



AGENDA ITEM EXECUTIVE SUMMARY

Title:	Consideration of a Downtown Overlay Office Certification Appeal for ALE Solutions- 1 Illinois St.
Presenter:	Russell Colby

Please check appropriate box:

	Government Operations		Government Services
X	Planning & Development – (4/14/14)		City Council
	Public Hearing		

Estimated Cost:	N/A	Budgeted:	YES		NO	
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If NO, please explain how item will be funded:

Executive Summary:

Background:

In November 2013, the City Council approved an amendment to the Zoning Ordinance to modify the Downtown Overlay District requirements to allow for certain types of office uses to occupy the ground floor of buildings, subject to receiving an Office Certification for each specific business. The certification process requires the business to provide information to demonstrate it will meet certain criteria and therefore meet the purpose of the Downtown Overlay District, which is to allow for businesses that generate pedestrian activity and businesses that are compatible with a pedestrian oriented shopping area.

ALE Solutions is located in the Fox Island Square Building, 1 Illinois St., and their offices occupy the entire second and third floors of the building. ALE began occupying Unit #120 on the ground floor of the building earlier this year. Staff became aware of the business occupying the ground floor space in early February and sent a letter to the property owner, Shodeen, and ALE Solutions CEO Robert Zimmers informing them that an Office Certification was required for the business to occupy the ground floor unit.

Office Certification:

ALE Solutions submitted a request for Office Certification on Feb. 28, 2014. Correspondence between ALE Solutions and City Staff is attached. Staff concluded on March 21, 2014 that the information submitted was not sufficient to demonstrate that the business would meet criteria “b”, that the function of the business conducted in Unit #120 is to primarily provide services to customers that are physically present.

Appeal:

The Zoning Ordinance provides for an appeal process for an Office Certification request that has been denied by staff. ALE Solutions has requested an appeal of the staff decision.

The ordinance states that the City Council shall only consider the criteria listed in the ordinance and may uphold or reverse the decision of the Director of Community & Economic Development. The criteria is attached.

Attachments: *(please list)*

Office Certification Ordinance text, Correspondence between the City and ALE Solutions.

Recommendation / Suggested Action *(briefly explain):*

Consider the Downtown Overlay Office Certification Appeal for ALE Solutions- 1 Illinois St.

<i>For office use only:</i>	<i>Agenda Item Number: 5d</i>
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BUSINESS AND MIXED USE DISTRICTS

CBD-1 District. However, development in this district is also intended to retain a pedestrian-oriented character, similar to that of the CBD-1 District.

F. **Downtown Overlay District**

The purpose of the Downtown Overlay District is to preserve the economic vitality and pedestrian character of downtown’s shopping core within the CBD-1 and CBD-2 Districts by encouraging the continuous flow of pedestrian movement. This is accomplished by limiting uses on the first floor that typically generate relatively little pedestrian activity or are otherwise incompatible with a pedestrian oriented shopping area. Only those uses listed in Table 17.14-1 shall be permitted on the street level or first floors of buildings/structures within the Downtown Overlay District.

17.14.020 Permitted and Special Uses; Downtown Overlay Exemptions

- A. Table 17.14-1 lists permitted and special uses for the business districts, and for the first floor level of the Downtown Overlay District.
- B. Buildings within the Downtown Overlay District are restricted with respect to the uses permitted on the first floor level, as provided in Table 17.14-1.

- 1. Exemptions. Notwithstanding these restrictions, the first floor level of a building within the Downtown Overlay District may be occupied for any use permitted within the underlying zoning district (i.e., CBD-1 or CBD-2), upon certification by the Director of Community Development that its physical characteristics make it unsuitable for occupancy for any of the first floor uses permitted within the Downtown Overlay District, and that altering such physical characteristics would either 1) be incompatible with the purpose of Chapter 17.32 (Historic Preservation) of this Title or 2) impose an undue financial burden on the property owner. Such physical characteristics may include but shall not be limited to: inappropriate placement, size or orientation of doors or windows, a floor level which is not of a similar elevation to the adjoining sidewalk, lack of window area for display of goods, lack of street frontage, and interior space which is not adaptable to the permitted uses because of structural components or limitations on accessibility. For purposes of this section, an undue financial burden shall mean where the estimated cost of altering the building exceeds 25% of the current appraised value of the property.

- 2. Certification for Office Use. The first floor level of a building within the Downtown Overlay District may be occupied by certain office uses (Bank, Financial Institution, Office-Business and Professional, and Medical/Dental Clinic) upon certification by the Director of Community Development that the proposed office use will meet the purpose of the Downtown Overlay District, as identified in Section 17.14.010.F, to generate pedestrian activity and be compatible with a pedestrian oriented shopping area. To be eligible for the certification, a property owner must demonstrate that the property has been vacant, not under lease, and publicly listed for lease for a minimum of 180 days by providing documentation demonstrating the space was listed on a public listing service.

The proposed office user shall demonstrate that the following criteria will be met:

- a. The business will be open to the general public during normal business hours and may require that customers make an appointment for service.
- b. The primary function of the business establishment will be to provide direct services to customers that are physically present.
- c. The interior space of the business will be configured such that a) the street-level storefront entrance will serve as the public entrance and b) a reception area or waiting area for visitors will be provided directly accessible from the public entrance.
- d. Street-facing storefront windows and doors will not be obstructed at any time and shall be utilized to provide a view of the interior office visible to pedestrians on the street. Illuminated exterior signs and the interior of the storefront shall be illuminated during evening hours.

A Certification for Office Use shall apply to the specific business only. A new Certification for Office Use shall be required for any new business to occupy a space. The Certification



BUSINESS AND MIXED USE DISTRICTS

for Office Use may be revoked if the Director of Community Development finds the business is not operating in accordance with the certification.

3. Appeal. If a property owner or business tenant has formally requested an Exemption or a Certification for an Office Use pursuant to subsections “a” or “b” above, and if the request has been formally denied by the Director of Community Development, the property owner or business tenant may request an appeal of the decision before the City Council. The City Council shall consider only the criteria listed above and may uphold or reverse the decision of the Director of Community Development.

(Ord. 2013-Z-20 § 2.)

17.14.030 Bulk Regulations

Table 17.14-2 establishes the Bulk regulations for the business districts.



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March 21, 2014

Robert Zimmers
CEO, ALE Solutions
1 W. Illinois St.
St. Charles, IL 60174
Sent via email to robert.zimmers@alesolutions.com

Re: Request for Office Certification for ALE Solutions, for 1 W. Illinois St., Unit #120

Mr. Zimmers:

City staff has completed a review of your request for Office Certification submitted on Feb. 27, 2014, and with additional information submitted on Mar. 13, 2014. The information provided is not sufficient to demonstrate that the business will meet the criteria for Office Certification listed in Section 17.14.020(B)(2) of the Zoning Ordinance. Therefore, the Office Certification request has been denied.

Specifically, the information submitted to address Criteria "b" does not provide sufficient documentary evidence to demonstrate that the function of the business in Unit #120 is to primarily provide services to customers that are physically present, either as regular walk-ins or by appointment. Additionally, City staff has observed the property at various times during the business day and has not observed customers entering or exiting the north entrance door to Unit #120.

The Zoning Ordinance allows an option to appeal this decision before the City Council. The City Council may only consider the criteria in the ordinance and may uphold or reverse staff's decision. To request an appeal, please submit a written request to the Community & Economic Development Department by April 3, 2014. The request will then be scheduled for review by the Planning & Development Committee of the City Council at their meeting on April 14, 2014 at 7:00pm. At the meeting, you will have an opportunity to directly address the Committee.

If you choose not to file a request for appeal, a Notice of Zoning Violation will be issued on April 4, 2014, requiring the business to vacate the space in 30 days.

The City appreciates your business being located in the community, but must enforce the regulations of the Zoning Ordinance. If you have questions, please contact either Russell Colby or myself at (630) 377-4443.

Sincerely,

Rita Tungare, AICP
Director of Community & Economic Development

Cc: Bob Vann, Building & Code Enforcement Division Manager
Russell Colby, Planning Division Manager

RAYMOND P. ROGINA *Mayor*
MARK KOENEN, P.E. *City Administrator*



March 13, 2014

Rita Tungare
Director Community Development
Saint Charles Municipal Government
2 East Main Street
Saint Charles, IL 60174

Re: Application for Certification of Office Use - Supplemental Information From ALE

Dear Mrs. Tungare,

Thank you for the opportunity to provide the additional information you need to evaluate our Office Use Application.

a. Please provide detail on typical business hours and what types of customers are coming to the business, for what purpose, and for what duration of time.

The business hours for Unit 120 will be from 8:00a to 5:00p Monday through Friday. Suite 120 will function as ALE's general reception area for all guests and for serving the portion of our business where our housing specialists meet directly with customers. ALE provides temporary housing services to the general public. The time customers and other visitors spend with us vary from minutes to hours depending on their particular needs.

b. Please provide documentation to demonstrate that the primary function of the entire unit is to serve customers that are physically present. Provide information on how each area of the unit is being utilized.

The floor plan shows the location of (14) ALE housing service specialists and a customer reception area. Not unlike a real-estate or a travel agency office, our agents will directly serve clients both by phone and in person by appointment or as a walk-in. The primary function of this unit will be to serve ALE customers in person but I cannot attest that it will be the exclusive function of the "entire unit" at all times.

c. Please provide information on the layout of the space.

Please see attached an existing floor layout. Not shown are the existing bathroom, break area and closet.

d. What door is functioning as the storefront business door? How are customers directed to access the business?

CORPORATE HEADQUARTERS
One West Illinois Street
Suite 300
Saint Charles, Illinois 60174

LOCAL PHONE
(630) 513-6434
TOLL-FREE PHONE
(866) 885-9785
FACSIMILE
(866) 814-6832

www.alesolutions.com

The functioning main entrance remains unchanged and provides direct access from the sidewalk (please reference attached layout). Customers will be directed to the entrance by illuminated signage over the storefront windows that conform to the specifications set forth by the landlord and similar in size and style to the other first floor building tenants. The signage has not yet been installed pending the outcome of this application.

I hope you find the additional information I provided in this letter to be is sufficient for you to make a determination on my application. If I have left anything out, please do not hesitate to contact me again.

Sincerely,

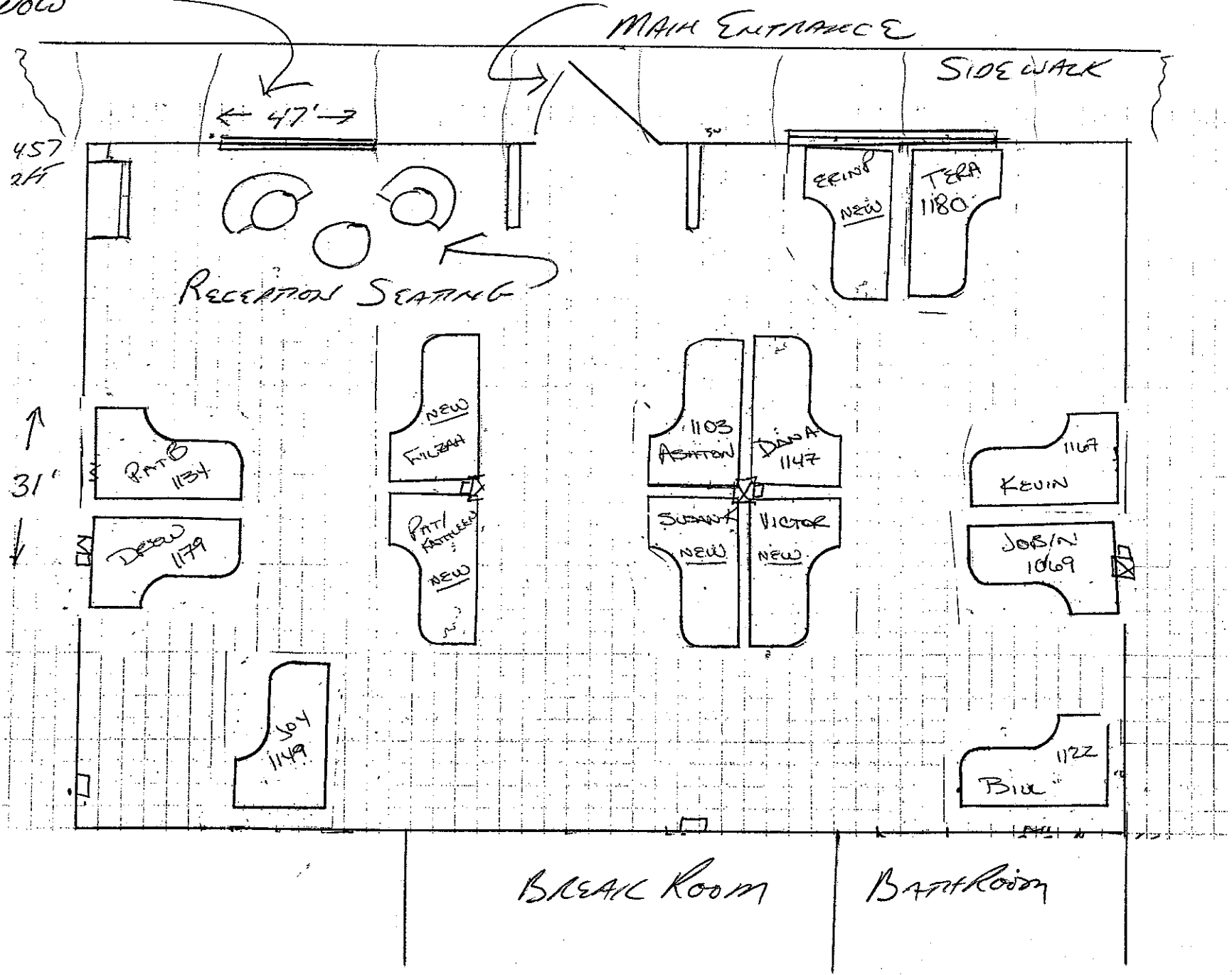
A handwritten signature in black ink, appearing to read 'Robert Zimmers', with a long horizontal flourish extending to the right.

Robert Zimmers
CEO, ALE Solutions, Inc.

Fox Island Square Suite 120

EXTERIOR LIGHT
SIGNAGE OVER
WINDOW

PARKING LOT



↑
N



#1 City for Families
by FamilyCircle® 2011

March 7, 2014

Robert Zimmers
CEO, ALE Solutions
1 W. Illinois St.
St. Charles, IL 60174
Sent via email to robert.zimmers@alesolutions.com

Re: Request for Office Certification for ALE Solutions, for 1 W. Illinois St., Unit #120

Mr. Zimmers:

We have reviewed your request for Office Certification submitted on Feb. 27.

Based on the letter, you have not submitted adequate information to demonstrate that your business will meet the required criteria, and without further substantiation, the request will be denied.

Regarding the criteria, please provide the following additional information:

a. The business will be open to the general public during normal business hours and may require that customers make an appointment for service.

Please provide detail on typical business hours and what types of customers are coming to the business, for what purpose, and for what duration of time.

b. The primary function of the business establishment will be to provide direct services to customers that are physically present.

Please provide documentation to demonstrate that the primary function of the entire unit is to serve customers that are physically present. Provide information on how each area of the unit is being utilized. A floor plan could be beneficial to document this information.

c. The interior space of the business will be configured such that a) the street-level storefront entrance will serve as the public entrance and b) a reception area or waiting area for visitors will be provided directly accessible from the public entrance.

Please provide information on the layout of the space.

d. Street-facing storefront windows and doors will not be obstructed at any time and shall be utilized to provide a view of the interior office visible to pedestrians on the street. Illuminated exterior signs and the interior of the storefront shall be illuminated during evening hours.

RAYMOND P. ROGINA Mayor

MARK KOENEN, P.E. City Administrator

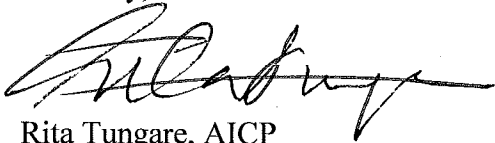
What door is functioning as the storefront entrance door? How are customers directed to access the business?

Please provide further information for review by March 14, 2014. If additional information is not provided by this date, the Office Certification will be denied and the City will need to issue a Notice of Zoning Violation for unlawfully occupying the ground floor space.

Additionally, if you believe a physical assessment of the space by City staff might supplement the requested information, please let us know.

If you have questions, please contact either Russell Colby or myself at (630) 377-4443.

Sincerely,

A handwritten signature in black ink, appearing to read "Rita Tungare", written over a horizontal line.

Rita Tungare, AICP
Director of Community & Economic Development

Cc: Bob Vann, Bldg & Code Enforcement



RECEIVED
St. Charles, IL

FEB 27 2014

CDD
Planning Division

August 24, 2011

Rita Tungare
Director Community Development
Saint Charles Municipal Government
2 East Main Street
Saint Charles, IL 60174

Re: Application for Certification of Office Use

Dear Mrs. Tungare,

ALE Solutions, Inc., is applying for a "Certification for Office Use" within the St Charles, IL Downtown Overlay District in accordance with Section 17.14.020(B)(2) of the zoning ordinance. The space we wish to occupy is suite 120 in the Fox Island Square (FIS) building located at 1 west Illinois Street.

ALE Solutions, Inc. was founded in St. Charles 13 years ago by Rowena Zimmers with the first office located in Suite 300 of the Fox Island Square (FIS) building. Rowena's company provides all manner of temporary housing for families that have lost use of their home due to a peril covered by their property insurance carrier. ALE has steadily grown where today it occupies all of the second and third floors of the FIS building. Drawing mostly from the St Charles area workforce, ALE has increased employment working from the FIS building to approximately (150).

ALE directly serves the housing needs of over 5,000 new families nationwide each month of which over 300 are local Northern Illinois residents. As ALE has grown, the daily foot traffic of customers, vendors and service providers has increased to the point (30+/day) where a first floor reception and customer service area is necessary. Suite 120 at 2,015 square feet is an optimal space for this purpose and in keeping with the spirit of generating additional pedestrian traffic to the benefit of all adjacent businesses.

Suite 120 meets the stipulation of a space that has been vacant for over 3 years despite continuous marketing efforts. The Fox Island Square retail spaces are somewhat unique among the other spaces in the Downtown Overlay District in that most of the spaces are set back from First Street or other retail thoroughfare. The two spaces that front First Street have a long occupancy history. In contrast, the remaining spaces in the building have a long history of vacancy. Currently only (3) units comprising 4,166 square feet are occupied of the 14,626 square feet available. ALE's modest presence on the first floor would arguably bring needed foot traffic and exposure to other nearby businesses.

Use and configuration of the space would be in full compliance with the criteria as follows:

- 1) The business would be open to serve the general public during normal business hours.
- 2) The public entrance will be unchanged from its existing configuration.
- 3) A reception area with seating will be provided for customers.
- 4) The Street-facing store front will remain unchanged and provide a view to the interior office and remain illuminated during evening hours.

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One West Illinois Street
Suite 300
Saint Charles, Illinois 60174

www.alesolutions.com

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FACSIMILE
(866) 814-6832

Thank you for considering ALE's application for Certification of Office Use. I believe that our intended use of Suite 120 meets both the expressed criteria of the zoning ordinance as well as the spirit of the ordinance. Employees and customers of ALE Solutions have a long history of patronizing downtown businesses and see our occupancy of Suite 120 as a furtherance of our contribution to the success of a thriving Downtown Overlay District.

Sincerely,



2/27/14

Robert Zimmers
CEO, ALE Solutions, Inc.



#1 City for Families
by FamilyCircle® 2011

February 12, 2014

Shodeen Management
77 N. First St.
Geneva, IL 60134

Re: ALE Solutions occupying ground-floor space in the Fox Island Square building, 1 Illinois St.

It has come to our attention that ALE Solutions is in the process of occupying Units 110 and 120 on the first floor of the Fox Island Square building located at 1 Illinois St.

Per the St. Charles Zoning Ordinance, this property is located in the Downtown Overlay District. Business and Professional Office uses are not permitted to occupy the first floor of any building in the Downtown Overlay District without an Office Certification for the specific business and tenant space. To request an Office Certification, you must submit a request to the Community Development Department and provide documentation demonstrating that the proposed business will comply with the Office Certification criteria listed in Section 17.14.020(B)(2) of the Zoning Ordinance.

If you have questions, please contact the Community Development Department at (630) 377-4443.

Sincerely,

Rita Tungare, AICP
Director of Community & Economic Development

c: Robert Zimmers, ALE Solutions

RAYMOND P. ROGINA *Mayor*

MARK KOENEN, P.E. *City Administrator*