



## Legislation Text

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**File #:** 10-0051, **Version:** 1

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Recommendation to receive supporting documentation into the record, conclude the public hearing, deny the appeal, and uphold the Planning Commission decision to approve a Conditional Use Permit for a check cashing use located at 4200 Atlantic Avenue. (District 8)

On October 15, 2009, the Planning Commission voted 5-2 to approve a Conditional Use Permit request for a check cashing use located within a multi-tenant commercial building at 4200 Atlantic Avenue (Exhibit A - Planning Commission Staff Report). The project was appealed on October 21, 2009 (Exhibit B - Appeal). The appellants contend that the existing exterior canopy is compromised and the signage is excessive and unacceptable. Planning staff met with the applicant and appellants in an attempt to find a solution to the signage issue, and no agreement could be made. To address the issues with the signage, staff added condition of approval, No. 12, requiring that all signage be modified/replaced to the satisfaction of the Director of Development Services. The building was also cited by Code Enforcement for illegal signage and a compromised canopy.

The applicant is requesting approval of a Conditional Use Permit to legalize the business. The payday advance business consists of a 242-square-foot customer waiting area with approximately 1,000 square feet of office (Exhibit C - Plans & Photographs). The business has been operating at the current location since 2005. The Police Department has reviewed the request and has no objection to approval.

Check cashing uses were reviewed last year by staff during a one-year moratorium. The moratorium was approved to address a proliferation of check cashing uses throughout the city. The proliferation issue was reviewed by staff and it was determined that there were over 106 illegal check cashing businesses citywide. This finding led the City Council to deny the proposed extension of the one-year moratorium and instead directed staff to bring all illegal check cashing businesses into conformance. In response to City Council's direction, staff sent letters to all illegal businesses asking them to apply for a Conditional Use Permit or lower their fees to under two dollars per check.

The Conditional Use Permit is required to assist staff in addressing issues including security, crime, and as a means of notifying the public of the proposed use. To mitigate issues that are typically associated with check cashing uses, staff consults with the Police Department to determine if there are any site-specific issues with crime. Staff will also request significant upgrades to the building, signage and landscaping, and will work with the applicant on operational conditions of approval, such as limited hours of operation, security issues and a limit on fees.

The applicant, in order to mitigate existing site issues, has agreed as conditions of approval, to paint the exterior of the building, replace non-conforming signage and replace/modify trees in the public-right-of-way. These proposed improvements are consistent with changes required for other check cashing uses and will help to significantly improve the appearance of the site. With the incorporated conditions of approval, staff is recommending approval (Exhibit D-Conditions of Approval).

This letter was reviewed by City Attorney Michael Mais on December 28, 2009 and by Budget and Performance Management Bureau Manager David Wodynski on December 30, 2009.

The Municipal Code requires a City Council hearing within 60 days of a Planning Commission decision. A City Council hearing also is required within 60 days of receipt of an appeal of Planning Commission action. The applicants requested a date after the holidays, thus allowing a hearing to be conducted outside of the required 60-day period.

All fees associated with the Conditional Use Permit will be deposited in the Development Services Fund (SR 137) in the Development Services Department (DV). The appellant will be responsible for all costs associated with this project.

Approve recommendation.

REGINALD I. HARRISON  
INTERIM DIRECTOR OF DEVELOPMENT SERVICES

NAME  
TITLE

APPROVED:

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PATRICK H. WEST  
CITY MANAGER