

Cuyahoga Falls City Council
Minutes of the Planning & Zoning Committee Meeting
March 5, 2007

Members: Kathy Hummel, Chair
Tim Gorbach
Ken Barnhart

Mrs. Hummel called the meeting to order at 6:30 p.m. Mr. Gorbach was absent.

The minutes of the February 5, 2007 meeting were approved as submitted.

Legislation Considered:

Temp. Ord. B-11
Temp. Ord. B-36

Discussion:

Temp. Ord. B-11

An ordinance accepting the Planning Commission recommendations, findings and conditions for the Heritage Ridge Regulatory/Development Green Overlay Plan and declaring an emergency.

Mrs. Hummel said B-11 is being held at the request of the developer and will be discussed at the next Planning & Zoning committee meeting on April 2, 2007.

Temp. Ord. B-36

An ordinance authorizing and approving the conditional zoning certificate for Ace Cash Express at 617 Howe Avenue and declaring an emergency.

Mrs. Hummel read B-36 (second reading). Mr. Guerra reviewed the Planning Commission file, noting that Ace Cash Express will operate in 1,225 sq. ft. space in the Staples plaza within a C-1 zoning district. The company provides retail services including check cashing, short-term loans, bill payments, money transfers, prepaid services and money orders. The conditional use permit falls under the code section "pawnshop or payday loan". Mr. Guerra referred to the review criteria for conditional zoning certificates in Chapter 1113.08, standards for the base zoning district (C-1), the design regulations of Title 4, and other applicable regulations.

Steve Funk, attorney with Roetzel & Andress, spoke in behalf of Ace Cash Express. He said this request comes before Council in its administrative capacity, not its legislative capacity.

Mr. Funk said the application complies with the City's zoning code and was approved by the Planning Commission. Since this industry is regulated by state law (Ohio Check Cashing Loan Act), Ace Cash Express is required to obtain a license from the Superintendent of Financial Institutions in order to operate its business.

Mr. Barnhart asked if the City's code allows for the consideration of how a particular business may impact the health and welfare of citizens. Mr. Guerra said the code regulates land use and zoning only, not social issues. Mr. Barnhart asked if Council can put additional conditions on the use. Mr. Guerra said yes, but they must comply with the code. Mr. Barnhart said it appears that over 20 states in the country don't permit payday lenders, and he would like to know the reasons why. He wants the legislation held in committee for further discussion.

Mrs. Hummel said this is a legally permitted business in the state of Ohio. Conditional issues must be zoning and site related.

Mr. Arrington agreed with Mr. Funk and Mr. Guerra. The City's zoning code does not regulate businesses based on moral or social issues. If Ace Cash Express complies with the code, the City doesn't have a legal right to refuse them.

Mr. Walters asked if the number of such businesses can be limited within the City. Mr. Guerra said these businesses are permitted in C-1 districts (Howe Ave. and Graham Rd.) only, but it may be difficult to limit the number. There are currently six in the City. Mr. Funk said the applicant applied under the current code which has no numeric limitation.

Mrs. Ritzinger said that although this may not be the kind of business people want in the community, the company has met all zoning requirements. Mrs. Klinger said she doesn't celebrate the coming of these kinds of businesses into the City, but she will base her vote on the law. She requested a legal opinion for the interpretation of item #3 under Section D Review Criteria in Chapter 1113.08 of the Code. Mr. Arrington asked that the request be submitted in writing.

Mr. Mader said that Council is bound by state laws that need to be readdressed. It appears that these types of businesses can create social problems in the community. He would also like a legal opinion from the Law Director.

Planning Commission Ed Davidian spoke in opposition to the ordinance. He wants the City to take on these "loan shark" businesses and stop their proliferation. He distributed a written report to Council members which provides statistical data on payday lenders and the borrowers who use these companies. He urged Council to hold the legislation and set up a commission to study the issue further.

Chris Stranahan, owner of Wild Birds Unlimited at 597 Howe Avenue, presented letters to Council written by tenants in the Staples plaza who oppose the ordinance. He said there are already twelve check cashing businesses within a 2-mile radius of the proposed site. These types of businesses are a deterrent to the retail environment and should be discouraged.

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Mrs. Pyke said that Planning Commission member Mary Myers had expressed concern about

increased crime resulting from these types of businesses. She asked Mr. Guerra if that could be considered a mitigating factor. Mr. Guerra said it would fall under the authority of the Law Department.

Mrs. Hummel said the legislation will be held in committee for further discussion.

The meeting adjourned at 7:25 p.m.

