Lawrence Expressway  
Sunnyvale, CA 94089-2057

encl: Administrative Citation Schedule of Fines

**CITY OF SUNNYVALE  
 ADMINISTRATIVE CITATION (Pursuant to SMC Chap 1.05)  
 FOR VIOLATION OF THE SUNNYVALE MUNICIPAL CODE (SMC)**

Name: Last	First	Middle
Address:		
City:	State	Zip
Date of Violation: Month	Day	Year
Location of Violation (if different from above): Street Address: _____ City: _____ State: _____ Zip: _____		

SMC PROVISION	FINE*
<b>All violations of the Sunnyvale Municipal Code enforced pursuant to Chapter 1.05 are governed by this schedule of fines</b>	<b>For each violation of the SMC, fines shall be assessed as follows:</b>  <input type="checkbox"/> \$50 for the first violation. <input type="checkbox"/> \$100 for the second violation occurring within 36 months of the first citation date. <input type="checkbox"/> \$200 for the third violation occurring within 36 months of the second citation date. <input type="checkbox"/> \$500 for the fourth and any subsequent violation occurring within 36 months of the third citation date.
	<b>TOTAL FINE:        \$</b>

\* All fines are due within thirty (30) days of the citation date. A late fee of 10%/month simple interest will be assessed for all payments received after the due date. If the violation(s) is not corrected, you may receive additional citations.

SMC VIOLATION(S):	DESCRIPTION OF VIOLATION(S):

I certify that the foregoing is true and correct as of the date shown below:

Printed name of issuer: \_\_\_\_\_ Signature: \_\_\_\_\_ Telephone number: \_\_\_\_\_

Date issued: \_\_\_\_\_ Time issued: \_\_\_\_\_ AM/PM Case number: \_\_\_\_\_

Make check payable to: **City of Sunnyvale**

Mail payment to: **City of Sunnyvale  
 Finance Department – Attention Accounts Receivable  
 P.O. Box 3707  
 Sunnyvale, CA 94088-3707**

**SEE REVERSE SIDE**

ALFF

**IMPORTANT – PLEASE READ**

**ORDER:** You are ordered to immediately cease committing the Municipal Code Violation(s) listed on the front of this Administrative Citation. If the violation(s) is not corrected, you may receive additional citations.

All fines are due within thirty (30) days of the citation date. A late fee of 10%/month simple interest will be assessed for all payments received after the due date.

**APPEAL:** You have the right to contest this Administrative Citation at a hearing before a Hearing Officer. To request a hearing you must complete the section below (**REQUEST FOR HEARING**) and mail it, together with a deposit of the total fine amount to:

City of Sunnyvale  
Finance Department – Attention Accounts Receivable  
P.O. Box 3707  
Sunnyvale, CA 94088-3707

Your **REQUEST FOR HEARING** and deposit must be postmarked within thirty (30) days of the date the citation was issued. You will be notified in writing of the location, date and time set for your hearing. If you are unable to appear at the hearing, you have one opportunity to reschedule and must do so promptly otherwise you lose your opportunity for a hearing. Failing to appear will result in the loss of your deposit and the opportunity for a hearing.

**REQUEST FOR HEARING**

1. Name:	2. Mailing address:
3. Reason for appeal:	
4. Telephone number:	

You must fill out this form completely. Failure to complete all boxes (1-4) will result in automatic denial of the Request for Hearing.

**PAYMENT OF ADMINISTRATIVE FINE:** Payment of fine is due within thirty (30) days of the citation date. A late fee of 10%/month simple interest will be assessed for all payments received after the due date.

**REPEAT VIOLATIONS:** Each day that a violation of any provision of the Sunnyvale Municipal Code exists constitutes a separate offense. Furthermore, each section of the Sunnyvale Municipal Code violated constitutes a separate violation, Sunnyvale Municipal Code 1.04.010 and 1.04.040. If the violation(s) is not corrected, you may receive additional citations.