

**Agenda for the
Regular Meeting of the
Englewood City Council
Monday, May 3, 2010
7:30 pm**



Englewood Civic Center - Council Chambers
1000 Englewood Parkway
Englewood, CO 80110

1. Call to Order.
2. Invocation.
3. Pledge of Allegiance.
4. Roll Call.
5. Consideration of Minutes of Previous Session.
 - a. Minutes from the Regular City Council Meeting of April 19, 2010.
6. Recognition of Scheduled Public Comment. (This is an opportunity for the public to address City Council. Council may ask questions for clarification, but there will not be any dialogue. Please limit your presentation to five minutes.)
 - a. Presentation to Englewood Police Citizens' Academy Graduates.
7. Recognition of Unscheduled Public Comment. (This is an opportunity for the public to address City Council. Council may ask questions for clarification, but there will not be any dialogue. Please limit your presentation to three minutes. Time for unscheduled public comment may be limited to 45 minutes, and if limited, shall be continued to General Discussion.)
8. Communications, Proclamations, and Appointments.
 - a. Proclamation honoring Craig F. Walker, Pulitzer Prize-winning photojournalist and Englewood resident.
 - b. Proclamation declaring the week of May 16-22, 2010 as National Public Works Week.

Please note: If you have a disability and need auxiliary aids or services, please notify the City of Englewood (303-762-2405) at least 48 hours in advance of when services are needed.

9. Consent Agenda Items.
 - a. Approval of Ordinances on First Reading.
 - b. Approval of Ordinances on Second Reading.
 - c. Resolutions and Motions.
 - i. Recommendation from the Library Department to approve a resolution authorizing the Library's "2010 Summer Food for Fines" program from Monday May 24 through Sunday, June 6, 2010. **STAFF SOURCE: Hank Long, Director of Library Services.**
 - ii. Recommendation from the Finance and Administrative Services Department to approve a resolution authorizing a Supplemental Appropriation from the unreserved/undesignated fund balance to the contingency fund in the amount of \$20,000 for the demolition of the property at 4757 South Bannock Street. **STAFF SOURCE: Frank Grylewicz, Director of Finance and Administrative Services.**
10. Public Hearing Items (No Public Hearing Scheduled).
11. Ordinances, Resolutions and Motions
 - a. Approval of Ordinances on First Reading.
 - i. Council Bill No. 10 – Recommendation from the Community Development Department to adopt a bill for an ordinance authorizing the sale of five single-family residences located at 2198 West Adriatic Place, 2335 West Baltic Place, 2010 West Baltic Place, 4819 South Delaware Street, and 4681 South Decatur Street #226. **STAFF SOURCE: Harold J. Stitt, Senior Planner.**
 - ii. Council Bill No. 11 – Recommendation from the Community Development Department to adopt a bill for an ordinance authorizing amendments to Title 16: Unified Development Code to permit buy-back, second-hand, thrift and consignment uses as uses-by-right in the MU-B-1 zone district. Staff further requests that City Council set a Public Hearing for Monday, May 17, 2010 to gather public input on this issue. **STAFF SOURCE: Tricia Langon, Senior Planner.**
 - b. Approval of Ordinances on Second Reading.
 - i. Council Bill No. 9, extending an existing temporary suspension or moratorium on the establishment of new medical marijuana dispensing and growing uses for a period of six months.

- c. Resolutions and Motions.

12. General Discussion.
 - a. Mayor's Choice.
 - b. Council Members' Choice.

13. City Manager's Report.

14. City Attorney's Report.

15. Adjournment

The following minutes were transmitted to City Council in April, 2010.

- Alliance for Commerce in Englewood Committee meeting of March 11, 2010.
- Cultural Arts Commission meeting of March 3, 2010.
- Englewood Housing Authority meeting of February 25, 2010.
- Keep Englewood Beautiful Commission meeting of March 9, 2010.
- Parks and Recreation Commission meeting of March 11, 2010.
- Planning and Zoning Commission meetings of March 16 and April 6, 2010.
- Transportation Advisory Committee meeting of March 11, 2010 and telephone poll of March 29, 2010.
- Water and Sewer Board meetings of January 12, February 9, and March 9, 2010.



PROCLAMATION

WHEREAS, the Pulitzer Prizes have honored excellence in journalism and the arts since 1917, seeking out and recognizing the highest journalistic principles throughout the United States; and

WHEREAS, each spring the Pulitzer Prizes are awarded by the Pulitzer Prize Board at Columbia University's School of Journalism based on the nominations of a distinguished panel of judges; and

WHEREAS, one of Englewood's own citizens, Mr. Craig F. Walker, was recently awarded a 2010 Pulitzer Prize in the category of Feature Photography; and

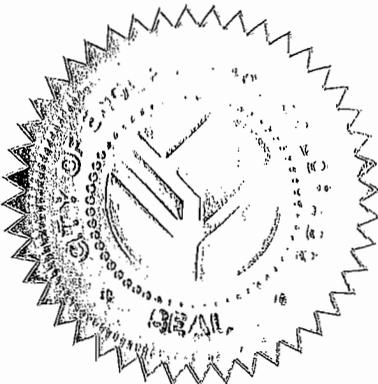
WHEREAS, Mr. Walker's Pulitzer Prize was awarded for his photojournalism feature in *The Denver Post's* "American Soldiers" series, which, as the Pulitzer Prize Board noted, "painted an intimate portrait of a teenager who joins the Army at the height of insurgent violence in Iraq, poignantly searching for meaning and manhood;" and

WHEREAS, it is clear that the experience Mr. Walker shared with Private Fisher was chronicled with candor and insight and with respect for the young man's journey; and

WHEREAS, the City of Englewood is proud to have such a talented journalist and artist in our community and wishes to recognize Mr. Walker's very noteworthy accomplishment and applaud his success;

NOW, THEREFORE, I, James K. Woodward, Mayor of the City of Englewood, Colorado and Members of the Englewood City Council take great pride in honoring Craig F. Walker for winning a 2010 Pulitzer Prize and offer our heartiest congratulations on such a distinguished and well-deserved recognition.

GIVEN under my hand and seal this 3rd day of May, 2010.



James K. Woodward, Mayor



PROCLAMATION

WHEREAS, the American Public Works Association is sponsoring National Public Works Week, based on the theme "Public Works: Above, Below & All Around You"; and

WHEREAS, Public Works services provided in our community are an integral part of our citizens' everyday lives; and

WHEREAS, in order to promote an awareness of the need for Public Works professionals and the contributions they make to our health, safety, and comfort by providing efficient street systems, public buildings and traffic movement throughout the community; and

WHEREAS, the quality and effectiveness of these facilities, and the planning, design and construction is vitally dependent upon the efforts and skill of Public Works officials; and

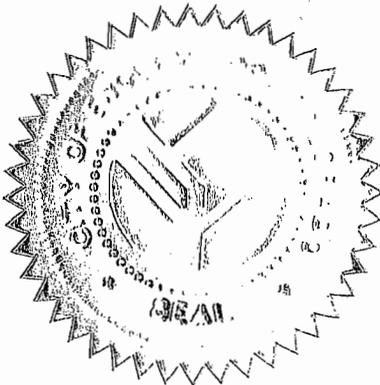
WHEREAS, to inspire excellence and dedication in public service by recognizing all of Public Works' outstanding employees and their achievements;

NOW, THEREFORE, I, James K. Woodward, Mayor of the City of Englewood, Colorado, hereby proclaim the week of **May 16-22, 2010** as:

NATIONAL PUBLIC WORKS WEEK

and urge all citizens of the City of Englewood, Colorado to use this week to visit their local Public Works Department and better familiarize themselves with the important safety information and services provided by these public servants.

GIVEN under my hand and seal this 3rd day of May, 2010.



James K. Woodward, Mayor

COUNCIL COMMUNICATION

Date: May 3, 2010	Agenda Item: 9 c i	Subject: Englewood Public Library's "2010 Summer Food for Fines"
Initiated By: Library Department		Staff Source: Hank Long, Director of Library Services

COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

The Library has sponsored this popular program since 1990, and each year the City Council has continually voiced its support. In 2003, the annual Food for Fines program was expanded to twice a year at the request of the Library Board, and subsequently approved by City Council, for two weeks during the summer as well as two weeks between Thanksgiving and Christmas as a way to mitigate the increase in Overdue Library Fines and as a way to encourage the timely return of EPL materials so that they can be used by more people. The two weeks of the *Summer Food for Fines* program covers the last week of the public school year and the first week of vacations, a time during which students and teachers are cleaning out their desks and lockers in preparation for the summer break and numerous overdue Library materials are located, whereas the two weeks of the *Winter Food for Fines* program traditionally covers the period between the Thanksgiving and Christmas holidays. Historically, each of these two biannual events raises an average of \$1,500 to \$2,000 in donated non-perishable food items for the InterFaith Community Services food bank.

RECOMMENDED ACTION

The Library Department recommends City Council approve a resolution authorizing the Library Department to implement its *2010 Summer Food for Fines* program from Monday, May 24 through Sunday, June 6, 2010.

BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

For the past 20 years, the Englewood Public Library has provided its "Food for Fines" program as a way for those patrons with fines on their overdue EPL materials to "pay" them off through the donation of non-perishable food items that are, in turn, forwarded to InterFaith Community Services for their "food bank" distribution to financially disadvantaged families in the Englewood area. Following 2003's increase in maximum Overdue Fines from \$2 to \$5, the Library Board requested that the number of food items required to pay off a single Overdue charge also be increased beginning with the 2004 Winter Food for Fines program, e.g. it now takes two food items to cancel out the late charges (not lost or damaged charges) on one overdue item. These food items must be presented to the Library Staff at the Circulation Desk in order for the fines to be cleared from the patron's computer record. This program has been warmly received and supported by the public since its inception, and Library patrons now look forward to it as a way of helping others while

relieving their own financial obligations. Thus, the program presents a positive image of the Library and the City and is a "win-win" situation for everyone involved.

FINANCIAL IMPACT

Since its inception, this program has raised an *estimated* \$40,500 in donated non-perishable food items to assist needy families in the Englewood area.

The money that the Library collects each month in "late charges" (i.e. charges on books and other EPL items returned past their original "due date" and past the 3 day "grace period") goes to the City's General Fund. These revenues traditionally drop about 50% during each of the Library's two-week Food for Fines programs, but the loss is more than offset by the "good will" this program generates among Library patrons and by getting the Library materials back on the shelves so that others can use them.

LIST OF ATTACHMENTS

Proposed Resolution

RESOLUTION NO. _____
SERIES OF 2010

A RESOLUTION AUTHORIZING THE ENGLEWOOD PUBLIC LIBRARY TO IMPLEMENT THE "SUMMER FOOD FOR FINES" PROGRAM FROM MONDAY, MAY 24 THROUGH SUNDAY, JUNE 6, 2010.

WHEREAS, the Englewood Public Library has sponsored a "Food for Fines" program since 1990; and

WHEREAS, the "Food for Fines" program allows patrons with overdue fines on their overdue library materials to "pay" them off through the donation of non-perishable food items; and

WHEREAS, the food items are then forwarded to the InterFaith Community Services for their "food bank" distribution to financially disadvantaged families in the Englewood area; and

WHEREAS, the program is a benefit to the community in that the disadvantaged are assisted; the air cleared with respect to fines; the City receives its library materials back and the program presents a positive image of the Library and the City.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ENGLEWOOD, COLORADO, THAT:

Section 1. The Englewood City Council hereby authorizes the Englewood Public Library's implementation of the "Summer Food For Fines" program from Monday, May 24, through Sunday, June 6, 2010. The collected food will then be forwarded to the InterFaith Community Services for distribution to financially disadvantaged families in the Englewood area.

ADOPTED AND APPROVED this 3rd day of May, 2010.

ATTEST:

James K. Woodward, Mayor

Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk for the City of Englewood, Colorado, hereby certify the above is a true copy of Resolution No. _____, Series of 2010.

Loucrishia A. Ellis, City Clerk

COUNCIL COMMUNICATION

Date: May 3, 2010	Agenda Item: 9 c ii	Subject: A Resolution for a Supplemental Appropriation for the Demolition of the property at 4757 South Bannock Street
Initiated By: Department of Finance and Administrative Services		Staff Source: Frank Gryglewicz, Director

COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

Council has consistently made the health, safety, and security of the citizens of the City of Englewood a major priority. Council determined the house at 4757 South Bannock is a threat to the health and safety of the surrounding neighborhood.

The City Council has discussed the condition of this property at past Study Sessions and at the Study Session on April 26, 2010. Council directed staff to prepare this Supplemental Appropriation of \$20,000 to demolish the property.

RECOMMENDED ACTION

Staff recommends City Council approve the attached resolution authorizing a Supplemental Appropriation from the Unreserved/Undesignated Fund balance to the contingency fund in the amount of \$20,000 to demolish the property at 4757 South Bannock.

BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

The property at 4757 South Bannock Street has not been maintained for many years. The foundation of the house has been compromised and is in danger of collapsing.

The following illustrates the source and use of funds:

GENERAL FUND

SOURCE OF FUNDS:

Unreserved/Undesignated Fund Balance \$20,000

USE OF FUNDS:

Contingency (Demolition of Bannock Property) \$20,000

FINANCIAL IMPACT

This supplemental appropriation will reduce the General Fund's Unreserved/Undesignated Fund balance by \$20,000.

LIST OF ATTACHMENTS

Proposed Resolution

RESOLUTION NO. _____
SERIES OF 2010

A RESOLUTION APPROVING A SUPPLEMENTAL APPROPRIATION TO THE 2010 BUDGET FOR THE DEMOLITION OF PROPERTY LOCATED AT 4757 SOUTH BANNOCK STREET, ENGLEWOOD, COLORADO.

WHEREAS, the City of Englewood is required by City Charter to ensure that expenditures do not exceed legally adopted appropriations; and

WHEREAS, the 2010 Budget was submitted and approved by the Englewood City Council on October 19, 2009; and

WHEREAS, the property located at 4757 South Bannock Street has not been maintained for many years and the foundation of the house has been compromised and is in danger of collapsing; and

WHEREAS, the City Council has consistently made the health, safety and security of the citizens of the City of Englewood a major priority; and

WHEREAS, the Chief Building Official has determined the house at 4757 South Bannock is a threat to the health and safety of the surrounding neighborhood under the International Property Maintenance Code as adopted by the City; and

WHEREAS, the passage of this Resolution will appropriate \$20,000 from the unreserved/undesignated fund balance to the contingency fund to demolish the property at 4757 South Bannock;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ENGLEWOOD, COLORADO, AS FOLLOWS:

Section 1. The Budget for the General Fund of the City of Englewood, Colorado, is hereby amended for the year 2010, as follows:

2010 SUPPLEMENTAL APPROPRIATION

GENERAL FUND:

SOURCE OF FUNDS:

Unreserved/Undesignated Fund Balance	\$20,000
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USE OF FUNDS:

Contingency (Demolition of Bannock Property)	\$20,000
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Section 2. The City Manager and the Director of Finance and Administrative Services are hereby authorized to make the above changes to the 2010 Budget for the City of Englewood.

ADOPTED AND APPROVED this 3rd day of May, 2010.

ATTEST:

James K. Woodward, Mayor

Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk for the City of Englewood, Colorado, hereby certify the above is a true copy of Resolution No. _____, Series of 2010.

Loucrishia A. Ellis, City Clerk

COUNCIL COMMUNICATION

Date: May 3, 2010	Agenda Item: 11 a i	Subject: An Ordinance Authorizing the Sale of 2198 W. Adriatic Pl, 2335 W. Baltic Pl, 2010 W. Baltic Pl, 4819 S. Delaware St, and 4681 S Decatur St #226 Funded through the Neighborhood Stabilization Program Grant
Initiated By: Community Development Department		Staff Source: Harold J. Stitt, Senior Planner

COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

City Council approved Resolution 34, Series of 2009 authorizing staff to apply to the Department of Local Affairs, Colorado Division of Housing, for a portion of Arapahoe County's allocation of the Federal Neighborhood Stabilization Program funds (NSP1).

City Council approved Ordinance 37, Series of 2009 authorizing the execution of a contract for Neighborhood Stabilization Program grant funding between the State of Colorado Department of Local Affairs and the City of Englewood.

City Council approved Ordinance 49, Series of 2009 authorizing the purchase of ten unidentified single-family vacant foreclosed properties located in the eligible census tracts throughout the City of Englewood to fulfill the NSP1 contract with the Colorado Department of Local Affairs.

RECOMMENDED ACTION

Staff recommends that Council approve a bill for an ordinance authorizing the sale of five single-family residences located at 2198 West Adriatic Place, 2335 West Baltic Place, 2010 West Baltic Place, 4819 South Delaware Street, and 4681 South Decatur Street #226.

BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

In 2008, the Federal government passed the Housing and Economic Recovery Act (HERA). HERA appropriated \$3.92 billion nationally for the Neighborhood Stabilization Program (NSP1) to support the acquisition, rehabilitation, or demolition of foreclosed and abandoned properties. The Colorado Department of Local Affairs through the Division of Housing received a total \$37.9 million in NSP1 funds.

In March, the Community Development Department submitted an application to the State as authorized for NSP1 funding for Project Rebuild. Project Rebuild was awarded \$1,253,379 by the State Housing Board in July to purchase, rehabilitate, and sell foreclosed single-family properties in

eligible census tracts located throughout the City of Englewood. In September, Council approved entering into an agreement with the State for NSP1 funding.

The NSP1 contract requires the purchase, rehabilitation, and resale of ten homeownership units. Currently five homes, located at 2198 West Adriatic Place, 2335 West Baltic Place, 2010 West Baltic Place, 4819 South Delaware Street, and 4681 South Decatur Street #226, have been purchased and are in various stages of being rehabbed. All five properties will soon be available to sell to eligible owner/occupied buyers.

Section 72 of the Home Rule Charter requires that real property may be sold, but only by ordinance, not using the emergency provision. Having Council authorize the sale of all five properties at once will maximize the marketing efforts and expedite the subsequent sale and closing of the properties.

If an offer to purchase the property is received from any City of Englewood employee, an employee's family members, or any business in which a City employee has a financial interest, then staff will submit the offer to the City Council for approval.

FINANCIAL IMPACT

Existing Community Development staff has the required expertise to sell the properties to eligible buyers. All selling expenses will be covered by funds provided by the NSP1 grant. Proceeds from the sale of each property will be used to reimburse: 1) the State of Colorado for funds used for acquisition, and 2) the City's Long Term Asset Reserve (LTAR) Fund for funds used for rehabilitation. The LTAR fund will be reimbursed in full.

LIST OF ATTACHMENTS

Proposed Bill for an Ordinance

BY AUTHORITY

ORDINANCE NO. _____
SERIES OF 2010

COUNCIL BILL NO. 10
INTRODUCED BY COUNCIL
MEMBER _____

A BILL FOR

AN ORDINANCE APPROVING THE SALE OF FIVE PROPERTIES ON THE OPEN MARKET, WHICH WERE PURCHASED AND REHABILITATED WITH FUNDS FROM THE NEIGHBORHOOD STABILIZATION PROGRAM GRANT AND THE LTAR FUND.

WHEREAS, the Englewood City Council approved Resolution No. 34, Series of 2009 authorizing the City to apply to the Department of Local Affairs, Colorado Division of Housing for a portion of Arapahoe County's allocation of the Federal Neighborhood Stabilization Program funds (NSP1); and

WHEREAS, the City Council approved Ordinance No. 37, Series of 2009 authorizing the execution of a contract for Neighborhood Stabilization Program grant funding between the State of Colorado Department of Local Affairs and the City of Englewood; and

WHEREAS, the City Council approved Ordinance No. 49, Series of 2009 authorizing the purchase of ten (10) unidentified, single-family, vacant, foreclosed properties located in the eligible census tracts throughout the City of Englewood to fulfill the NSP1 contract with the Colorado Department of Local Affairs; and

WHEREAS, five such properties are almost ready to be sold to private parties who will secure their own financing, thereby replacing the grant funds used and returning those funds to the State Program; and

WHEREAS, if an offer to purchase is received from any City employee, their family members, or any business in which a City employee has a financial interest, the offer will be submitted to the Englewood City Council for approval;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ENGLEWOOD, COLORADO, AS FOLLOWS:

Section 1. Approval is hereby given for the sale of five properties on the open market which were purchased and rehabilitated with funds from the Neighborhood Stabilization Program Grant and the LTAR Fund. Said properties will be sold to private parties who shall secure their own financing and the State Funds, which were used to purchase and develop said properties, shall be returned to the Neighborhood Stabilization Program (NSP1).

Section 2. The following properties are authorized to be sold on the open market:

1. 2198 West Adriatic Place
2. 2335 West Baltic Place
3. 2010 West Baltic Place
4. 4819 South Delaware Street
5. 4681 South Decatur Street - #226

Section 3. The sale of these properties shall require the purchaser to agree as follows:

1. All households being served must qualify under the terms of the NSP1 Grant.
2. The purchasing household will undergo a minimum of 8 hours of HUD approved homeownership counseling.
3. The purchasing household must occupy the property as a principal residence for a minimum of five years.

Section 4. The sale price shall be equal to or less than the costs to acquire and redevelop the home.

Section 5. The Supplemental Appropriation will be reimbursed to the NSP funds and the LTAR funds upon the rehabilitation and sale of the foreclosed properties.

Section 6. The Mayor and the City Clerk are authorized to execute the proper form of deed for the conveyance of these properties pursuant to Section 72 of the Englewood City Charter.

Introduced, read in full, and passed on first reading on the 3rd day of May, 2010.

Published as a Bill for an Ordinance in the City's official newspaper on the 7th day of May, 2010.

Published as a Bill for an Ordinance on the City's official website beginning on the 5th day of May, 2010 for thirty (30) days.

James K. Woodward, Mayor

ATTEST:

Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of a Bill for an Ordinance, introduced, read in full, and passed on first reading on the 3rd day of May, 2010.

Loucrishia A. Ellis

COUNCIL COMMUNICATION

Date: May 3, 2010	Agenda Item: 11 a ii	Subject: Amendment to Title 16: Unified Development Code to Permit Buy-Back, Second-Hand, Thrift and Consignment Uses in the MU-B-1 Zone District and a request to set a Public Hearing for May 17, 2010 to gather public input on this issue
Initiated By: Community Development Department		Staff Source: Tricia Langon, Senior Planner

COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

Council directed the Planning and Zoning Commission to consider amendments to the Unified Development Code (UDC) to address Buy-Back, Second-Hand, Thrift and Consignment uses in the MU-B-1.

PREVIOUS PLANNING COMMISSION ACTION

Following a brief discussion during the February 17, 2010 Planning and Zoning Commission study session, the commission requested additional information on the issue. Staff presented the requested material to the Commission on March 2, 2010, which included four options for addressing the issue:

Option 1: Maintain the status quo, where buy-back, second hand, thrift and consignment stores remain grouped into a single use type and are prohibited in MU-B-1.

Option 2: (Single-step approach) Maintain the grouping of buy-back, second hand, thrift and consignment stores in a single use type, and allow all in MU-B-1.

Option 3: (Multi-step approach)

- a. Maintain buy-back, second hand, and consignment uses as a single use type.
- b. Allow these uses in MU-B-1, MU-B-2, M2 and I-1 and I-2 districts.
- c. Establish thrift as a separate use type.
- d. Allow thrift use in MU-B-2, I-1 and I-2 districts only.
- e. Establish definition of Thrift store as being run by an organization with tax exempt status that sells donated items.

Option 4: Split each use into its own use type in Table 16-5-1.1 and designate in which zone district each use is allowed.

Commission discussion focused on allowing consignment use in the MU-B-1 district while prohibiting thrift use in the district. The Commission determined that all four uses (buy-back, second hand, thrift and consignment) were appropriate uses in the district and requested that staff prepare the amendments based on that determination.

The Planning and Zoning Commission conducted a Public Hearing on April 6, 2010, to consider the proposed amendments to Title 16: Unified Development Code (UDC). Five members of the public spoke in favor of the proposed amendments; no one spoke against. Following discussion the Commission voted 8 to 1 to forward the proposed amendments as written to City Council with a favorable recommendation for adoption. The favorable recommendation was based on the proposed amendments being supportive of Objectives 1-2 and 1-3 of the Business and Employment section of Roadmap Englewood: 2003 Englewood Comprehensive Plan as stated in the attached Finding of Fact.

RECOMMENDED ACTION

Recommendation from the Community Development Department to adopt a bill for an ordinance authorizing amendments to Title 16: Unified Development Code to permit buy-back, second-hand, thrift and consignment uses as uses-by-right in the MU-B-1 zone district. Staff further requests that Council set a Public Hearing for Monday, May 17, 2010 to gather public input on this issue.

BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

In late January 2010 the Community Development Department received an inquiry about consignment store use in the MU-B-1 downtown central business district. Per *Table 16-5-1.1: Table of Allowed Uses* of the UDC the use is not permitted in the zone district. As a use variance is also prohibited by Code and rezoning thresholds were not met, the only opportunity for relief from the zoning regulation prohibiting consignment use in the MU-B-1 zone was an amendment to the zoning regulations.

In 1997 pawn and second hand uses were prohibited in the MU-B-1 district. The 2004 UDC also prohibited pawn shops in MU-B-1. The UDC grouped buy-back, thrift, and consignment shops with second-hand stores into a single use type in *Table 16-5-1.1 Table of Allowed Uses* and prohibited these uses in the MU-B-1 district.

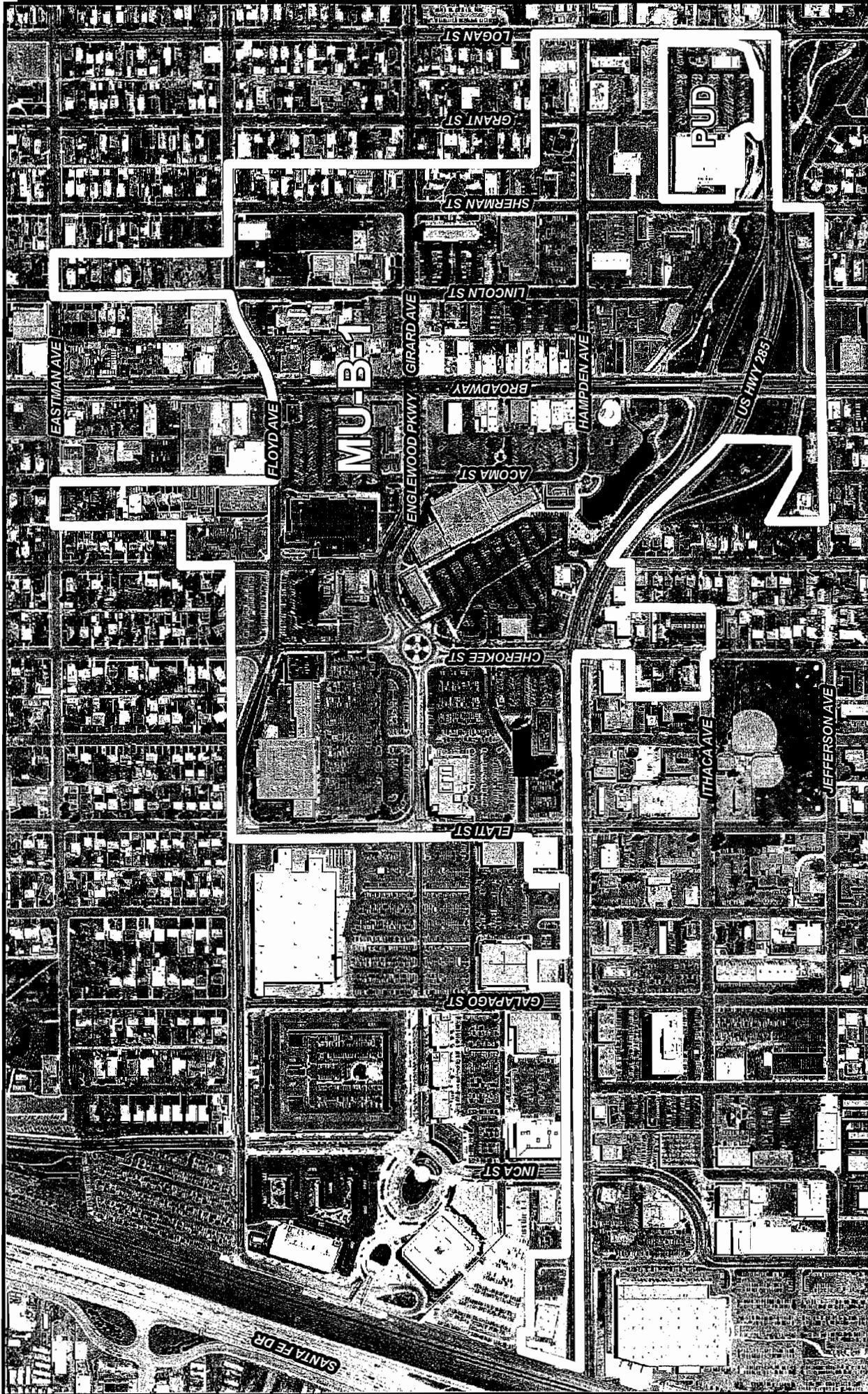
The UDC identifies buy-back, second hand, thrift and consignment uses under retail sales which is defined as "a use category including establishments involved in the sale of new or used products to the general public." The four uses are currently permitted in the M-2 (Medical), MU-B-2 (Business), and (I-1, I-2) Industrial districts. The proposed amendments will permit the four uses in MU-B-1 district (See attached MU-B-1 map).

FINANCIAL IMPACT

No financial impacts are anticipated from the adoption of the proposed amendments.

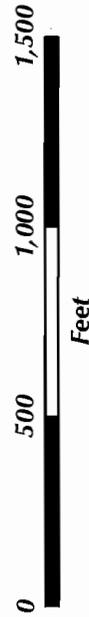
LIST OF ATTACHMENTS

MU-B-1 Mixed Use Central Business District Zone Boundaries
Staff Report – April 6, 2010
Planning and Zoning Commission Minutes – April 6, 2010
Planning and Zoning Commission Findings of Fact - Case No. 2010-03
Bill for an Ordinance



City of Englewood, Colorado - April 2010

MU-B-1 Mixed Use Central Business District Zone Boundaries



Feet





CITY OF ENGLEWOOD
COMMUNITY DEVELOPMENT

TO: Planning and Zoning Commission
THRU: Alan White, Community Development Director [REDACTED]
FROM: Tricia Langon, Senior Planner [REDACTED]
DATE: April 6, 2010
SUBJECT: Case # 2010-003: MU-B-1 Unified Development Code Amendments Permitting Buy-back, Second-hand, Thrift and Consignment Uses

RECOMMENDATION:

Community Development Department requests that the Planning and Zoning Commission review, take public testimony, and forward to City Council a recommendation for adoption of proposed amendments to Title 16: Unified Development Code (UDC) related to buy-back, second-hand, thrift and consignment uses in the MU-B-1 zone district.

BACKGROUND:

This issue came forward in late January 2010 when the Community Development Department received an inquiry about consignment store use in the MU-B-1 downtown central business district. Per *Table 16-5-1.1: Table of Allowed Uses* of the UDC the use is not permitted in the zone district. At the direction of Council, Director White brought the issue to the attention of the Planning and Zoning Commission during the February 17, 2010 study session. After discussion the Commission directed staff to prepare background material for a future study session. Staff presented the requested material to the Commission on March 2, 2010, which included four options for addressing the issue:

- Option 1:* Maintain the status quo, where buy-back, second hand, thrift and consignment stores are grouped into a single use type and prohibited in MU-B-1.
- Option 2:* (Single-step approach) Maintain the grouping of buy-back, second hand, thrift and consignment stores in a single use type, and allow all in MU-B-1.
- Option 3:* (Multi-step approach)
- a. Maintain buy-back, second hand, and consignment uses as a single use type.
 - b. Allow these uses in MU-B-1, MU-B-2, M2 and I-1 and I-2 districts.
 - c. Establish thrift as a separate use type.
 - d. Allow thrift use in MU-B-2, I-1 and I-2 districts only.

- e. Establish definition of Thrift store as being run by an organization with tax exempt status that sells donated items.

Option 4: Split each use into its own use type in Table 16-5-1.1 and designate in which zone district each use is allowed.

Discussion on the options ensued between Option 2 that lumps the uses as a single use type with all allowed in B-1, versus Option 4 that separates each use into its own use types, thus allowing the individual use to be designated as permitted or prohibited in a particular zone district. Discussion focused on the similarities and differences among the uses. It was the consensus of the Commission that the four uses (buy-back, second-hand, thrift and consignment) are retail uses dealing with second-hand goods that are of a similar nature and compatible with the MU-B-1 district. The Commission directed staff to prepare draft amendments permitting the uses in MU-B-1 (Option 2).

ANALYSIS:

Early City zoning regulations for business districts listed individual types of retail stores and also contained a catch-all clause allowing "similar lawful uses...compatible with other uses in the area". As a result of the 1996 South Broadway Action Plan, Council adopted Ordinance No. 49, Series of 1997 which prohibited pawn and second-hand stores in the MU-B-1 zone district.

The UDC, adopted in 2004, defined retail sales as "a use category including establishments involved in the sale of new or used products to the general public." It created a separate use type for pawn shops in the *Table of Allowed Uses*. It also grouped buy-back, thrift, and consignment shops with second-hand stores in the Table and prohibited these uses in the MU-B-1 district. With the recent addition of the medical districts to the UDC, the four uses are currently allowed in M-2, MU-B-2, and the Industrial districts.

In preparing this report and proposed amendments regarding buy-back, second-hand, thrift and consignment uses in the MU-B-1 zone district, the following areas were reviewed:

1. Zoning regulations of nine metro municipalities to determine how the four uses are classified and found:
 - > 8 of 9 cities did not single out the uses as individual uses;
 - > 1 city listed thrift/consignment as a separate use allowed in their commercial mixed-use and industrial districts;
 - > 8 of 9 cities did not provided separate definitions for each individual use;
 - > 1 city defined thrift store only.

Conclusion: The majority of cities treat all four uses as general retail uses and allow them wherever retail use is allowed.

2. American Planning Association's A Planner's Dictionary for standard terminology:
 - > A broad range of definitions for each term was found; many of which appeared to be crafted for specific situations.

- All uses dealt with the retail sale of second-hand goods.
- Many definitions excluded the sale of second-hand motor vehicles, parts or accessories, scrap or waste.

Conclusion: Standard terminology and definitions are not available. Establishing definitions on how each use functions here in Englewood appears to be the best strategy.

3. Purpose statement of UDC 16-11-1: Use Classifications.

- *"Purpose.* Use classifications organize land uses and activities into general "use categories" and specific "use types" based on common functional, product, or physical characteristics, such as the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered, and site conditions. The use classifications provide a systematic basis for assigning present and future land uses into appropriate zoning districts. Use classifications describe one (1) or more uses having similar characteristics, but do not list every use or activity that may appropriately be within the classification."
- The UDC describes the buy-back, second-hand, thrift and consignment uses only as a type of retail sales use dealing primarily in second-hand apparel, household goods, furniture, books, or appliances.
- *Second-hand goods* include any tangible personal property not sold as new and normally having been sold used by one (1) or more intermediaries. Second-hand property does not include items that were sold as new and returned by the customer for exchange or refund. Also, second-hand property does not include reconditioned property purchased from a wholesaler.

Conclusion: The UDC groups the four uses together because of their key similarities: retail sales and second-hand goods. No real distinction is noted for prohibiting a retail sales use from the central downtown business district.

4. How the four uses function within the Englewood community:

- Each use deals primarily in second-hand goods.
- In buy-back and second-hand shops the goods are owned by the shop, which is run on a for-profit basis.
- A consignment shop also runs on a for-profit basis and charges a commission to the owner of the goods, who retains title of the goods until the items sell.
- A thrift store typically is a non-profit operation where goods have been donated and a tax exemption may be available to the donor. A thrift store may also have drop off, sorting and compacting operations.

Conclusion: No matter who owns or how the second-hand goods are acquired, the primary function of each use is retail sales of second-hand goods. Impacts on the neighborhood are a function of the individual shop, as is the case with all retail uses.

5. Other regulatory options to allow one or all of the four subject uses in the MU-B-1 zone district:

In theory there are planning or regulatory practices that could provide relief when a specific use is not permitted in a particular zone district. These practices were reviewed in light of the Englewood Municipal Code and found not to be viable options:

- Variance: A variance grants relief from a specific zoning regulation to a specific property. This request to the Board of Adjustment and Appeals would be for relief of the regulation prohibiting the use of the property. Pursuant to 16-2-16:A4, "The Board shall not consider a Zoning Variance application relating to the use of property."
- Rezone: A property could be rezoned to a zone district classification that permitted the subject uses. Pursuant to 16-2-7.B2 the minimum threshold for consideration of a rezoning application is 37,500 square feet of land. The site of the initial inquiry did not meet this minimum size requirement.

Conclusion: An amendment to UDC Table of Allowed Uses is the only planning practice available to grant relief to the request to allow any of the four subject uses in the MU-B-1 zone district.

6. Roadmap Englewood: 2003 Englewood Comprehensive Plan:

- The Introduction of Section 7: Business and Employment of states: "The City of Englewood recognizes the important role business continues to play in the overall success of the community. The City is committed to providing an economically viable environment that will support a diverse base of businesses. Active economic analysis on the City's part will allow the City to develop strategies to retain competitive businesses, and attract new types of businesses that fill a vacant niche in the community in order to create a more balanced mix of complementary goods and services."

Conclusion: One such strategy to attract new business is to periodically review allowed uses within a zone district and make appropriate amendments as community needs and desires change.

7. Existing Uses in MU-B-1:

- In researching the issue, Community Development Department identified one existing non-conforming use in the MU-B-1 zone district. This use has operated in the district for close to forty years.

Conclusion: Adoption of the proposed amendment to allow the subject uses in MU-B-1 would restore a nonconforming use to conforming zoning status.

PROPOSED AMENDMENTS:

Based on the above findings, use category purpose in Unified Development Code, and Planning and Zoning Commission consensus at study session, Staff recommends the following amendments:

1. *Table 16-5-1.1: Table of Allowed Uses:* Add "P" (permitted) under the MU-B-1 zone district column.
2. 16-11-1.F14b(4): Add that the buy-back, second-hand, thrift and consignment use type does not include the sale of second-hand motor vehicles, parts or accessories, scrap or waste.
3. 16-11-2: Add that the use does not include the sale of second-hand motor vehicles, parts or accessories, scrape or waste to the definition of "buy-back, second-hand, thrift and consignment.

ATTACHMENTS:

Proposed Amendments

Letter to Planning and Zoning Commission from Commissioner Roth

TABLE 16-5-1.1: TABLE OF ALLOWED USES
 P = PERMITTED USE C = CONDITIONAL USE A = ACCESSORY USE T = TEMPORARY USE L = LIMITED USE
 C-A = ACCESSORY USE APPROVED CONDITIONALLY L-A = ACCESSORY USE APPROVED WITH LIMITED USE PROCEDURE

Use Category	Use Type	Residential						Non-Residential						Additional Regulations											
		R 1 A	R 1 B	R 1 C	R 2 A	R 2 B	MU R 3 A	MU R 3 B	M 1	M 2 ---	M ---	MU B 1	MU B 2		T S A	I 1	I 2								
COMMERCIAL USES																									
Retail Sales and Service (Sales)	Antique store																P	P	P	P	P	P	P	P	
	Art gallery																P	P	P	P	P	P	P	P	
	Auction house																								
	Buy-back shop, second-hand, thrift, consignment store																P	P	P	P	P	P	P	P	
	Convenience store																P	P	P	P	P	P	P	P	
	Grocery/specialty food store																P	P	P	P	P	P	P	P	
	Internet sales location																P	P	P	P	P	P	P	P	
	Liquor store																P	P	P	P	P	P	P	P	
	Pawnbroker																P	P	P	P	P	P	P	P	16-5-2.C.10
	Retail sales, general merchandise																P	P	P/C	P	P	P	P	P	For TSA, P if ≤ 20,000 sq. ft., C if > 20,000 sq. ft. of gross leasable floor area

16-11-1: Use Classifications.

F. Commercial Uses.

14. Retail Sales and Service (Sales).

- a. *Characteristics.* Retail sales and service (sales) establishments are involved in the sale of new or used products to the general public. Accessory uses may include offices, parking, storage of goods, and assembly, repackaging, or repair of goods for on-site sale.
- b. *Specific Use Types.* This category includes the following use types:
 - (1) **Antique Store.** Any premises used for the sale or trading of articles of which eighty percent (80%) or more are over fifty (50) years old or have collectible value. An "antique store" does not include the collection, recycling, sale, or storage of "junk" as that term is defined in this Chapter.
 - (2) **Art Gallery.** An establishment engaged in the sale, loan, or display of art, books, paintings, sculpture, or other works of art. Art galleries do not include libraries, museums, or non-commercial art galleries.
 - (3) **Auction House.** Any establishment in which is carried on the business of auctioning articles for sale by public outcry and where such items offered for auction are sold immediately to the highest bidder.
 - (4) **Buy-Back Shop, Second-Hand, Thrift, Consignment.** A retail establishment that deals primarily in second-hand apparel, household goods, furniture, books, or appliances. This use type does not include the sale of second-hand motor vehicles, parts or accessories, scrap or waste.
 - (5) **Convenience Store.** A retail establishment offering for sale food and beverage for off-site consumption, household items, newspapers and magazines, and other small convenience items typically found in establishments with long or late hours of operation. A convenience store has a gross floor area no larger than five thousand (5,000) square feet. This definition excludes delicatessens or other specialty food stores, as defined below. Establishments at which twenty percent (20%) or more of the transactions are sales of prepared food for on-site consumption shall be classified as food and beverage service uses rather than convenience stores.
 - (6) **Grocery/Specialty Food Store.** A retail establishment offering for sale primarily food and beverage for off-site consumption, specializing in the sale of one type of food item, and/or maintaining a sizable inventory of fresh fruits, vegetables, fresh-cut meats, or fresh seafood. A grocery/specialty food store may also include sales of personal convenience and small household goods. Grocery/specialty food stores include, but are not limited to, bakeries, delicatessens, seafood sales, and meat or poultry stores (e.g., butcher shops).

Establishments at which twenty percent (20%) or more of the transactions are sales of prepared food for on-site consumption shall be classified as food and beverage service uses rather than grocery/specialty food stores.

- (7) Liquor Store. A state-licensed, retail establishment selling packaged alcoholic liquors (including beer, wine, and spirituous liquors) for consumption off-site. Liquor stores do not include restaurants, taverns, or bars.
 - (8) Pawnbroker. An establishment regularly engaged in the business of making contracts for purchase or purchase transactions in the course of business.
 - (9) Retail Sales, General Merchandise. Establishments that sell, lease, or rent consumer, home, and business goods, but excluding merchandise/retail uses classified or defined more specifically in this chapter (e.g., food/beverage sales, convenience stores, restaurants). Typical uses include department stores, furniture stores, clothing stores, and establishments providing the following products or services: art, art supplies, bicycles, clothing, dry goods, electronic equipment, fabric, furniture, garden supplies, gifts, hardware, home improvements, household products, jewelry, pet food, pharmaceuticals, printed material, sporting goods, stationary, and videos.
- c. *Exceptions.* No outdoor display is permitted as part of, or accessory to, a retail sales and service (sales) use unless specifically authorized by this Title.

16-11-2: Definition of Words, Terms, and Phrases.

Buy-Back Shop, Second-Hand, Thrift, Consignment: A specific type of retail sales and service (sales) use. A retail establishment that deals primarily in second-hand apparel, household goods, furniture, books, or appliances but does not include the sale of second-hand motor vehicles, parts or accessories, scrap or waste. See definition of "Retail Sales And Service (Sales)".

To all Planning and Zoning Commission members,

I believe approach we are taking regarding the consignment store issue is short sighted..

"Planning" is the first word in the name of this Commission, which implies we should be looking to the future. Like so many of the recent issues, we are reacting to a request while trying to minimize the time frame. The approach chosen is certainly the easiest, it focuses on the problem at hand but ignores the future.

We have established that buy back, consignment, used and thrift stores are not the same so why should we perpetuate this error and continue to keep them lumped together? They need to be separated, even if we allow them all in B1 district.

The next issue is whether we should allow large footprint "thrift stores" in the B1 district. When I look around the B1 district I don't see any available large properties, so allowing that use in B1 poses no real threat but... in my years in Englewood this B1 district has gone through a number of dramatic changes. Many of you may remember when the building currently housing Table Steaks was a "thrift store", and maybe you even remember when it was a discount store and the original home for Checker Auto Parts, but I can remember even before that, when it was a supermarket. During my years in Englewood, King Soopers has been in 3 different locations. For many years Walgreen's occupied the current site of Kaufman Mens Wear. Before the ill fated Trolley Square that block was home to a stationary store (now called office supply), a hobby shop, a Woolworth's (for the younger members, a "five and dime" or "dime store", similar to a dollar store before inflation), a women's clothing store, a bank, a department store, and even the original location of Nathan's Funtastic. Also, the Fire/Police building that was topped with the griffin you now pass on the stairs coming to our study sessions.

My point? Things change, it would be foolish to expect the area to remain static in the future. If we are prepared then a panic mode reaction may be avoided in the future.

During much of my tenure on the Englewood Urban Renewal Authority, we have been looking for a development on our "Acoma Property" (currently the parking lot along the 3400 block of South Acoma) that would attract pedestrian traffic to the downtown area. If we can get people out of their cars, they can see what the other downtown businesses have to offer and hopefully revitalize the area.

"Thrift Stores" frequently occupy former supermarkets because they have large footprints, and large parking lots. In fact, the building that currently houses the Goodwill store on Broadway was originally a supermarket. If you watch, you will see the patrons of these stores almost always arrive in automobiles whether buying goods or donating them; the parking lots are well used. With the large store frontage and parking conveniently located adjacent to the store they just don't generate much pedestrian traffic past neighboring businesses. Just like other "big box" type uses it doesn't fit the downtown model.

That is the reason I don't believe that large footprint "thrift stores" are a good fit for our B1 district, and why I hope you will reconsider and at least separate the uses that we know are different. Don't make some future commissioners retrace our footsteps..

Sincerely
Don Roth

**CITY OF ENGLEWOOD PLANNING AND ZONING COMMISSION
REGULAR MEETING
APRIL 6, 2010**

I. CALL TO ORDER



The regular meeting of the City Planning and Zoning Commission was called to order at 7:17 p.m. in the Council Chambers of the Englewood Civic Center, Chair Knoth presiding.

Present: Bleile, Roth, King, Welker, Krieger, Knoth, Fish, Brick, Calonder

Absent: Kinton (alternate)

Staff: Alan White, Community Development Director
Tricia Langon, Senior Planner
Nancy Reid, Assistant City Attorney

II. APPROVAL OF MINUTES

March 16, 2010



Krieger moved:

Fish seconded: TO APPROVE THE MARCH 16, 2010 MINUTES

Chair Knoth asked if there were any modifications or corrections.

There were none.

AYES: Bleile, Roth, Welker, Krieger, Knoth, Fish, King, Brick, Calonder

NAYS: None

ABSTAIN: None

ABSENT: None

Motion carried.

III. PUBLIC HEARING



Case #2010-03: Unified Development Code Amendments Permitting Buy-back, Second-hand, Thrift and Consignment Uses in the MU-B-1 Zone District.

Krieger moved:

Roth seconded: THE PUBLIC HEARING ON CASE#2010-03 BE OPENED

AYES: Bleile, Roth, Welker, Krieger, Knoth, Fish, King, Brick, Calonder
NAYS: None
ABSTAIN: None
ABSENT: None

Motion carried.

 Ms. Langon, Senior Planner, was sworn in. She stated for the Commission's consideration tonight is case #2010-03, Amendments to the Unified Development Code of the Englewood Municipal Code regarding Buy-back, Second-hand, Thrift and Consignment uses in the MU-B-1 zone district. She stated she has already submitted for the record the staff report and proof of publication that notice of the public hearing was published in the *Englewood Herald* on March 19, 2010 and was on the City's website from March 11 through April 6, 2010. Community Development is requesting that the Commission review the proposed Ordinance, take public testimony and forward to City Council a recommendation for approval of the proposed Amendments.

This issue came before the Community Development Department at the request of a citizen for consignment shop use in the MU-B-1 downtown central business district. Per Table 16-5-1.1: Table of Allowed Uses in the Unified Development Code that use is not permitted within the MU-B-1 zone district. City Council directed the issue be forwarded to the Planning and Zoning Commission for review. Director White brought the issue forth on February 27, 2010. The Commission asked for options and possible means of addressing the issue. On March 2, 2010 Staff presented four options to the Commission. After discussion the Commission chose the single step approach option of allowing all uses in the MU-B-1 zone district. The Commission directed Staff to prepare draft amendments. Ms. Langon reviewed those draft amendments with the Commission. She noted the amendments do not include the sale of second-hand motor vehicles, parts or accessories, scrap or waste.

Ms. Langon offered to answer any questions the Commission might have. She cautioned the Commission that if there are any modifications to what Staff has prepared based on past discussions, additional amendments may be required.

Mr. Fish asked about non-conforming uses in the zone district. Ms. Langon stated there is one existing non-conforming use of this type in the MU-B-1 zone district that has been in operation for close to forty years.

 Joann Fetters was sworn in. She stated she is one of the owners of the building at 3431 and 3435 S Broadway. She said when the 3431 space became available the owners decided to put their own business into the space and found The Yellow Rose franchise to be an excellent choice. She said we understand amending the classifications is a process and thanked the Commission for their time and effort toward this change.

 Susie Fetters was sworn in. She stated she is also a part owner of the Oddfellows building and the building just south of it. She said she very much supports the change.

 Bob Fetters was sworn in. He also stated he supports the change.

 Kathy Woodley was sworn in. She stated she has lived in Englewood for over 20 years and feels allowing the change in the zoning rules would do nothing but benefit South Broadway. In allowing this, South Broadway will be able to gain a new business, The Yellow Rose.

 Michael Ribley was sworn in. He stated more foot traffic is needed in downtown Englewood and is in favor of the zoning change.

Chair Knoth asked if anyone else would like to speak. There was no one.

Bleile moved:

Fish seconded: THE PUBLIC HEARING ON CASE #2010-03 BE CLOSED

AYES: Bleile, Brick, Knoth, Roth, Welker, King, Krieger, Calonder, Fish

NAYS: None

ABSTAIN: None

ABSENT: None

Motion carried.



Fish moved:

Krieger seconded: *CASE #2010-03, AMENDMENTS TO TITLE 16: UNIFIED DEVELOPMENT CODE OF THE ENGLEWOOD MUNICIPAL CODE RELATED TO BUY-BACK, SECOND-HAND, THRIFT AND CONSIGNMENT USES IN THE MU-B-1 ZONE DISTRICT, BE RECOMMENDED FOR APPROVAL TO CITY COUNCIL WITH A FAVORABLE RECOMMENDATION FOR ADOPTION.*

Chair Knoth asked if there were any comments.



Mr. Roth stated he believes the thrift store use could become too much for the downtown MU-B-1 area. He stated he would like to make an amendment to the motion.

Roth moved: TO LIMIT THE SIZE OF BUY-BACK, SECOND-HAND, THRIFT AND CONSIGNMENT USES IN THE MU-B-1 ZONE DISTRICT TO 10,000 SQUARE FEET.

Mr. Fish stated he was not willing to accept the friendly amendment until he fully understood what Mr. Roth was presenting. After discussion he declined to accept the friendly amendment.

Mr. Brick offered a friendly amendment.

Brick moved:

Bleile seconded: TO EXCLUDE THRIFT STORES FROM THE MU-B-1 ZONE DISTRICT.

Chair Knoth asked for a vote on Mr. Brick's friendly amendment.

AYES: Bleile, Brick, Roth
NAYS: Fish, Welker, Krieger, Calonder, King, Knoth
ABSTAIN: None
ABSENT: None

Motion failed.

Chair Knoth called for a vote on the original motion.

Mr. Brick said although he supports The Yellow Rose, he voted no because under Roadmap Englewood: 2003 Englewood Comprehensive Plan Objective 1-3, create a balanced mix of businesses that complement each other, he doesn't believe the overall mix being proposed is a complement to the area.

Ms. Krieger said she voted yes for exactly the opposite reason Mr. Brick gave. She sees Objective 1-3 as saying we should promote a mix of businesses.

Mr. Roth voted yes because Objective 1-2 of Roadmap Englewood 2003: Englewood Comprehensive Plan states, actively engage in attracting new businesses to the City applies as well as Objective 1-3.

AYES: Bleile, Knoth, Roth, Welker, King, Calonder, Krieger, Fish
NAYS: Brick
ABSTAIN: None
ABSENT: None

Motion carried.

IV. LEGAL ISSUES DISCUSSION RELATING TO SIGN CODE AMENDMENTS

 Ms. Langon and Ms. Reid discussed legal issues related to amendments to the sign code. Signs are a form of communication and they are protected under the First Amendment. Ms. Langon stated the issues were brought forth tonight to make the Commission aware of them. Further discussion regarding the sign code amendments will continue at a future study session.

V. PUBLIC FORUM

 No one wished to speak.

VI. DIRECTOR'S CHOICE

 Director White had nothing further to report.

VII. STAFF'S CHOICE

 Upcoming meetings:
April 20: Sign Code and Landscape Amendments
May 4: Sign Code Amendments (Tentative)

VIII. ATTORNEY'S CHOICE

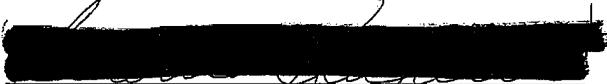
 Ms. Reid had nothing further to report.

IX. COMMISSIONER'S CHOICE

 Mr. Calonder stated he would be absent for several meetings between now and the end of summer. He apologized to the Commission.

Mr. Fish thanked his fellow Commissioners for all they bring forward.

The meeting adjourned at 8:48 p.m.


Barbara Krecklow, Recording Secretary

CITY OF ENGLEWOOD PLANNING AND ZONING COMMISSION

IN THE MATTER OF CASE #2010-03,)	
FINDINGS OF FACT, CONCLUSIONS)	
AND RECOMMENDATIONS RELATING)	FINDINGS OF FACT AND
TO AMENDMENTS TO TITLE 16 OF THE)	CONCLUSIONS OF THE
UNIFIED DEVELOPMENT CODE)	CITY PLANNING AND
PERMITTING BUY-BACK, SECOND-HAND,)	ZONING COMMISSION
THRIFT, AND CONSIGNMENT USES IN THE)	
MU-B-1 ZONE DISTRICT)	
)	
INITIATED BY:)	
COMMUNITY DEVELOPMENT)	
DEPARTMENT)	
1000 ENGLEWOOD PARKWAY)	
ENGLEWOOD, CO 80110)	

Commission Members Present: Krieger, Roth, Brick, Knoth, King, Calonder, Fish, Welker, Bleile

Commission Members Absent: None

This matter was heard before the City Planning and Zoning Commission on April 6, 2010 in the City Council Chambers of the Englewood Civic Center.

Testimony was received from staff, Joann, Bob and Susie Fetters, Michael Ribley and Kathy Woodley and the Commission received notice of the Public Hearing, the Staff Report, and a copy of the proposed amendments to Title 16 Unified Development Code which were incorporated into and made a part of the record of the Public Hearing.

After considering the statements of the witnesses and reviewing the pertinent documents, the members of the City Planning and Zoning Commission made the following Findings and Conclusions.

FINDINGS OF FACT

1. **THAT** the Public Hearing on the Amendments to Title 16 of the Unified Development Code permitting Buy-Back, Second-hand, Thrift and Consignment Uses in the MU-B-1 zone district was brought before the Planning Commission by the Department of Community Development, a department of the City of Englewood.
2. **THAT** notice of the Public Hearing was published in the *Englewood Herald* on March 19, 2010 and was on the Englewood web site from March 11, 2010 through April 6, 2010.

3. **THAT** the staff report was made part of the record.
4. **THAT** with the adoption of the Unified Development Code in 2004, Buy-back, Second-hand, Thrift and Consignment Uses were prohibited in the MU-B-1 zone district.
5. **THAT** a request was made in late January 2010 to allow a consignment shop in the MU-B-1 zone district.
6. **THAT** the Amendment is the only planning practice available to allow any of the four subject uses in the MU-B-1 zone district.
7. **THAT** testimony was received from the general public supporting the proposed zoning change.

CONCLUSIONS

1. **THAT** the Public Hearing on the Amendments to Title 16 of the Unified Development Code permitting Buy-Back, Second-hand, Thrift and Consignment Uses in the MU-B-1 zone district was brought before the Planning Commission by the Department of Community Development, a department of the City of Englewood.
2. **THAT** notice of the Public Hearing was published in the *Englewood Herald* on March 19, 2010 and was on the Englewood web site from March 10, 2010 to April 6, 2010.
3. **THAT** the staff report was made part of the record.
4. **THAT** the zoning change conforms to Roadmap Englewood: 2003 Englewood Comprehensive Plan Objective 1-2: Actively engage in attracting new businesses to the city and Objective 1-3: Create a balanced mix of businesses that complement each other.
5. **THAT** the Amendment is designed to allow Buy-back, Second-hand, Thrift and Consignment Uses in the MU-B-1 zone district.
6. **THAT** the adoption of the proposed amendment to allow the subject uses in MU-B-1 would restore a non-conforming use to conforming zoning status.

DECISION

THEREFORE, it is the decision of the City Planning and Zoning Commission that Case #2010-03 Buy-Back, Second-hand, Thrift and Consignment Amendments to Title 16 of the Unified Development Code should be referred to the City Council with a favorable recommendation.

The decision was reached upon a vote on a motion made at the meeting of the City Planning and Zoning Commission on April 6, 2010, by Mr. Fish, seconded by Ms. Krieger, which motion states:

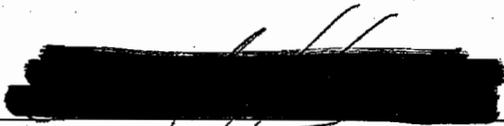
CASE #2010-03 AMENDMENTS TO TITLE 16 UNIFIED
DEVELOPMENT CODE PERMITTING BUY-BACK, SECOND-HAND,
THRIFT AND CONSIGNMENT USES IN THE MU-B-1 ZONE DISTRICT
BE RECOMMENDED FOR APPROVAL TO CITY COUNCIL WITH A
FAVORABLE RECOMMENDATION FOR ADOPTION

AYES: Krieger, Roth, Knoth, King, Fish, Calonder, Welker, Bleile
NAYS: Brick
ABSTAIN: None
ABSENT: None

Motion carried.

These Findings and Conclusions are effective as of the meeting on April 6, 2010.

BY ORDER OF THE CITY PLANNING & ZONING COMMISSION



Chad Knoth, Chair

BY AUTHORITY

ORDINANCE NO. _____
SERIES OF 2010

COUNCIL BILL NO. 11
INTRODUCED BY COUNCIL
MEMBER _____

A BILL FOR

AN ORDINANCE AMENDING TITLE 16, CHAPTER 5, SUBSECTION 1.1, AND CHAPTER 11, SUBSECTIONS 1 AND 2, OF THE ENGLEWOOD MUNICIPAL CODE 2000, TO PERMIT BUY-BACK, SECOND-HAND, THRIFT AND CONSIGNMENT USES AS USES- BY-RIGHT IN THE MU-B-1 ZONE DISTRICT.

WHEREAS, a business requested a review of the Englewood Municipal Code relating to consignment stores in the MU-B-1 Zone District; and

WHEREAS, the Englewood Planning and Zoning Commission held a public hearing on April 6, 2010 and received evidence relating to the subject; and

WHEREAS, the zoning change conforms to Roadmap Englewood: 2003 Englewood Comprehensive Plan Objective 1-2: which objective is to actively engage in attracting new businesses to the City and Objective 1-3: Create a balanced mix of businesses that complement each other; and

WHEREAS, the Englewood Planning and Zoning Commission decided all four of these uses were appropriate in the MU-B-1 Zone as well as all other Business Districts; and

WHEREAS, the Englewood Planning and Zoning Commission has referred this Ordinance to Council with a favorable recommendation; and

WHEREAS, passage of this Ordinance will also transform an existing non-conforming thrift store use in the MU-B-1 Zone to a conforming status.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ENGLEWOOD, COLORADO, AS FOLLOWS:

Section 1. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 16, Chapter 5, Section 1.1 "Table Of Allowed Uses" – Commercial Uses Section, of the Englewood Municipal Code 2000, to read as follows:

TABLE 16-5-1.1: TABLE OF ALLOWED USES
P = PERMITTED USE C = CONDITIONAL USE A = ACCESSORY USE T = TEMPORARY USE L = LIMITED USE
C-A = ACCESSORY USE APPROVED CONDITIONALLY L-A = ACCESSORY USE APPROVED WITH LIMITED USE PROCEDURE

Use Category	Use Type	Residential						Non-Residential						Additional Regulations					
		R 1 A	R 1 B	R 1 C	R 2 A	R 2 B	R 2 C	MU R 3 A	MU R 3 B	MU R 3 C	M 1	M 2	M 3		MU B 1	MU B 2	T S A	I 1	I 2
Assembly	Assembly hall or auditorium, hall rental for meetings or social occasions																		
Dependent Care	Membership organization (excluding adult use)																		
Dependent Care	Dependent care center (less than 24-hour care, any age)																		
																			16-5-2.C.7
Entertainment/ Amusement: Indoor	Amusement establishment																		
Entertainment/ Amusement: Indoor	Hookah Lounge																		
Entertainment/ Amusement: Indoor	Physical fitness center/spa																		
Entertainment/ Amusement: Indoor	Theater and performance/concert venue, not including adult entertainment																		

TABLE 16-5-1.1: TABLE OF ALLOWED USES
P = PERMITTED USE C = CONDITIONAL USE A = ACCESSORY USE T = TEMPORARY USE L = LIMITED USE
C-A = ACCESSORY USE APPROVED CONDITIONALLY L-A = ACCESSORY USE APPROVED WITH LIMITED USE PROCEDURE

Use Category	Use Type	Residential								Non-Residential					Additional Regulations			
		R 1 A	R 1 B	R 1 C	R 2 A	R 2 B	R 3 A	MU R 3 B	MU R 3 C	M 1	M 2	M 3	MU B 1	MU B 2		T S A	I 1	I 2
Entertainment/ Amusement/ Outdoor	General outdoor recreation																	
	Check cashing facility																	
Financial Institution	Financial institution, with drive-through service																	
	Financial institution, without drive-through service																	
Food and Beverage Service	Brewpub																	
	Caterer																	
	Microbrewery																	
	Restaurant, bar, tavern with or without outdoor operations																	
Restaurant, with drive-through service																		

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		R 1 A	R 1 B	R 1 C	R 2 A	R 2 B	R 2 C	MU R 3 A	MU R 3 B	MU R 3 C	M 1	M 2	M 3		MU B 1	MU B 2	T S A	I 1	I 2
	Take out and delivery only																		
Medical/Scientific Service	Clinic									P	P	P	P	P	P		P	P	
	Hospital									P	P	P	P	P	P		P	P	
	Laboratory (dental, medical or optical)							P		P	P	P	P	P	P		P	P	
Office	Office, type 1 (general)									P	P	P	P	P	P		P	P	
	Office, type 2 (limited)							P		P	P	P	P	P	P		P	P	16-5-2.C.8
Retail Sales and Service (Personal Service)	Crematorium																		C
	Dry cleaner, drop-off site only													P	P		P	P	
	Instructional service														P		P	P	
	Massage therapy														P		P	P	
	Mortuary														P		P	P	
	Personal care													P		P	P	P	

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Use Category	Use Type	Residential						Non-Residential						Additional Regulations			
		R 1 A	R 1 B	R 1 C	R 2 A	R 2 B	MU R 3 A	MU R 3 B	M 1	M 2	M 3	M 4	MU B 1		MU B 2	T S A	I 1
Service: photography studio and photo lab, upholstery, printer, locksmith, tailor Tattoo and body-piercing establishment Temporary employment business																	
Retail Sales and Service (Repair and Rental)	Equipment rental																
	Repair shop (not including auto)																
Retail Sales and Service (Sales)	Antique store																
	Art gallery																
	Auction house																
	Buy-back shop, second-hand, thrift, consignment stores																

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Use Category	Use Type	Residential							Non-Residential					Additional Regulations										
		R 1 A	R 1 B	R 1 C	R 2 A	R 2 B	R 2 C	MU R 3 A	MU R 3 B	MU R 3 C	M 1	M 2	M 3		MU B 1	MU B 2	T S A	I 1	I 2					
	Convenience store																							
	Grocery/specialty food store																							
	Internet sales location																							
	Liquor store																							
	Pawnbroker																							
	Retail sales, general merchandise																							
School	Trade or business school																							
Studio	Radio/television broadcasting studio, recording/film studio																							

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Use Category	Use Type	Residential						Non-Residential						Additional Regulations								
		R 1 A	R 1 B	R 1 C	R 2 A	R 2 B	R 2 C	MU R 3 A	MU R 3 B	MU R 3 C	M 1	M 2	M 3		MU B 1	MU B 2	T S A	I 1	I 2			
Vehicle and Equipment	Automobile pawnbroker																		P	P	16-5-2.C.10	
	Automotive sales, rental																			P	P	16-5-2.C.3
	Automotive service and repair, including body or fender work																					16-5-2.C.4
	Automotive service and repair, not including body or fender work																					
	Automotive service station (gasoline facility)																					
	Car wash, auto detailing																					
	Commercial storage of operable vehicles																					
	Fuel dispensing																					

[EDITOR'S NOTE: The recommended changes are only effective in the Commercial portion of the table. The Manufacturing/Industrial Uses, Accessory Uses, Temporary Uses, and Uses Not Mentioned portions of Table 16-5-1.1 Table of Allowed Uses contain no changes and are therefore not included here]

Section 2. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 16, Chapter 11, Section 1(F), Subsection 14, of the Englewood Municipal Code 2000, to read as follows:

16-11-1: Use Classifications.

F. *Commercial Uses.*

14. Retail Sales and Service (Sales).

- a. *Characteristics.* Retail sales and service (sales) establishments are involved in the sale of new or used products to the general public. Accessory uses may include offices, parking, storage of goods, and assembly, repackaging, or repair of goods for on-site sale.
- b. *Specific Use Types.* This category includes the following use types:
 - (1) **Antique Store.** Any premises used for the sale or trading of articles of which eighty percent (80%) or more are over fifty (50) years old or have collectible value. An "antique store" does not include the collection, recycling, sale, or storage of "junk" as that term is defined in this Chapter.
 - (2) **Art Gallery.** An establishment engaged in the sale, loan, or display of art, books, paintings, sculpture, or other works of art. Art galleries do not include libraries, museums, or non-commercial art galleries.
 - (3) **Auction House.** Any establishment in which is carried on the business of auctioning articles for sale by public outcry and where such items offered for auction are sold immediately to the highest bidder.
 - (4) **Buy-Back Shop, Second-Hand, Thrift, Consignment.** A retail establishment that deals primarily in second-hand apparel, household goods, furniture, books, or appliances. This use type does not include the sale of second-hand motor vehicles, parts or accessories, scrap or waste.
 - (5) **Convenience Store.** A retail establishment offering for sale food and beverage for off-site consumption, household items, newspapers and magazines, and other small convenience items typically found in establishments with long or late hours of operation. A convenience store has a gross floor area no larger than five thousand (5,000) square feet. This definition excludes delicatessens or other specialty food stores, as defined below. Establishments at which twenty percent (20%) or more of the transactions are sales of prepared food for on-site consumption shall be classified as food and beverage service uses rather than convenience stores.

- (6) Grocery/Specialty Food Store. A retail establishment offering for sale primarily food and beverage for off-site consumption, specializing in the sale of one type of food item, and/or maintaining a sizable inventory of fresh fruits, vegetables, fresh-cut meats, or fresh seafood. A grocery/specialty food store may also include sales of personal convenience and small household goods. Grocery/specialty food stores include, but are not limited to, bakeries, delicatessens, seafood sales, and meat or poultry stores (e.g., butcher shops). Establishments at which twenty percent (20%) or more of the transactions are sales of prepared food for on-site consumption shall be classified as food and beverage service uses rather than grocery/specialty food stores.
 - (7) Liquor Store. A state-licensed, retail establishment selling packaged alcoholic liquors (including beer, wine, and spirituous liquors) for consumption off-site. Liquor stores do not include restaurants, taverns, or bars.
 - (8) Pawnbroker. An establishment regularly engaged in the business of making contracts for purchase or purchase transactions in the course of business.
 - (9) Retail Sales, General Merchandise. Establishments that sell, lease, or rent consumer, home, and business goods, but excluding merchandise/retail uses classified or defined more specifically in this chapter (e.g., food/beverage sales, convenience stores, restaurants). Typical uses include department stores, furniture stores, clothing stores, and establishments providing the following products or services: art, art supplies, bicycles, clothing, dry goods, electronic equipment, fabric, furniture, garden supplies, gifts, hardware, home improvements, household products, jewelry, pet food, pharmaceuticals, printed material, sporting goods, stationary, and videos.
- c. *Exceptions.* No outdoor display is permitted as part of, or accessory to, a retail sales and service (sales) use unless specifically authorized by this Title.

Section 3. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 16, Chapter 11 Section 2(B), “*Definition of Words, Terms, and Phrases*” of the Englewood Municipal Code 2000 to read as follows:

16-11-2: Definition of Words, Terms, and Phrases.

- A. *Undefined Terms.* For words, terms, and phrases used in this Title that are not defined below, or elsewhere in this Title, the City Manager or designee shall interpret or define such words, terms, and phrases. In making such interpretations or definitions, the City Manager or designee may consult secondary sources related to the planning profession for technical words, terms and phrases, including but not limited to: A Glossary of Zoning, Development, and Planning Terms - Planning Advisory Service Report 491/492, edited by Michael Davidson and Fay Dolnick (American Planning Association, Chicago, Ill. 1999); A Survey of Zoning Definitions - Planning Advisory Service Report Number 421, edited

by Tracy Burrows (American Planning Association, Chicago, Ill. 1989); Zoning and Development Definitions for the Next Century, edited by Michael Davidson, in Zoning News (American Planning Association, August 1999); and The Illustrated Book of Development Definitions, by Harvey S. Moskowitz and Carl G. Lindbloom (Center for Urban Policy Research, Rutgers University. N.J. Third Edition. 1987). The City Manager or designee may consult Webster's Unabridged Dictionary (Random House Reference and Information Publishing, New York, 1997), as supplemented, or other available reference source for other words, terms, and phrases.

B. *Definition of Words, Terms, and Phrases.*

Buy-Back Shop, Second-Hand, Thrift, Consignment: A specific type of retail sales and service (sales) use. A retail establishment that deals primarily in second-hand apparel, household goods, furniture, books, or appliances but does not include the sale of second-hand motor vehicles, parts or accessories, scrap or waste. See definition of "Retail Sales And Service (Sales)".

Section 4. Safety Clauses. The City Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City of Englewood, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

Section 5 Severability. If any clause, sentence, paragraph, or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance or its application to other persons or circumstances.

Section 6. Inconsistent Ordinances. All other Ordinances or portions thereof inconsistent or conflicting with this Ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

Section 7. Effect of repeal or modification. The repeal or modification of any provision of the Code of the City of Englewood by this Ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purposes of sustaining any and all proper actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

Section 8. Penalty. The Penalty Provision of Section 1-4-1 EMC shall apply to each and every violation of this Ordinance.

Introduced, read in full, and passed on first reading on the 3rd day of May, 2010.

Published as a Bill for an Ordinance in the City's official newspaper on the 7th day of May, 2010.

Published as a Bill for an Ordinance on the City's official website beginning on the 5th day of May, 2010 for thirty (30) days.

James K. Woodward, Mayor

ATTEST:

Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of a Bill for an Ordinance, introduced, read in full, and passed on first reading on the 3rd day of May, 2010.

Loucrishia A. Ellis

BY AUTHORITY

ORDINANCE NO. _____
 SERIES OF 2010

COUNCIL BILL NO. 9
 INTRODUCED BY COUNCIL
 MEMBER WILSON

AN ORDINANCE EXTENDING AN EXISTING TEMPORARY SUSPENSION OR MORATORIUM ON THE ESTABLISHMENT OF NEW MEDICAL MARIJUANA DISPENSING AND GROWING USES FOR A PERIOD OF SIX MONTHS.

WHEREAS, it has been brought to Council's attention that the current Unified Development Code does not adequately define or limit medical marijuana dispensing and growing uses; and

WHEREAS, City Council has directed staff to review, create and revise, if necessary, provisions concerning medical marijuana dispensing and growing; and

WHEREAS, staff will need sufficient time to review and coordinate the provisions relating to medical marijuana dispensing and growing in the Code; and

WHEREAS, City Council deems it necessary to coordinate the review of the Unified Development Code and finds it appropriate to prohibit the establishment of new medical marijuana dispensing and growing in the City until the review by the staff and City Council; and

WHEREAS, the moratorium would temporarily stop additional businesses; and

WHEREAS, those uses already in business would not be affected; and

WHEREAS, the ordinance contemplates a prohibition on the establishment of any business not in operation by second reading; and

WHEREAS, in order for the City to comply with equal protection issues, the moratorium or temporary suspension must apply to all zone districts unless specific exemptions can be legitimately set forth due to a finding that a particular zone district should be excluded; and

WHEREAS, the revisions to the Unified Development Code and the updating of the uses allowed in all zone districts will help protect the public health, safety and welfare by preserving a safe, healthy, and sound environment within the City; and

WHEREAS, the citizens of Englewood and the City Council have determined that further revisions to the Unified Development Code are necessary to promote, coordinate, and implement a high quality plan to produce well balanced zoning in the City; and

WHEREAS, the current listing of uses is not meeting the above criteria; and

WHEREAS, The Colorado State Legislature has decided to also address this issue and the City Council finds that the revisions to the City's Unified Development Code must be coordinated with the requirements of the Colorado Statutes as well as the Constitution; and

WHEREAS, the City Council finds that a six month extension of the existing moratorium or temporary suspension of the establishment of all new medical marijuana dispensing and growing uses is necessary to implement the revisions to the Unified Development Code.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ENGLEWOOD, COLORADO, THAT AN EXISTING MORATORIUM OR TEMPORARY SUSPENSION OF ALL NEW MEDICAL MARIJUANA DISPENSING AND GROWING USES SHALL BE EXTENDED FOR SIX MONTHS UNTIL OCTOBER 19, 2010

Section 1. By reason of the fact that the Englewood Unified Development Code does not adequately define or limit medical marijuana dispensing and growing uses and for the immediate preservation of the public property, health, peace and safety.

Section 2. Said moratorium or temporary suspension shall be for any medical marijuana dispensing and growing uses within the City of Englewood not in operation by August 17, 2009.

Section 3. The City Council directs City staff to develop appropriate recommendations to Council, within six months, to be consistent with this Ordinance and to provide for an updating of the Unified Development Code relating to medical marijuana dispensing and growing uses.

Section 4. The City Council finds the provisions of this Ordinance are temporary in nature and are intended to be replaced by subsequent legislative enactment so that the moratorium or temporary suspension as specified in this Ordinance shall terminate on October 19, 2010

Introduced, read in full, and passed on first reading on the 19th day of April, 2010.

Published as a Bill for an Ordinance on the City's official website beginning on the 21st day of April, 2010 for thirty (30) days.

Published in full as a Bill for an Ordinance in the City's official newspaper on the 23d day of April, 2010

Read by title and passed on final reading on the 3rd day of May, 2010.

Published by title in the City's official newspaper as Ordinance No. ____, Series of 2010, on the 7th day of May, 2010.

Published by title on the City's official website beginning on the 5th day of May, 2010 for thirty (30) days.

James K. Woodward, Mayor

ATTEST:

Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of the Ordinance passed on final reading and published by title as Ordinance No. ____, Series of 2010.

Loucrishia A. Ellis