

SPECIAL USE EXCEPTION REVIEW REPORT

Petition Number: SUE 12 -01

Petitioner: Ms. Carolyn Cannatella of
Check into Cash of Missouri
14842 Manchester Rd
Ballwin, MO 63011
314-259-47718

Agent: Mr. David Burke
Armstrong Teasdale LLP
7700 Forsythe Blvd.
Suite 1800
Clayton, MO 63105

Project Name: Check into Cash

Filing Date: 4/20/12

Review Report Date: 5/7/12

**Submission Compliance
Certification Date:** 5/22/12

Requested Action: Special Use Exception

Purpose: Operation of a Financial Business

Code Section Article XIV Sec. 1 (5)

Location: 14840 Manchester Rd.

Existing Land Use/Zoning: Retail / C-1

Surrounding Land Use/Zoning: North –Retail / C-1
South –Retail / C-1
West -Retail / C-1
East – Retail / C-1

Plan Designation: Commercial

Project Description:

Check into Cash was issued an occupancy permit to open a facility at 14842 Manchester Rd. in the Olde Towne Plaza in May of 2005. At that time, financial businesses were an allowed use in the C-1 District, and there were no special operational or design criteria to be met and no review processes associated with such a business. In 2008 the zoning ordinance was amended to require the issuance of a special use exception in the C-1 district for the operation of all financial institutions regulated by the Missouri Division of Finance. This new zoning regulation imposed a series of design and operational criteria as a condition of the issuance of the SUE. These criteria and the petitioner's efforts to meet them are discussed below.

Since there is no change to the zoning district, no change to the exterior physical site improvements of the Olde Towne Plaza which were approved under a year 2000 special use exception issued to the owners of the plaza and there will be no fundamental change in the nature of the existing operation, there is no need to discuss the C-1 district regulations applicable to this property.

Zoning Ordinance Requirements/SUE Regulations:

Article XIV Section 1(Generally):

This petition is submitted pursuant to Article XIV, Section 1, Subsection 5, of the Ballwin Zoning Ordinance which allows financial businesses regulated by the Missouri Division of Finance with a special use exception. Certain criteria stipulated in subsections 5(a)–(e) are discussed below:

(The enclosed spiral bound booklet was included with the original submitted application. A draft copy of this report was subsequently provided to the petitioner's agent with discussion of several issues with the petition. An additional email (dated 5/15/12) was later submitted that addresses some of those issues. The original documentation shows photographs of the interior of the existing facility at 14842 Manchester. This petition review report is predicated on the understanding that Check into Cash will set up its new facility at 14840 Manchester in substantially the same manner as is shown in the photographs provided with the petition and that the later email accurately addresses some of the issues raised in the original report.)

1. Subsection 5(a): this subsection requires that financial businesses utilize digital video and audio surveillance equipment that observes the interior portions of the unit accessible or visible to the general public. Additionally, private offices and the perimeter of the building must be observed by such equipment. This equipment shall operate 7 days a week 24 hours a day. The data recorded shall be in a format that can be downloaded to other equipment and it must permanently retain the recorded information for 30 days. The submitted petition documentation suggests that the interior public portion of the premises will be surveilled by a camera. This camera may also be able to

capture the portion of the outside of the front of the building that can be seen from the inside. The camera does not appear to capture the area around the safe, the exterior rear of the unit or any exterior front portion of the unit that is not visible from within. No information is provided about the nature of the surveillance equipment or its ability to record and download data as required.

I recommend that the Commission make no positive recommendation on this petition until the petitioner clearly addresses this equipment. It is not discussed in the original documentation or the follow up email. Will there be audio/video equipment utilized in the new facility and will it record and transfer data in a manner that meets the minimum requirements of this subsection?

I understand the email to say that additional surveillance cameras will be added to the system to cover the rear area of the office and the outdoor exterior area of the premises.

2. Subsection 5(b) requires that financial business facilities shall be designed to have public lobby areas fully visible from the adjoining parking lot and no improvements, window tinting and treatments, draperies, blinds, signage, landscaping or other devices that block such visibility shall be utilized. This is required to maximize the visibility of the interior of the unit from the outside so a patrolling police officer could easily and clearly observe any attempt at robbery or other illegal activity.

The submitted petition documents clearly show that there are several signs mounted to the windows of the present location. This would be a violation of this ordinance requirement. Additionally, it was noticed that the signage “we now offer title loans” and the waist-high band of signage that extends all of the way across the front of the store appears to be mounted on the outside of the window. This is a violation of the current Ballwin sign code as there is no record that a permit was ever obtained for this signage. The 5/15/12 email acknowledges this issue with the signs and states that Check into Cash will comply with signage regulations. I recommend that the language of the special use exception ordinance clearly states this signage limitation on window obstructions.

3. Subsection 5(c) requires that financial business facilities contain a vault or safe that has a UL rating of TRTL-15 (this corresponds to a construction rating of ER, or F) or better and that the safe be located such that it is visible from the parking lot or from the surveillance system. The petition suggests that the new facility will have a safe, but it does not appear to be visible from the parking lot or the surveillance system. No information is provided about the rating of the safe.

The petitioner has agreed in the 5/15/12 email memo to position the safe and security cameras such that the safe is visible from the surveillance system.

The petitioner has provided a document that appears to be an advertising flyer from the safe manufacturer, and the agent has assured Ballwin in his 5/15/12 email that this is adequate for Check into Cash's purposes. I cannot find anything in the flyer that addresses the UL or any other rating system for this safe. It states that it has a one hour fire rating, but there is no reference to any organization that actually rates it as such. The ordinance requires a one hour fire rating and a 15 minute security rating. I have attached a description of the UL standards for these ratings.

The petitioner has not demonstrated that the proposed safe meets the UL rating required by the ordinance no does it appear to meet any similarly developed rating standard.

4. Subsection 5(d) requires that financial business facilities have interior illumination systems that fully illuminate the area around the safe at all times. The submitted petition identifies an emergency illumination unit mounted on the ceiling above the safe as security lighting. This appears to be the battery operated type of emergency illumination device that operates upon the failure of power. It would not operate during normal periods of darkness. Clearly illumination of the safe is critical for the video equipment to function as intended by the ordinance.

There is a question about the new facility having the required illumination during all periods of darkness. The illumination device shown can only be expected to illuminate in the event of power failure. The 5/15/12 email states that two of the lighting fixtures stay on all night and cannot be turned off with conventional wall switches. The email also states that there is a battery powered backup emergency light that illuminates the area of the safe in the event of a power failure. This may be the fixture shown in the booklet. No information about the nature of this light has been provided. I believe that some data about how long it operates and what level of illumination it provides would be in order as a part of this proposal.

5. Subsection 5(e) requires financial business facilities to be equipped with an alarm system that monitors all exterior doors, and windows, cash drawers, and the safe. The alarm system must include "hold up" alarm/panic buttons at all teller and manager positions that promptly notify the police when activated.

No documentation has been provided as to the presence of such an alarm system in the existing facility or of its planned installation in the new facility. This email states that alarm buttons will be provided in the restroom, at the manager's desk, under the counter and near the safe.

Article XIV Section 2 (Conditions):

1. Sections 2 (1 – 13) General SUE regulations: This petition involves a petition for a special use for the operation of a financial business. No changes to the site development plan are proposed in conjunction with this proposed additional use. This site operates in accordance with the approved site development plan associated with a special use exception for front yard parking granted in 2000 when Olde Towne Plaza was developed. The site appears to be in compliance with subsections 1 - 13 of Section 2 of Article XIV, the special use exception regulations of the Zoning Ordinance.

Article XIV Section 3 (1 – 6), Application/petition process:

These subsections specify the submission criteria for petitions and the accompanying information necessary to be considered by the City. All of the minimum submittal standards appear to have been met to allow the consideration of this petition.

Article XIV Section 4: Review procedure

1. Sec 4 (7) (1) *Increase traffic hazards and congestion*: Every use generates traffic. This use is no exception, but this use is already in place and has been for some time. **I do not see how the issuance of this SUE is would increase traffic hazards or congestion.**

2. Sec. 4 (6) (2) *Adversely affect the character of the neighborhood*: There will be no changes to the building, site or use. Check into Cash is already in operation. I am unaware of any problems at this juncture. **There is little basis for the position that the use will have any long term adverse impact on the character of the surrounding neighborhoods.**

3. Sec. 4 (6) (3) *Community general welfare impact*: From the perspective of welfare meaning the overall good of the community, **I am aware of nothing unique or special about this use at this location that would negatively impact the general welfare of the City of Ballwin in a way that is different from what is currently occurring.**

4. Sec. 4 (6) (4) *Overtax public utilities*: **I see no unique or disproportionate impact on the utilities associated with the relocation of this use.**

5. Sec. 4 (6) (5) *Adverse impact on public health and safety*: **I see no basis to maintain that there are any negative impacts on public health or safety coming from this use at this location.**

6. Sec. 4 (6) (6) *Consistent with good planning practice*: This term can have a very different meanings depending upon the context. It can be an evaluation from an overarching and general perspective such as being consistent with the precepts of the city's comprehensive plan, it can extend to the principles of land planning in general, or it can be specific to a site and a situation. **Although one might make a negative theoretical argument due to perceptions held by some about this use, it has not been uncommon for Ballwin to allow the placement of financial businesses within the Manchester Rd. commercial corridor. This has been viewed as an appropriate land use and within the realm of good planning practice providing the issues discussed in this report are adequately addressed.**

7. Sec. 4 (6) (7) *operated in a manner that is compatible with permitted uses in the district*: Any issues that apply here have already been discussed above. **Similarly situated uses all over Ballwin are operated in manners that are compatible with the permitted uses in their various zoning districts.**

8. Sec. 4(6) (8) *Operated in a manner that is visually compatible with the permitted uses in the surrounding area*. **No change in the visual nature of the site or the building is proposed.**

Future Land use Categories:

1. The future land use map of the 2007 Comprehensive Community Plan recommends that this land be utilized as commercial. This recommendation has been met.

Commercial Design Guidelines (page 8:21):

No change to the architecture or visual character of this site will be made as a result of this proposal, so none of the architectural character and site planning guidelines of the 2007 comprehensive community plan appear to be applicable to this petition.

Thomas H. Aiken, AICP
Assistant City Administrator / City Planner