



CITY OF HAYWARD
AGENDA REPORT

Planning Commission

Meeting Date ~~05/19/05~~

06/09/05

Agenda Item 1

TO: Planning Commission

FROM: Arlyne J. Camire, AICP, Associate Planner

SUBJECT: Use Permit PL-2005-0123 – Ken Johnson (Applicant), John Kim (Owner): Request to Operate a Payday Loan Facility.

The Property Is Located at 24457 Mission Boulevard, Neighborhood Commercial-Residential (CN-R-SD-2) District

RECOMMENDATION:

Staff recommends that the Planning Commission:

1. Find that the project is Categorically Exempt from CEQA pursuant to Section 15301, Class (b), Class 1, Existing Facilities; and
2. Approve the application subject to the attached findings and conditions of approval.

DISCUSSION:

The applicant proposes a payday loan facility to be called Monterey Financial Center. It would occupy a 1,800-square-foot tenant space in a single-story, stucco building built in 1959. Other tenants include beauty salons, a jewelry shop, an insurance office, and a martial arts supply store. The adjacent properties to the west contain single-family homes in the *Single-Family Residential District*. The properties to the north that are developed with single-family homes, will be redeveloped with a project containing six residential condominium units and a 7,200-square-foot restaurant approved by the Planning Commission in September 2004. The property to the south contains a commercial building with Bobby Lee's Smoke House and Mission 99¢ and More. The properties to the east, across Mission Boulevard, contain La Hacienda Motel and Hungry Howies Restaurant. All commercial properties are located in the *Neighborhood Commercial-Residential (CN-R-SD-2) District* with the *Mission Corridor Special Design Overlay*.

The applicant, Ken Johnson would operate Monterey Financial Center with his wife and business partner Kelly Johnson. The services offered will include payday loans, cash advances, tax preparation, credit counseling and investment assistance. They would offer their customers an alternative to major financial institutions while providing similar services. A payday advance provides a small, unsecured, short-term cash advance until payday. Customers would pay a fee for this service. Loans are made only to customers with an active checking account and a regular income. A customer writes a personal

check for the advance amount plus a fee. In return, the customer receives the advance on an ATM cash card.

According to the Police Department, because borrowers do not leave a payday loan business with cash in hand but rather with an ATM card or check, the facilities do not generate calls for service. Unlike payday loan businesses, check cashing businesses usually generate calls for service because customers leave with cash in hand and there is a greater chance of robbery.

A payday loan business is a conditional use in the *Neighborhood Commercial-Residential District*. Conditional approval is required to assure that this use is permitted where there is a community need, and to assure that the use is in harmony with the area and with City policies. There are currently six payday loan businesses that are licensed as deferred deposit originators by the State of California, Department of Corporations (Attachment C). These businesses are not concentrated in one area but rather located throughout the city.

The General Policies Plan Map designates this property as *Commercial/High Density Residential*. This designation is used to indicate areas where resident serving commercial and residential mixed use projects are encouraged and used as a redevelopment revitalization tool along the Mission Boulevard Corridor. The proposed payday loan business is consistent with the Zoning District and General Plan.

The property requires maintenance and alterations to bring it into compliance with current City standards. The paint on the building has faded and there is graffiti on the roof top equipment. Air conditioning units above the front doors of four units are dilapidated. At one time, there were cloth awnings in both the front and the rear of the building. The front awnings have been removed; however the rear awnings remain with one bare awning frame. Electrical wiring is exposed along the rear wall of the building. The striping of the parking space for persons with physical disabilities has faded. Conditions of approval would require repair, replacement or correction of these items. A non-conforming pole sign and an illegal banner that is fastened to the exterior wall of the building would be required to be removed. There is a land-to-sea storage container in the parking lot that is to be removed since outdoor storage is not permitted. A chain-link fence encloses the rear parking lot and has been modified or partially covered with a wood fence by the adjacent residences to provide privacy for their yards; a condition of approval would require the replacement of the chain-link fence by a solid masonry wall.

ENVIRONMENTAL REVIEW

The project is exempt from environmental review as defined by the California Environmental Quality Act (CEQA) guidelines Section 15301, Class 1, (a), Existing Facilities. The prior tenant was Acme Trophies but the space is currently vacant. Monterey Financial Center would lease the space and make minor tenant improvements that would not involve an expansion of the building.

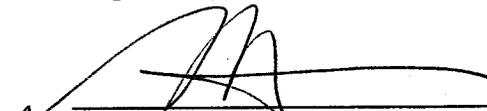
PUBLIC NOTICE

On March 15, 2005, a Referral Notice was mailed to every property owner and occupant within 300 feet of the subject site, as noted on the latest assessor's records. Notice was also provided to the Chamber of Commerce and to the members of the Mission-Foothill Neighborhood Taskforce. Staff received one email in opposition to the project from a resident who would rather see the site redeveloped (Attachment D). The Police Department is not opposed to the use with the recommended conditions of approval. On May 9, 2005, a Notice of Public Hearing for the Planning Commission meeting was mailed. No additional public comments have been received.

CONCLUSION:

The use is compatible with the General Plan and the Neighborhood Commercial-Residential District. As conditioned, it would have little or no impact on the adjacent commercial establishments or the single-family residences. The business would provide a convenient alternative to services offered by traditional banking institutions. Therefore, staff recommends approval of the use permit application.

Prepared by:



Arlyne J. Camire, AICP
Associate Planner

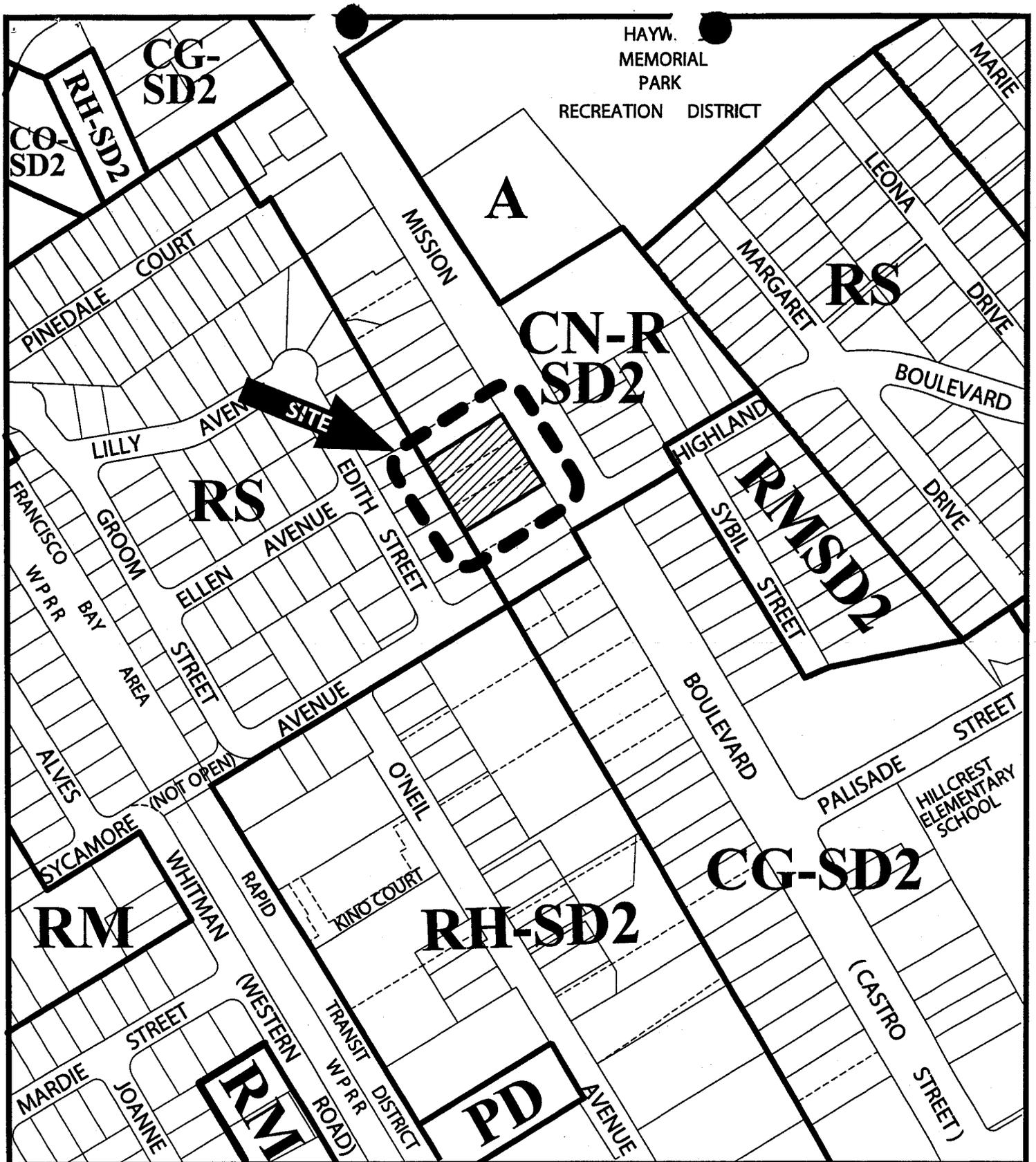
Recommended by:



Dyana Anderly, AICP
Planning Manager

Attachments:

- A. Area Map
- B. Floor Plan
- C. Business Plan
- D. Findings for Approval
- E. Conditions of Approval
- F. Email in Opposition dated March 25, 2005
Map of Payday Loan Business Locations



HAYW.
MEMORIAL
PARK
RECREATION DISTRICT

Area & Zoning Map

PL-2005-0123 UP

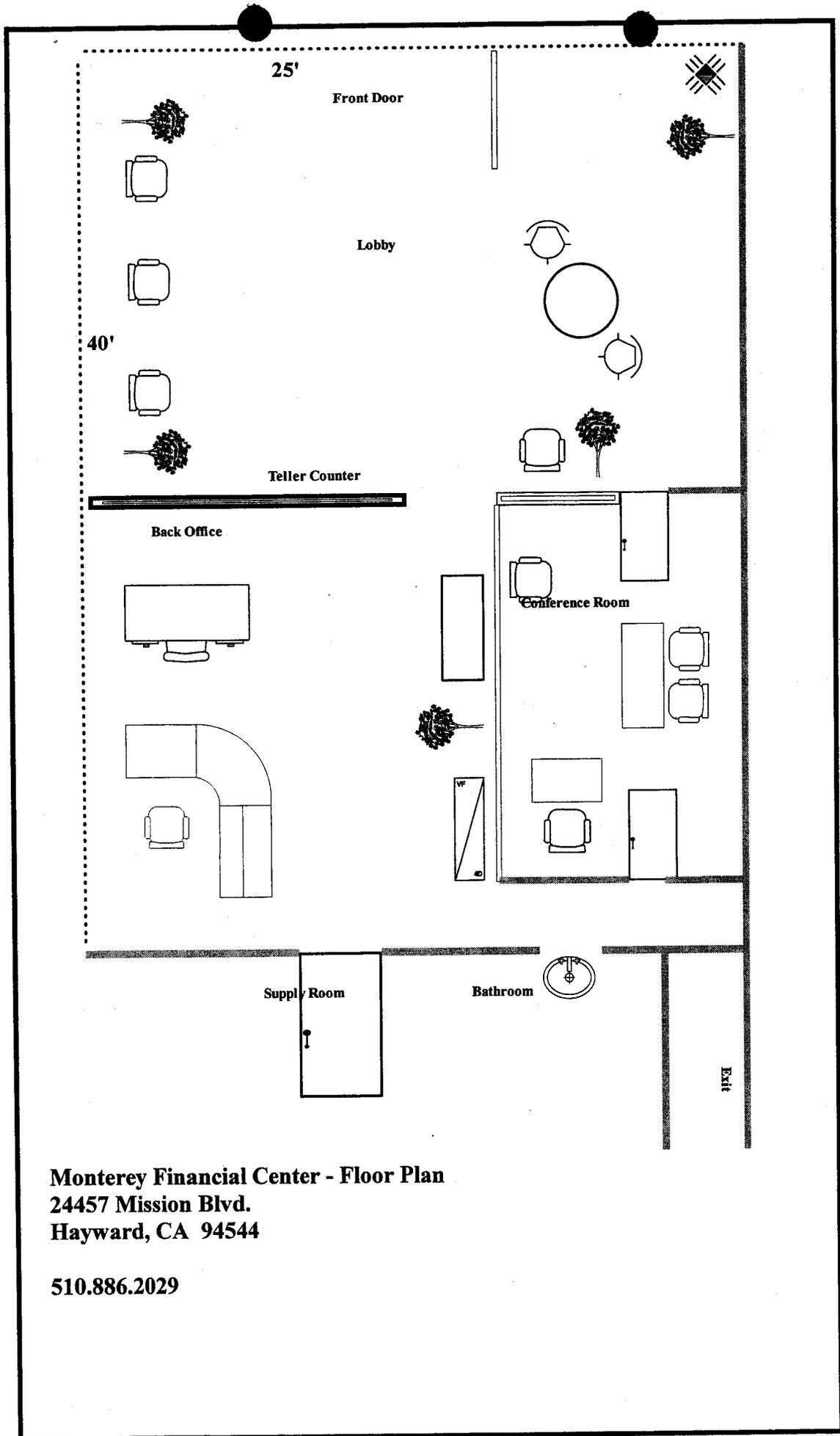
Address: 24457 Mission Blvd.

Applicant: Ken Johnson

Owner: John Kim

- A-Agricultural
- CG-General Commercial
- CN-R-Neighborhood Commercial-residential
- CO-Commercial Office
- PD-Planned Development
- RH-High Density Residential RHB 7
- RM-Medium Density Residential RMB 3.5, RMB 4
- RS-Single-Family Residential,RSB4,RSB6
- SD-Special Design





Monterey Financial Center - Floor Plan
24457 Mission Blvd.
Hayward, CA 94544

510.886.2029

Statement Of Purpose

A recent poll indicated that average household expenditures were some \$3,000 to \$4,000 greater than the household's income (take home pay) in 2003. Consumers are stretching their pay checks and creating a pent up demand for short term payday loans.

As the banks are tightening their lending policies, a vacuum effect is being created in the short term lending industry. The payday loan business is in the midst of a radical transformation. In just a decade, the number of payday loan outlets in the U.S. and Canada has more than tripled as more and more people have found a level of convenience and service not available from traditional banks and finance companies.

This new form of loan has rapidly been embraced by consumers, filling a vacuum that has long existed for small, short-term loans (loan amounts in the \$100 - \$500 range, usually for a term of a few weeks). With this new product, the industry is achieving new levels of profitability and attracting customers in the higher income brackets. Wall Street and the investment community have also begun to take notice of this industry. This is also evidenced by the entry of Republic Bank & Trust and Wells Fargo Bank to this industry.

Mission

To provide our present and future clientele with the highest level of financial and non-financial services including; cash advances, tax preparation, credit counseling, and investment assistance while provide unparalleled customer service at an easily accessible and convenient location.

Company Overview

Monterey Financial Center is a new company founded in October 2004. The company provides short term loans and a suite of financial services. The financial services we offer will give the underserved consumer access to services traditionally offered only by major financial institutions.

Pursuant to requirements of Federal law, including the USA PATRIOT Act, customers are required to provide identifying information prior to opening an account. These include name, date of birth (for an individual), address and identification number. However, based upon an assessment of risks, we may require a customer to provide additional information to establish the customer's identity.

Business

Payday advance provides a small, unsecured, short-term cash advance until payday. Customers choose pay day advances to cover small expenses and avoid costly bounced check fees or late payment penalties and other less desirable short term credit options. A customer with an active checking account and regular income simply:

- Reads and signs an agreement that discloses transaction terms.
- Writes a personal check for the advance amount plus a fee, and
- Immediately receives the advance in the value of an ATM cash card.

Through BrightScape Investment Services (a Fidelity Institutional Brokerage Partner); Monterey Financial Center is in the process of obtaining a partnership agreement to provide investment advice and securities to its clientele. All advisors will hold an NASD Series 65 Investment Advisor

License. Monterey Financial Center currently has on staff a Series 7, 63, and Life and Health Licensed professional.

Additionally, Monterey Financial Center will offer tax preparation services and credit counseling services to its new and existing clients.

As the company grows, we will look for residents in the local community for future potential openings. This will include training and licensing.

Product/Service

Monterey Financial Center will provide the following products and services; payday advance loans; portfolio review assistance (Mutual Funds, IRA's), and tax preparation.

Our products and services are unique as we will be entering the market with a new innovative feature for the payday advance industry. We will be utilizing ATM cash cards in lieu of cash and provided an office environment that is more in line with a traditional financial services office. Our office will not contain bullet proof glass and cold sterile floors. Our goal is to bring true financial services to customers that do not have access to trained investment professionals.

Our professional investment advice and services will allow a market that has been underserved to share in the quality investment planning usually only offered to clients with portfolios over \$500,000.

Competition

We compete directly with Wells Fargo Bank, Cash America, ACE Cash Express, Check N Go, ACA Financial, and other small independent providers. However, we offer alternatives to our product in the marketplace which we feel will provide a distinct advantage to our offering.

Risk

The greatest risks we have in our business today are default risks. We feel we can overcome these risks by partnering with Teletrack. We will be utilizing Teletrack's new Decision Manager in our underwriting guidelines. Decision Manager is a service developed exclusively for the payday advance industry to bring consistency and speed to the approval-denial process. Instead of educated guessing, we will submit the application information to the Teletrack system as part of the regular inquiry process. Once in the system, the applicant's information is compared to Teletrack's data and analyzed against a predictive scorecard. In a matter of seconds, the system will provide a decision recommending the approval or denial of the application.

Management Team

Our team consists of men and women who have a combined forty plus years of experience. Our management team has direct experience in banking, securities, credit, management, and customer service. The management team will also be assisted by legal and marketing professionals that are currently acting as consultants.

Financial Plan

We will maintain a conservative financial strategy, based on developing capital for future growth.

FINDINGS FOR APPROVAL
Use Permit Application No. PL-2005-0123
Ken Johnson(Applicant)
John Kim (Owner)
24457 Mission Boulevard

- A. The approval of Use Permit Application No. PL-2004-0123 will not have a significant impact on the environment, cumulative or otherwise. The project is Categorically Exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Section 15301, Existing Facilities, Class 1(a), Minor Alterations.
- B. The proposed payday loan business is desirable for the public convenience or welfare in that this facility will offer services that traditional financial intuitions offer but will be located in a convenient neighborhood retail center.
- C. The proposed payday loan business will not impair the character and integrity of the zoning district and surrounding area in that this is a use that will serve local residents which meets the intent of the Neighborhood Commercial-Residential District.
- D. The proposed payday loan business will not be detrimental to the public health, safety, or general welfare in that the use is compatible with surrounding uses and it is not in an area that has a concentration of payday loan businesses.
- E. The proposed payday loan business is in harmony with applicable City policies and the intent and purpose of the zoning district involved because convenient personal services are the types of services encouraged in the Neighborhood Commercial-Residential District.

CONDITIONS OF APPROVAL
Use Permit Application No. PL-2005-0123
Ken Johnson(Applicant)
John Kim (Owner)
24457 Mission Boulevard

1. Use Permit Application No. PL-2005-0123 is approved subject to the conditions listed below which must be satisfied prior to occupying the building. This approval is void one year after the effective date of approval unless the business has been established in accordance with these conditions of approval or unless an extension is approved. Any modification to this permit shall require review and approval by the Planning Director. All conditions shall be met prior to commencement of operations and prior to the issuance of a business license. A request for a one-year extension-of-time, approval of which is not guaranteed, must be submitted to the Planning Division at least 30 days prior to May 19, 2006.
2. The property owner and applicant shall maintain in good repair all building exteriors, walls, lighting, drainage facilities, landscaping, driveways and parking areas. The premises shall be kept clean and free of litter and weeds. Any graffiti painted on the property shall be painted out or removed within seven days of occurrence. Any litter, weeds and graffiti shall be removed and the building shall be painted to the satisfaction of the Planning Director.
3. Air conditioning units located above the front doors shall be relocated to the satisfaction of the Planning Director.
4. The existing pole sign and structure, and the insurance banner on the south side of the building shall be removed. A master sign program is required to be submitted by the property owner prior to issuance of any additional sign permits. Any sign installed for the payday loan business, shall meet the requirements of the approved master sign program. All window signs shall not exceed twenty-five percent of the area of each window.
5. Outdoor storage is prohibited. The land-to-sea container shall be removed.
6. The handicapped parking space is required to be striped and identified to City Standards and to the satisfaction of the City Engineer.
7. The property owner shall replace the missing awning on the rear of the building. If front awnings are reinstalled, approval by the Planning Director is required.
8. A trash enclosure shall be installed to the satisfaction of the Planning Director and the Solid Waste Manager. The property owner or applicant shall contact Vera-

Dahle-Lacaze, Solid Waste Manger to determine the required size for the commercial center.

9. The chain link fence at the rear of the property shall be removed and replaced with a decorative, six-foot masonry wall to be approved by the Planning Director.
10. All exterior exposed wires shall be encased to the satisfaction of the Building Official and the Planning Director.
11. The applicant shall be licensed by the State of California Department of Corporations.
10. Violation of these conditions is cause for revocation of this modification of Use Permit after public hearing before the duly authorized review body.

From: Dandanfritz@aol.com
Sent: Friday, March 25, 2005 12:17 AM
To: Arlyne Camire
Subject: pay day loan facility at 24457 Mission Blvd

Dear Arlyne, My name is Dan France and I have lived at the corner of Sycamore/Oneill Aves for 31 years now! It is my belief that no more permits to operate should be granted for this property at all, since, the entire strip mall in my opinion should be torn down. The reasoning being, all the shops/buildings are run-down, ugly, too close to Mission Blvd, and to keep these businesses going in their present condition/position would be against Hayward's general redevelopment/beautification plan, wouldn't it? Now I don't have anything against these businesses, matter a fact I get my haircuts at Sue's, but it time to think about improvement for the good of the city and all its residents. But after saying all that, we especially don't want to permit a ""pay day loan"" business to occupy there because of the type/ and quality of the people this kind of business would attract and, its bad enough around here so, why willingly make it worse? My 2-cents-thank you very much, Dan France

**DUE TO THE LENGTH OR COLOR
OF THE REFERENCED EXHIBIT,
IT HAS BEEN ATTACHED AS A
SEPARATE LINK.**

The attached letters were submitted after preparation of the staff report.

May 31, 2005

To Whom It May Concern:

I Josue Martinez, Live at 24472 Edith St. Hayward, And I would like to request for the owner of the property at 24457 Mission Blvd. In Hayward, to please build an 8-foot fence, Because you can see from their parking lot into our house and yard since my house is built on lower grounds and the parking lot is build on higher grounds,with the 6 foot fence you could still see into the lot and my yard, not to mention all of the homeless people sleeping in the lot and all of the illegal activities also. I have witnesses that could vouch for these activities, I do not want my children to be exposed to this kind of environment. Since the city of Hayward requires that home have fences no higher than 6 feet that's why I'm requesting that the fence would be built on parking lot of the property. And that address is 24457 Mission Blvd. And this is not only for me it's for the safety of my kids and home. Thank you for your time and concerns of this matter. If you have any questions please feel free to call me at 510-258-7432

Sincerely,

Josue Martinez

Abel Camacho

Josue Martinez

RECEIVED

MAY 31 2005

PLANNING DIVISION

Patricia A. Kim
24453 Mission Blvd.
Hayward, CA 94544

Planning Commission
City of Hayward

Re: Use Permit for 24457 Mission Blvd.

Dear Members of the Planning Commission:

I am writing in response to the Agenda Report we received in connection with Ken Johnson's application for a use permit at 24457 Mission Blvd. We would like to kindly request that you approve Ken Johnson's use permit, and allow us additional time to discuss and perform the improvements to our property that you have requested.

As you might be aware, Ken Johnson began leasing the unit identified as 24457 Mission Blvd beginning in February of this year. He has spent much time and money in improving the inside of his unit and planning for the opening of his business. We hope that the Planning Commissioners feel as we do that it would be unfair to Ken Johnson to have him wait for these improvements to be completed prior to the opening of his business. We ask that the Planning Commissioners approve his use permit immediately as long as the mutually agreed upon improvements are made within the next 1 to 12 months.

We would also like the Planning Commissioners to consider our history with the City of Hayward. As Hayward natives ourselves, all three of us as owners were raised in Hayward and have opened business in Hayward for over several decades and obviously care about the vitality of the City of Hayward. Even before receipt of the Agenda Report, we have been planning on ways to improve the appearance of our property. In June, 2005 we are planning to present to the City of Hayward a proposal to add wood trimming to the top portion of the building similar to the Togo's building on Jackson and the Wendy's building on Mission Blvd. This will improve the overall look of the front façade of the building and provide an area for proper signage for our tenants. In addition, we will be spending money on replacing the roof on our building. Please refer to pictures attached.

Though the overall real estate market has been vibrant in California, we have not had that experience over the last two years in the City of Hayward. In fact, last year was the lowest in terms of rental receipts for our property. We had two units vacant for over one year and have had an extremely difficult time in finding qualified tenants. We hope that the Planning Commissioners will take into consideration that we have saving to fund our own plans to improve the property and am open to spending some additional unplanned amount to meet the Commissioners' requests to further improve the property. We have proposed some modifications as listed below and hope the Commissioners will consider them deeply.

1. Request to remove the storage container in the parking lot – we have talked to the tenant and we will remove it by August 31, 2005.
2. Request to replace the chain-link fence enclosing the rear parking lot with a masonry wall – We assume that the Planning Commissioners are making this request as a way to provide more privacy for the residences in the back area of our property. We request that the Planning Commissioners consider having us erect a wood fence in place of the chain link fence. This will provide added privacy to our neighbors and will be less economically burdensome for us. We propose replacing the chain link fence that the middle residence has with a wood fence that will line up with the other wood fencing that the other two residences have already erected. This will belong to the existing owner of the residence and will be more uniform in appearance with the neighboring residences and provide the privacy desired. Also we found that there are wood fences allowed between businesss and residences next to our building at 24241, 24245 Mission Blvd. and 24261 to 24293 Mission Blvd. Please refer to pictures attached.
3. Request to remove graffiti on the roof top equipment – we were unaware of the graffiti and will have the graffiti removed by 6-15, 2005.
4. Request to re-stripe the parking space for persons with physical disabilities – we will have the striping repainted by 6-15-05.
5. Request to remove the pole sign and illegal banner fastened to the exterior wall of the building – We have contacted the tenant who has fastened the banner and they will remove it by 6-9-05.. Regarding the pole sign, we ask the Planning Commissioners to reconsider this request. It is going to be extremely costly and the pole is currently being used to support our gate entrance. It displays “ Parking in Rear”, so nothing is special to this pole. In addition, this pole has been on the building for many years and is no larger, no higher or of less quality than others in the neighboring area. We have included photos of similar signs for your review and request this requirement be removed.
6. Request to remove the air conditioning units located above the front doors – These air conditioning units are individually owned by each tenant and are the only source of air conditioning for these units during the hot summer months. Please allow the existing tenants to continue using their air conditioning units to do their businesses even during Hot Summer Months. Otherwise they may not be able to continue their businesses. Please help us.
7. Request to replace the missing awning on the rear of the building – the wire frame for the missing awning in the rear of the building will be removed by 6-9-05.

8. Request to construct a trash enclosure – we will build an enclosure at the corner of the North-West side of the back of the property. We ask the Planning Commissioners to allow us to wait until the neighboring unit has constructed a dividing wall. Then, we can properly place the trash enclosure in a more private area of the property. They have already received a construction permit from the City of Hayward but they have for some reason not started construction yet. We would like to wait until they build a dividing wall between their property and ours. Then we can properly place the trash enclosure in a more private area of the property.

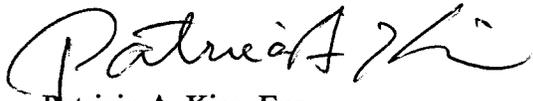
9. Request to cover the exposed wiring- The wires you mentioned are all telephone Wirings.

We will construct a box to hide those wires inside of that box by 7-31-05.

Thank you for your time and consideration. Again, we hope the Commissioners will approve Ken Johnson's use permit and will allow for more time to review our requested modifications and hope that the Planning Commissioners will be amenable to working together to improve our property so that we can contribute to the Hayward community.

If you have any questions, please feel free to contact me at 650.704.9288.

Sincerely,



Patricia A. Kim, Esq.