LAYTON CITY PLANNING COMMISSION WORK MEETING MINUTES

TUESDAY, DECEMBER 28, 2010

MEMBERS PRESENT:	Brian Bodily, Sharon Esplin, Gerald Gilbert, Blake Hazen, Tim Pales, Dave Weaver
ALTERNATE MEMBERS PRESENT:	Jeremy Davis, Dawn Fitzpatrick
MEMBERS ABSENT:	Kristin Elinkowski
ALTERNATE MEMBERS ABSENT:	
OTHERS PRESENT:	Staff Members: Bill Wright, Peter Matson, Kem Weaver, Steve Garside, Julie Jewell

1. NSC WEST LLC – REZONE REQUEST – A (AGRICULTURE) TO R-1-8 (SINGLE FAMILY RESIDENTIAL)

This 16.445 acre property is located at approximately 800 West Weaver Lane. The property owner is Dix Roberts represented by Neil Wall of NSC West, LLC.

City Planner, Kem Weaver, presented the rezone request from A to R-1-8 for 16.445 acres at approximately 800 West Weaver Lane. He gave an overview of the subdivisions and zoning in the surrounding area and said the proposal meets General Plan requirements for the area.

Mr. Weaver said the concept plan proposes 52 lots all meeting the 8,000 square foot lot size requirement with Parcel A in the southwest corner of the proposed subdivision to be used for storm water detention.

Long Range Planner, Peter Matson, said that the Chevron pipeline company has a 16-foot easement on the property and the company will be kept informed of the proceedings with the subdivision so that they can provide input in determining appropriate language to be included on the plat to protect the pipelines.

Mr. Weaver explained the closing of Weaver Lane with the construction of Layton Parkway.

2. LAYTON CITY – ORDINANCE AMENDMENT TO TITLE 18 PLATS & SUBDIVISIONS – STREET LIGHTING

Community & Economic Development Director, Bill Wright, explained that the City is in the process of changing the method of street light procurement and installation. The City is currently paying a high fee for installation and maintenance of street lights. Title 18 – Plats and Subdivision – is being proposed for an amendment that would require the developer to pay a proportionate share for street lights.

Mr. Wright explained that after a subdivision is built, Rocky Mountain Power provides the lights with the City effectively leasing the pole indefinitely as well as paying for the electricity providing the light. He said a determination has been made after discussion with the City Manager that the lighting is not up to the standard of lighting the City would prefer.

Mr. Wright said that the City would purchase the existing poles from Rocky Mountain Power. He said appropriate lighting provides an added value to the subdivision and makes good use of tax payer funds. In answer to Commissioner Bodily's question as to whether the lighting would be uniform, Mr. Wright replied in the affirmative. Commissioner Davis asked about the maintenance of the lights in private subdivisions, and Mr. Wright explained that the Home Owner's Association would be responsibile for the maintenance of the lights just as they are responsible for other utilities in a private subdivision. He confirmed that a PRUD would be required to have lighting with the City being responsible for maintenance of lights on any public streets in a PRUD.

Mr. Wright explained that the developers would pay a fee for each pole to be installed in the subdivision to the City, and the City would purchase and contract for the installation of the poles.

Commissioner Gilbert said that citizens would like to hear what the City is doing to be proactive to save costs. There was a discussion of possible methods of notifying the public regarding the ordinance amendment.

Mr. Wright said the Planning Commission would be briefed and fees more defined as the entire program unfolds.

3. LAYTON CITY -- ORDINANCE FOR THE REGULATION OF CHECK CASHING BUSINESSES – AMENDING TITLE 19.06 & TITLE 19.14

Long Range Planner, Peter Matson, said the City Council had asked staff to research and draft a proposal to regulate check cashing businesses in Layton. Council's request was based on articles about other cities in the area instituting ordinances regulating check cashing activities.

Mr. Matson gave an overview of the location and clustering of check cashing institutions in Layton. He said Staff proposes that the Planning Commission provide input on the draft of the ordinances, consider modifications, and possibly forward a recommendation to the City Council. The ordinance will be applied in Title 19.06 Land Use Regulations including Tables 6.1 and 6.2 and Title 19.14 Conditional Uses. It will also be applied in Title 5 Business Regulations and Licenses.

Mr. Wright said that the number of check cashing businesses should be capped at 7 based on population with a 1000-foot spacing between check cashing businesses. Commissioner Weaver asked about the current cluster of the check cashing businesses at the north end of Main Street. Mr. Wright said that the process of attrition would bring the spacing of the businesses into line as a new check cashing business would not be able to come into the City until the spacing and zoning requirements have been met.

Mr. Wright said that a representative for the check cashing businesses has called, and he said that some businesses owners may attend the Planning Commission meeting. Since the proposed amendment is now on a public agenda, an influx of businesses license requests for such businesses can be held until more information is gathered and the amendment finalized by the City Council.

Commissioner Fitzpatrick reported on check cashing business regulations in adjacent cities. She also mentioned that a Senate bill enacted in 2007 made it illegal to provide payday loans to military personnel.

Commissioner Bodily spoke about the lack of regulations for check cashing businesses. Mr. Wright said that the proposed ordinance is being drafted to deal with the secondary effect of pay day loans or check cashing businesses. He said the City is not trying to eliminate these businesses but is trying to provide the level of service the community would require.

Commissioner Weaver asked if the number of these businesses were limited if it would be a financial loss to the City. Mr. Wright explained that the businesses provide no tax benefit to the City and asked the Planning Commission to look at the request from a land use standpoint.

Commissioner Hazen asked if it was legal for the City to hold a license request. Assistant City Attorney, Steve Garside, said that the proposal is a land use issue and once it is on a public agenda, the City could hold any new requests, but existing applications must be processed.

OTHER:

4. TRANSIT ORIENTED DEVELOPMENT IN DOWNTOWN LAYTON

Long Range Planner, Peter Matson, presented information on transit oriented development in downtown Layton. This presentation is attached to these minutes in its entirety.

Mr. Matson said that in order to develop this transit oriented development (TOD) project, the density in the MU-TOD zone would need to be increased with an ordinance amendment to accommodate the number of units per acre. Parking, which would be contained within the building, was discussed. Opportunities will be preserved for the Utah Transit Authority (UTA) to build a parking deck. Accesses off Main Street were discussed.

5. WEST LAYTON PLAN

Mr. Matson asked the Planning Commission to consider reserving time from January 24 to 28 for workshop meetings regarding West Layton and a plan to create a village center including a commercial mixed use area in West Layton based on public and stakeholder input.

Julie K. Jewell

Julie K. Jewell, Planning Commission Secretary

LAYTON CITY PLANNING COMMISSION MEETING MINUTES

TUESDAY, DECEMBER 28, 2010

MEMBERS PRESENT:	Brian Bodily, Sharon Esplin, Gerald Gilbert, Blake Hazen, Tim Pales, Dave Weaver
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OTHERS PRESENT:	Staff Members: Bill Wright, Peter Matson, Kem Weaver, Steve Garside, Julie Jewell

Planning Commissioner Chair, Sharon Esplin, called the meeting to order at 7:07 p.m. The Pledge of Allegiance was recited and an invocation was given by Commissioner Hazen.

The Oath of Office was administered to Commissioner Brian Bodily as a regular member of the Planning Commissioner and to Commissioner Jeremy Davis as an alternate member of the Planning Commission.

Chairman Esplin called for a motion to approve the December 14, 2010 Planning Commission Meeting minutes. There were no additions or corrections, and Commissioner Hazen moved to accept the December 14, 2010, Planning Commission Meeting minutes as written. Commissioner Pales seconded the motion, and the voting was unanimous.

Chairman Esplin called for a motion to open the Public Hearing. Commissioner Gilbert moved to open the Public Hearing. Commissioner Bodily seconded the motion, and the voting was unanimous.

1. LAYTON CITY -- ORDINANCE FOR THE REGULATION OF CHECK CASHING BUSINESSES – AMENDING TITLE 19.06 & TITLE 19.14

Peter Matson, Long Range Planner, presented the proposal to amend Title 19 of the Layton City Municipal Code to add regulations for check cashing and similar businesses throughout Layton City. He related that in a monthly Strategic Planning Meeting, the City Council and Staff discussed Layton City regulations for check cashing and similar businesses. Since other cities in northern Utah and along the Wasatch Front had recently passed regulations on these businesses, Staff was asked to determine the number of check cashing businesses in Layton City, current City regulations, regulations in other cities, and regulations that could be put in place to provide guidelines for these types of businesses.

The classification and zoning designation in which these types of businesses could be placed was discussed with an estimated 18-20 check cashing type businesses currently located in Layton City. Notice of the proposed ordinance amendment was mailed to each of the businesses.

Mr. Matson said the proposed draft would regulate check cashing businesses under three categories of regulation as follows:

1. Zoning designation
2. Separation of 1000-feet between these types of businesses with the distance being measured from front door to front door.
3. Limitation of one check cashing type business per 10,000 of population. (Estimated at 7 businesses per Layton City population of approximately 70,000).

Mr. Matson said that based on proposed zoning, the majority of the current businesses are either a permitted or a conditional use. Two businesses located in the MU and MU-TOD zones are outside of the approved zones for check cashing businesses.

Businesses currently in operation and open to business with an active business license can continue in business. However, if the business closes or the business license lapses, the business could not be re-instated until the number of check cashing businesses in Layton is below seven (7). If the license remains active, the business can continue to operate even if they are not in compliance with one of the proposed regulations.

Mr. Matson said the Planning Commission has the alternative to approve, modify, or table the ordinance amendment for further consideration. He said Staff is recommending that the Planning Commission forward a positive recommendation to the City Council.

There were no further questions to Staff.

Cheryl Gullage, from QC Finance at 377 East Gentile, asked for clarification on the criteria for a check cashing business to remain in business. Mr. Matson restated the clarification previously given in the meeting.

Wendy Gibson, Check City district manager at 1010 North Hill Field Road, presented information on the auditing process for check cashing businesses, equal payment plans, and interest rates. She felt banks offering pay day loans and places such as Wal Mart offering check cashing services should be included in the ordinance amendment. There was a continued discussion of interest rates for pay day loans.

Ms. Gibson asked for an opportunity for further discussion with Staff and the Planning Commission before the Planning Commission makes a recommendation to the City Council. Ms. Gibson presented material to the Planning Commission that is attached to these minutes in its entirety.

In answer to Commissioner Gilbert's question about the differentiation between banks and pay day loan businesses, Mr. Wright referred to Exhibit A of the draft. He said while there may be similar products in each organization, the two organizations are considerably different in operation such as a check cashing business being non-depository. The reason for the ordinance amendment is not to determine the definition of a particular financial institution, but to provide regulation criteria for time, place and manner in dealing with what many communities believe are the secondary effects of a check cashing business.

Commissioner Gilbert asked if a business could be a check cashing/bank. Mr. Wright said it would be a possibility if they incorporated as a bank and followed all the provisions under law. Mr. Gilbert asked Ms. Gibson if check cashing businesses had the same regulations as a bank. She responded that there were some similar regulations and stated that audits of check cashing businesses began in 2005.

Commissioner Gilbert asked if the current draft of the ordinance covers the similarities between banks and check cashing businesses. Mr. Wright responded that it would be wise to meet with the check cashing organization to discuss definitions as to how check cashing businesses perceive themselves. He suggested leaving the hearing open until the January 25, 2011 Planning Commission Meeting with an update prior

that meeting during the Work Meeting. In response to Commissioner Fitzpatrick's statement about state regulations, Mr. Wright responded that it would be good to be consistent with the state regulatory definitions.

Commissioner Fitzpatrick confirmed with Ms. Gibson that check cashing businesses are still prohibited from providing services to members of the military.

Phil Chandler, 653 South 925 West, expressed his opinion that free enterprise would naturally eliminate some of the businesses. Mr. Wright responded that the clustering issue of the businesses could affect the health and quality of the business corridors in Layton City. He reiterated that the Council had charged Staff with exploring regulations in other cities in north Davis and south Weber counties. He said that as other communities regulate these types of businesses, if Layton fails to provide regulations, this type of business will proliferate even more in Layton City. He said studies and research show that clustering these types of businesses and similar uses is not good for a community. A representative of the check cashing business association agreed with a non-clustering approach.

Cort Walker, from the Consumer Lending Association at 2470 North University Avenue, Provo, UT said statistics indicates the opposite to be true. He said limiting competition would increase prices. He asked for an opportunity to meet with Staff to discuss definitions. Mr. Walker presented material to the Planning Commission that is attached to these minutes in its entirety.

Chairman Esplin called for a motion on the item. Commissioner Gilbert moved that the Public Hearing on the proposal to amend Title 19.06 and 19.14 to add regulations for check cashing and similar businesses throughout Layton City be continued to the January 25, 2011 Planning Commission Meeting to allow Staff further time to discuss and evaluate the proposal. Commissioner Hazen seconded the motion, and the voting was unanimous.

2. NSC WEST LLC – REZONE REQUEST – A (AGRICULTURE) TO R-1-8 (SINGLE FAMILY RESIDENTIAL)

This 16.445 acre property is located at approximately 800 West Weaver Lane. The property owner is Dix Roberts represented by Neil Wall of NSC West, LLC.

City Planner, Kem Weaver, presented an overview of the property proposed for rezone from A to R-1-8. He explained the proposed road system for the subdivision and the future of Weaver Lane including access to Layton Parkway through the Weaver Meadows Subdivision. Mr. Weaver said the concept plan proposes 52 lots all meeting the 8,000 square foot minimum lot size requirement with Parcel A in the southwest corner of the proposed subdivision to be used for storm water detention.

Mr. Weaver explained the 16-foot Chevron easement on the west side of the property and said that as lots are developed, homeowners will not be able to plant large trees or build sheds over the easement. A note will be placed on the final plat notifying homebuyers of those lots that they will have to honor that easement.

Mr. Weaver said the proposal meets land use General Plan recommendations for low to medium density residential and stated that Staff recommends the Planning Commission forward a positive recommendation to the City Council to approve the rezone request.

There were no questions from the Commission.

The following members of the audience expressed comments and concerns:

Phil Chandlers, 653 South 925 West; Jeff Williams, 928 West 500 South; Sharane Pitts, 931 West 550 South; Monica Cox, 569 South 925 West; Jolene Gardner, 565 South 925 West; Dwayne Schneider, 635 South 925 West

Audience members expressed concerns about a possibility of mosquitoes in the detention pond, lot size, possible detriment to wildlife on the vacant ground, closing of Weaver Lane, school boundaries, decrease in water pressure, traffic and purchasing of lots to maintain open space behind current residences.

Mr. Weaver explained that water would not remain in the detention pond but would be metered out into the storm drain line in Weaver Lane and explained the difference between detention ponds and retention ponds. He outlined the timeline for the closing of Weaver Lane and the access to Layton Parkway through Weaver Meadows and addressed the school boundary question. He said the Engineering Division will run water models to address water pressure. The developer, Ed Green, 2150 Valley View Drive, was in the audience and he also addressed the detention question stating that there were probably more mosquitoes in the hayfield when it was irrigated. He said he would consult with his partners regarding the selling of lots.

There were no other questions or comments. Chairman Esplin called for a motion on the item. Commissioner Pales moved to forward a positive recommendation to the City Council to approve the rezone from A to R-1-8 based on consistency with General Plan recommendations. Commissioner Gilbert seconded the motion, and the voting was unanimous.

Chairman Esplin called for a motion to close the Public Hearing portion of the meeting and open Public Review. Commissioner Hazen moved to close the Public Hearing portion of the meeting and open Public Review. Commissioner Gilbert seconded the motion and the voting was unanimous.

3. LAYTON CITY – ORDINANCE AMENDMENT TO TITLE 18 PLATS & SUBDIVISIONS – STREET LIGHTING

City Planner, Kem Weaver presented the proposal to amend Title 18 – Plats and Subdivision. He said that in the past, Layton City has relied on the local power company to install street light poles. Sometimes there were considerable delays in the installation of light poles. It is proposed that the ordinance be amended to require the developer to pay a fee for each light pole in the subdivision with the fee to be determined during the review process. Once poles are installed by the City, it will be the City's responsibility to maintain the system. Homeowners Associations will maintain the lights on private streets in private subdivisions.

There were no questions or comments from the Commission or the audience. Chairman Esplin called for a motion on the item. Commissioner Fitzpatrick moved that the Planning Commission forward a positive recommendation to the City Council to approve the ordinance amendment. Commissioner Gilbert seconded the motion, and the voting was unanimous.

Chairman Esplin called for a motion to close Public Review and adjourn the meeting. Commissioner Hazen moved to close Public Review and adjourn the meeting. Commissioner Weaver seconded the motion, and the voting was unanimous. The meeting adjourned at 8:32 p.m.

Julie K. Jewell

Julie K. Jewell, Planning Commission Secretary

PLANNING COMMISSION

December 28, 2010

KAY'S CROSSING

- 2.85 Acres with 156 Units, 55 Units to the Acre
- Building Size:
  - 156,000 Square Feet of Apartments
  - 57,000 Square Feet of Parking Complex
  - 2,400 Square Feet of Retail, 3,000 Square Feet of Ancillary Office

Transit-Oriented Development in Old Downtown

- In Between the North and South FrontRunner Parking Lots
  - Bounded by Main Street and the Rail Line
- 2.85 Acres Between Three Landowners

KAY'S CROSSING – City Action

- MU-TOD Text Amendment:
  - The MU-TOD currently allows for 31 units to the acre.
  - A text amendment to the MU-TOD would have to increase the units per acre ratio to at least 55.
  - The text amendment would likely be in the form of a bonus density that would give a bonus for factors such as adjacency to the FrontRunner station, structured parking, urban design, etc.
  - The text amendment – Reviewed by Planning Commission with recommendation to City Council.

Timeline

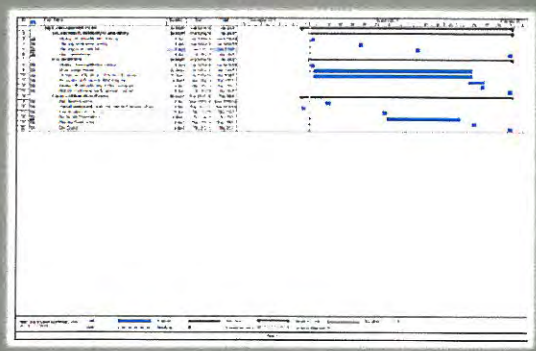

Exhibit A

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Check Cashing and Similar Businesses

Definitions. (19.02.020)

For the purposes of this section, the following words shall have the following meanings:

A. *Bank or financial institution.* An organization involved in deposit banking, finance, investment, mortgages, trusts, and the like. Typical uses include commercial banks, credit unions, finance companies, and savings institutions.
B. *Cashing services.* An organization involved in providing loans or other consideration to customers in exchange for personal property, such as property titles or personal checks. Such services shall include check cashing businesses licensed and/or defined by the state pursuant to the check cashing Registration Act, car title loan businesses, deferred deposit loan businesses, and businesses of a similar nature offering such services as a primary function. The phrase financial service shall not include fully automated stand alone services, such as automated teller machines, nor those uses defined herein as pertaining to bank or financial institutions.
C. *Check cashing business.* A person or business that, for compensation, engages in cashing a check for consideration or extending a deferred deposit loan. Check cashing business does not include depository institutions, as defined by the state of Utah. In addition, check cashing business does not include a retail seller engaged primarily in the business of selling goods or services to retail buyers that cash check or issue money orders for a minimum flat fee not exceeding one percent of the check or one dollar as a service fee that is incidental to its main purpose or business. For purposes of this section, check cashing businesses, payday loan businesses, title loan businesses, and deferred deposit lender businesses shall be referred to collectively as "check cashing" businesses.
D. *Payday loan business.* An establishment providing loans to individuals in exchange for personal checks or assignment of wages as collateral.
E. *Title loan business.* An establishment providing short term loans to individuals in exchange for the title of a motor vehicle, mobile home, or motorboat as collateral.
F. *Deferred deposit lender.* A business that conducts transactions where a person presents to a check casher a check written on that person's account or provides written or electronic authorization to a check casher to effect a debit from that person's account using an electronic payment, and the check casher provides the maker an amount of money that is equal to the face value of the check or the amount of the debit less any fee or interest charged for the transaction, and agrees not to cash the check or process the debit until a specific date.
G. *Similar businesses.* Any other business that offers deferred deposit loans, title loans, check cashing services and loans for payment or a percentage fee exceeding one percent of the check or one dollar as a service fee that is incidental to its main purpose or business.

Criteria and Conditions. (19.06.200 and 19.14.100(12))
Check cashing and similar businesses shall be located and maintained in accordance with the following standards and conditions:

1. It is unlawful for any check cashing or similar businesses to operate at any location within the city not zoned for such business.
2. Check cashing and similar businesses shall only be allowed as a Conditional Use in areas zoned CP-2 (Planned Community Commercial), CP-3 (Planned Regional Commercial), or C-H (Planned Highway Commercial).

Exhibit A

DRAFT

3. Check cashing and similar businesses shall not be located within 1,000 feet of another check cashing or similar businesses within or outside of Layton City boundaries. The distance shall be measured in a straight line from the main entrance of the establishments.
4. Check cashing or similar businesses shall conform to the applicable sign regulations as described in Title 20 of the Layton Municipal Code.
5. Check cashing or similar businesses shall be limited to one check cashing business per 10,000 in Layton City population. The total population figures shall be based on the U.S. Census Bureau's report for Layton City.

Cessation of existing Check Cashing or Similar Businesses. (19.06.200 and 19.14.100(12))

Any check cashing business or similar business that is in operation at the time of the adoption of this ordinance is deemed a conforming uses as long as it is within zones that permit the use and operates at the same location.

Relocation of Existing business

Any check cashing or similar business shall not relocate to another site until the number of establishments in the city has dropped below one per 10,000 population of Layton City.

Termination of Business License

If any check cashing or similar businesses fails to renew their Layton City Business License or vacates the premises, then the business is deemed terminated. No other check cashing or similar business will be allowed to locate at that particular location unless the number of establishments drops below the one per 10, 000 of Layton City population limit and it is located in the permitted zone, and complies with the separation requirements.

Tables 6-1 and 6-2-Land Use Regulations

P = PERMITTED USE
C = CONDITIONAL USE REQUIRED
-- = USE NOT PERMITTED

Table 6-1

RETAIL OR RELATED USES										
LAND USE DESCRIPTION	A	R-S	R-1-6	R-1-8	R-1-10	R-MH	R-2	RM-1	R-M2	R-H
9. Camera Shop	--	--	P	P	P	P	--	--	P	P
10. Check Cashing or Similar Businesses	--	--	--	--	--	--	--	--	--	--
10. Convenience Store	--	--	C	C	C	C	C	--	C	C

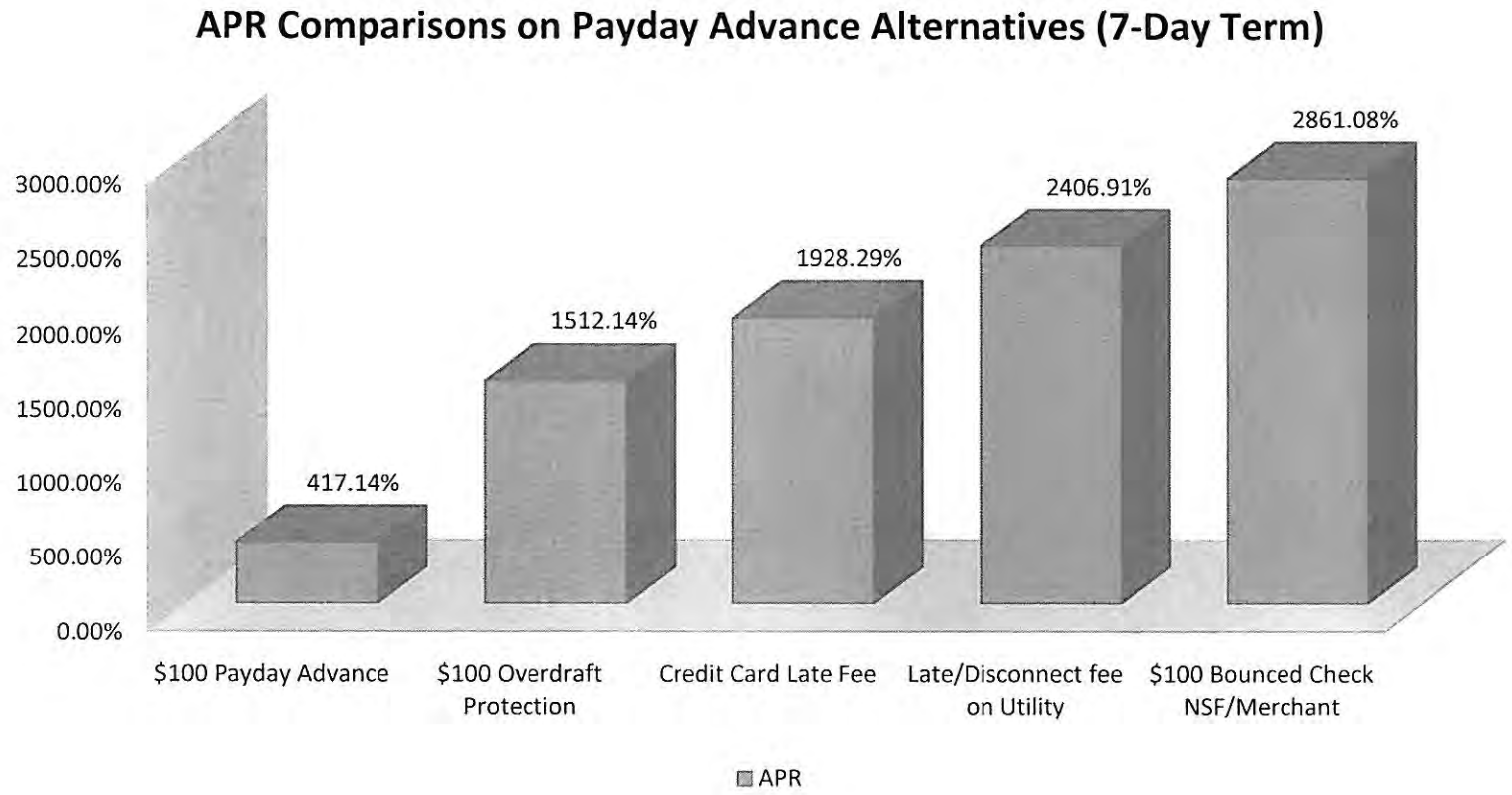
Exhibit A

DRAFT

Table 6-2

RETAIL OR RELATED USES										
LAND USE DESCRIPTION	B-RP	P-B	CP-1	CP-2	CP-3	C-H	M-1	M-2	MU	MU-TOD
9. Camera Shop	--	--	P	P	P	P	--	--	P	P
10. Check Cashing or Similar Businesses	--	--	--	C	C	C	--	--	--	--
10. Convenience Store	--	--	C	C	C	C	C	--	C	C

Payday advance fees are lower than many of consumer' alternatives, even when expressed as an annual percentage rate (APR) for a one week "loan".



Credit Alternative	$100 Payday Advance	$100 Overdraft Protection	Credit Card Late Fee on $100 Bill	Late/Disconnect fee on $100 Utility Bill	$100 Bounced Check NSF/Merchant
Fee	$8.00	$29.00	$37.00	$46.16	$54.87
APR	417.14%	1512.14%	1928.29%	2406.91%	2861.08%

Sources: Avg. NSF Fee $28.23 (Bankrate.com, Dec. 2007); Avg. merchant returned check fee $26.64 (2006 CFSA fee survey); Avg. Utility late and reconnection fee (2006 CFSA fee survey); Avg. credit card late fee (Credit Cards: Increased Complexity in Rates and Fees, Government Accountability Office, 2006); Avg. overdraft protection fee (Bankrate.com, Dec. 2007); Typical one week payday advance fee (UCLA).

Cost to Layton Consumers for $100.00 loan for 7 days

	Payday Lender	Wells Fargo Bank	Mountain America CU
Product Name	Cash Advance[1]	Direct Deposit Advance[2]	My InstaCash[3]
Loan Amount	$100.00	$100.00	$100.00
Term	7 days	7 days	7 days
Cost of Credit	$8.00	$10.00	$15.00
Repayment Amount	$108.00	$110.00	$115.00[4]
APR	417.14%	521.43%	782.14%

[1] According to Utah Consumer Lending Association Data as of January 1, 2010
[2] According to Wells Fargo Website as of June 27, 2008: https://www.wellsfargo.com/help/faqs/dda_faqs
[3] According to Mountain America Credit Union Website as of September 28, 2010: http://www.macu.com/home/personal/personalloans/personalloans
[4] Federally Chartered Credit Unions do not pay taxes on profits

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THE WALL STREET JOURNAL.
WSJ.com

BUSINESS DECEMBER 24, 2010

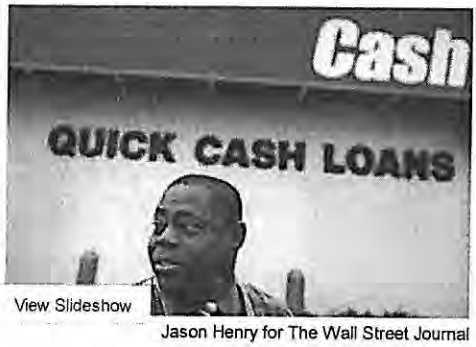
Payday Lenders Go Hunting

Operations Encroach on Banks During Loan Crunch; 'Here, I Feel Respected'

By JESSICA SILVER-GREENBERG

WEST PALM BEACH, Fla.—About two weeks before Christmas, Greg Dueno sipped free coffee and absentmindedly played with a fake poinsettia plant while his application for a $500 loan was being processed. The 53-year-old helicopter painter told a branch manager that he wanted the loan for Christmas presents, including a purse to surprise his wife.

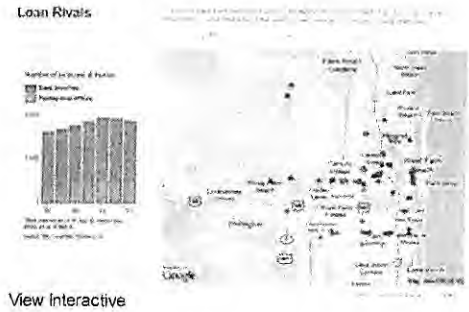
Payday Lenders Try to Fill Void



View Slideshow

Jason Henry for The Wall Street Journal

Interactive Graphic: Loan Rivals



View Interactive

More photos and interactive graphics

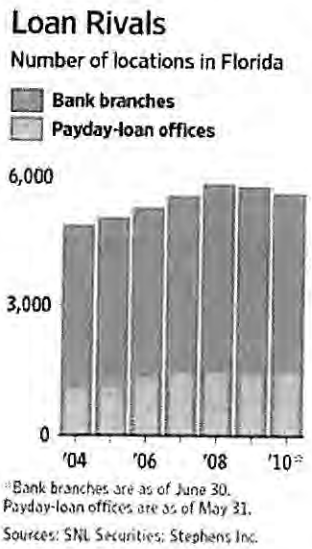
Mr. Dueno wasn't at the J.P. Morgan Chase & Co. branch where he keeps a checking account. The loan came from payday lender Advance America, Cash Advance Centers Inc., which last month opened its fourth office in West Palm Beach and wants to expand even more across the U.S.

"Here, I feel respected," Mr. Dueno said in the airy lobby scattered with overstuffed leather chairs. He promised to repay the loan, charging an annual interest rate of 287%, within two weeks. At J.P. Morgan, "when I walk in, I feel very small, and not particularly important." He walked out the door with the money 10 minutes later.

Payday lenders like Advance America are pushing hard to lure away customers from traditional banks. The effort is getting a boost from the industry's loan crunch, especially for borrowers with blemished credit, and toughened regulation of fees and interest rates charged by the nation's 7,760 banks and savings institutions.

Those curbs aren't a problem for payday lenders, a hodgepodge of publicly traded companies and mom-and-pop locations largely regulated by states. In Florida, such companies can charge interest rates as high as 391%, compared with a limit of 39% on most loans made by banks.

Emboldened by their competitive advantages and the banking industry's retrenchment, payday lenders are aggressively pitching debit cards and online bill payment. Some companies are opening payday-loan branches next door to banks and designed to look like them, even hiring former bank-branch managers.



"We believe that we're starting to see a benefit of a general reduction in consumer credit, particularly ... subprime credit cards," Patrick O'Shaughnessy, Advance America's chief financial officer, told investors in November. The Spartanburg, S.C., company has 2,360 payday-loan offices, including 13 opened this year. Company officials plan to open an unspecified number of additional offices, partly to take advantage of the upheaval.

Most payday loans require a borrower to write a check dated two weeks from the date of the loan. When the loan is due, the lender cashes the check, which includes the full loan amount plus interest. Mr. Dueno paid $55 to get the $500 loan from Advance America.

Payday lenders have been controversial since they emerged in the 1990s from bare-bones check-cashing operations. Outraged by loans carrying interest rates of more than 500%, federal lawmakers approved restrictions in 2007 on the industry's ability to target military members. Some states have forced out payday lenders, claiming they were operating without a license or gouging borrowers with high interest rates.

As a result, payday-loan volume fell to $38.5 billion in 2009, the latest year for which figures are available, a 24% decline since 2007, investment-banking firm Stephens Inc. estimates. The industry had about 20,600 loan offices last year, down 13% from 23,600 in 2007.

View Full Image

Jason Henry for The Wall Street Journal

NYSE-listed Cash America International reported record profits for the first nine months of 2010. Above, one of its stores at 1640 S. Military Trail in West Palm Beach.

U.S. banks and savings institutions operate about 98,000 branches, up 1.3% from 2007, according to SNL Financial. But as a result of the sluggish economy, bank failures and tighter credit at many banks, the amount of available credit for auto loans, credit cards, consumer-finance loans, student loans and other types of consumer credit declined to $433 billion this year, according to Equifax Inc. The total is down 51% from $887 billion in 2007.

Bank executives also say that all the regulations spawned by the financial crisis is pushing some customers out of traditional banks. "A portion of them will be exiting the banking system because it's going to be too hard to figure out a way to do business with them profitably," Charles Scharf, head of retail financial services at J.P. Morgan, told investors last month about new debit-card rules.

Payday lenders say their interest rates are justified because the loans they make are unsecured and have high default rates. A spokeswoman for Cash America International Inc., the nation's largest publicly traded payday lender by revenue, says the Fort Worth, Texas, company has "always been in the business of meeting the needs of consumers who have nowhere else to turn." Cash America reported record profits for the first nine months of 2010.

Signs of the shift are evident in West Palm Beach (pop. 99,504), a city dominated by strip malls and fast-food chains across a narrow bridge from ritzy Palm Beach. During the fiscal year ended in May, the 22 payday-loan offices in West Palm Beach made $328.9 million in loans, up 119% from fiscal 2008.

Bank-branch loan data aren't publicly available. But the 90 bank branches in West Palm Beach had $7.59 billion in combined deposits as of June 30, down 9.8% from 2008, according to the Federal Deposit Insurance Corp. The last new bank branch here opened in 2007. As of Sept. 30, U.S. banks had $7.4 trillion in outstanding loans and leases, down 7.5% from 2008.

The typical bank branch costs $1 million to $1.5 million, according to consulting firm Oliver Wyman. Advance America says it costs just $46,000 to open a payday-loan office. Payday lenders usually rent their storefront locations and don't build vaults for cash and safe-deposit boxes.

The Advance America office that opened in November on South Military Trail, a bustling four-lane road punctuated by strip malls, is just across the parking lot from a J.P. Morgan branch. "I'm genuinely happy when we can give them a loan they really need," said Berlane Smith, a former Bank of America Corp. teller who runs an older Advance America office nearby. "At a big bank, I had to turn away so many people."

Bank of America referred questions to the American Bankers Association. The trade group said customers are being "driven to these unregulated entities ... as an outgrowth of major lenders having to tighten credit standards in this new regulatory environment."

A J.P. Morgan spokesman said the bank doesn't discuss individual customers but has "historically not offered unsecured personal loans." The spokesman declined to comment on "claims made by the payday lenders."

At a Cash America payday-loan store and pawnshop crowded with racks of keyboards, lawn mowers and other items, Paul Banna waited one morning this month to get a payday loan and pawn his wife's wedding rings.

Jingling the rings in his right hand like dice, the 50-year-old cook said he hates paying an annual interest rate of more than 300% for a $200 payday loan. "I'm desperate and can't get a loan from TD Bank," where Mr. Banna said he keeps a checking account.

A spokeswoman for TD Bank Financial Group declined to comment on Mr. Banna but said the company is "a reliable banking partner for individuals and businesses of all sizes."

Traditional banks don't want to lose customers to payday lenders, but some Florida financial institutions "are starting to ... and will continue to do so," said Dwight Hill, executive vice president of Sabadell United Bank, based in Miami. The unit of Banco de Sabadell SA of Spain has one branch in West Palm Beach. He wouldn't say if any Sabadell borrowers have bolted for new payday-loan offices.

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