

ZONING COMMITTEE STAFF REPORT

1. **FILE NAME:** Pawn America Minnesota **FILE #** 14-321-546
2. **APPLICANT:** Pawn America MN LLC/Payday America Inc. **HEARING DATE:** September 11, 2014
3. **TYPE OF APPLICATION:** Conditional Use Permit
4. **LOCATION:** 1891 Suburban Ave
5. **PIN & LEGAL DESCRIPTION:** 352922330009, Registered Land Survey 276 Subj To Rds; Tract C
6. **PLANNING DISTRICT:** 1 **PRESENT ZONING:** B3
7. **ZONING CODE REFERENCE:** §65.511, §65.531, §61.501, §61.502, §66.421
8. **STAFF REPORT DATE:** September 4, 2014 Updated September 11, 2014 * **BY:** Bill Dermody
9. **DATE RECEIVED:** August 20, 2014 **60-DAY DEADLINE FOR ACTION:** October 19, 2014

- A. **PURPOSE:** Conditional use permit for an alternative financial establishment and pawn shop, with modification of special conditions
- B. **PARCEL SIZE:** 210,395 square feet (4.83 acres)
- C. **EXISTING LAND USE:** C-Retail
- D. **SURROUNDING LAND USE:**
 - North: Interstate 94
 - East: Commercial (T2)
 - South: Wetland, with residential beyond (R2)
 - West: Commercial (B2)
- E. **ZONING CODE CITATION:** §65.511 lists conditions for alternative financial establishments; §65.531 lists conditions for pawn shops; §61.501 lists general conditions that must be met by all conditional uses; §61.502 authorizes the planning commission to modify any or all special conditions after making specified findings; §66.421 lists permitted and conditional uses in business districts including B3.
- F. **HISTORY/DISCUSSION:** In 2009, the Board of Zoning Appeals granted a variance for the auto dealership that formerly occupied the site to permit a freestanding pylon sign with electronic display within 660 feet of another electronic message sign (ZF# 09-305-725), but the decision was overturned by the City Council on appeal in January 2010 (ZF# 09-330-789). The site received conditional use permit (CUP) approval in 2011 for a pawn shop (ZF# 11-103-193), conditional on purchase and closure of an alternative financial establishment, Piggy Bank, located 1,053 feet away (rather than the required 1,320 feet). Conditions also prohibited the pawn shop to face Suburban Avenue and limited its hours to 10 a.m. to 7 p.m. Monday through Saturday and noon to 6 p.m. Sunday. Alongside the 2011 pawn shop CUP, the applicant also received CUPs for an auto specialty store (ZF# 11-112-696) and two fast-food restaurant with drive-throughs (ZF#s 11-112-697, 11-112-698) on the site as part of a master development. In 2012, after the master development did not come to fruition and the site was sold, the Planning Commission approved a modification of the pawn shop CUP conditions requested by the new owners to allow the building to face Suburban Avenue (ZF# 12-064-233). The pawn shop is currently open for business and the alternative financial establishment located 1,053 feet away has been closed.
- G. **DISTRICT COUNCIL RECOMMENDATION:** The District 1 Council has reviewed the application and is not taking a position.
- H. **FINDINGS:**
 1. The application requests a conditional use permit approval for an alternative financial establishment and a pawn shop within the existing building at 1891 Suburban Avenue. The application also requests modification of special conditions as detailed below. The pawn shop is currently open for business at the subject site under the 2012 conditional use permit. The result of the subject application, if approved, is that the pawn shop and an alternative financial establishment could co-locate within the subject building. The pawn shop, which is limited by its 2012 CUP to hours of 10am to 7pm Monday through Saturday and noon to 6pm on Sunday, is requested to remain open an additional hour (to 8pm) Monday through Saturday.

2. The subject building contains two businesses with separate customer entrances: Pawn America (southern entrance) and PA Exchange (northern entrance). The alternative financial establishment is proposed to be located in the Pawn America portion of the building. The alternative financial establishment transactions would occur at several of the teller windows currently used for pawn transactions in front of the store. The PA Exchange business is a second-hand goods store that does not offer loans or other financial services.
3. §65.511 defines alternative financial establishment and provides standards and conditions that must be satisfied to permit the use, as follows:
 - a. *The alternative financial establishment shall be located at least 150 feet from any lot in a residential district or lot occupied with a one-, two-, or multiple-family dwelling, measured in a straight line from the closest point of the building in which the business is or is to be located to the closest point of the residential property line.* This finding is met. Property located across Suburban Avenue with the residential zoning designation of R2 is located 150.16 feet to the southwest, according to the measurement used in the 2011 pawn shop CUP. Said property is owned by Ramsey County Parks & Recreation Department and is technically a "lot in a residential district" since a "lot" is a "parcel of land... utilized for the principal use and uses accessory thereto", in this case the use being a park. The nearest such lot with residential uses upon it is located approximately 440 feet to the southeast.
 - b. *No alternative financial establishment shall be located within 2,640 feet of another alternative financial establishment, measured from the nearest building wall of the existing establishment to the nearest building wall of the proposed use, or if there is no building, to the nearest lot line of the proposed use.* This finding can be met. The nearest alternative financial establishment, Payday America, is located approximately 2,070 feet to the west at 1696 Suburban Avenue. Payday America is a separate but affiliated company of Pawn America. The application proposes moving Payday America out of the 1696 Suburban Ave. location and into the subject location. Provided that another alternative financial establishment does not move into 1696 Suburban Ave., the 2,640 foot separation requirement would be satisfied.
 - c. *No alternative financial establishment shall be located within 1,320 feet of any pawn shop, measured from the nearest building wall of the existing establishment to the nearest building wall of the proposed use, or if there is no building, to the nearest lot line of the proposed use.* This finding is not met due to the proposed co-location of a pawn shop and alternative financial establishment in the same building, but is the subject of a requested modification addressed below.
4. §65.531 defines pawn shop and provides standards and conditions that must be satisfied to permit the use, as follows:
 - a. *The business shall be conducted within a completely enclosed building.* This finding is met. The business is proposed to be conducted within a completely enclosed building.
 - b. *The building in which the business is located shall be at least 150 feet from the closest point of any residentially zoned property; provided, however, that this condition may be modified pursuant to Sec. 61.500 subject to the following conditions:*
 - i. *There is no existing pawn shop within 5,280 feet of the proposed location, measured from the nearest building wall of the existing pawn shop to the nearest building wall of the proposed use, or if there is no building, to the nearest lot line of the proposed use.*
 - ii. *Customer entrances shall not be oriented toward residentially zoned property. Customer parking shall not be closer to residentially zoned property than the primary entrance.*
 - iii. *The location of a pawn shop at this location will not be contrary to any adopted district plan or other city program for neighborhood conservation or improvement, either residential or nonresidential.*
 - iv. *The proposed use meets all other requirements for conditional use permits provided in Sec. 61.500.*

This finding is met. The building is located 150.16 feet from the nearest residentially zoned property according to the measurement used in the 2011 CUP.

- c. *No pawn shop shall be located within 1,320 feet of any alternative financial establishment, measured from the nearest building wall of the existing establishment to the nearest building wall of the proposed use, or if there is no building, to the nearest lot line of the proposed use.* This finding is not met due to the proposed co-location of a pawn shop and alternative financial establishment in the same building, but is the subject of a requested modification addressed below.

5. §61.501 lists five standards that all conditional uses must satisfy:

- a) *The extent, location and intensity of the use will be in substantial compliance with the Saint Paul Comprehensive Plan and any applicable subarea plans which were approved by the city council.* This condition is met. The Comprehensive Plan in Figure LU-B designates the site as part of both a Neighborhood Center and a Mixed Use Corridor, which call for a variety of commercial uses such as proposed. The District 1 Plan contains no provisions specific to this application. The Sun-Ray Suburban Small Area Plan encourages businesses that appeal to the demographics of the residents and a mix of locally owned and national retailers.
- b) *The use will provide adequate ingress and egress to minimize traffic congestion in the public streets.* This condition is met. Ingress and egress is provided by the existing driveway to Suburban Avenue.
- c) *The use will not be detrimental to the existing character of the development in the immediate neighborhood or endanger the public health, safety and general welfare.* This condition is met. In approving Zoning Code amendments associated with the Currency Exchange Zoning Study in 2010, the Planning Commission and City Council added the separation requirement between pawn shops and alternative financial establishments based in part on the concept that both businesses have a similar effect on the public health, safety, morals, and general welfare, potentially creating a negative impression regarding the economic vitality of a commercial district and the surrounding community when such businesses are clustered in an area or along an arterial street. However, in this instance, with a single customer entrance for both pawn shop and alternative financial establishments, there is no change to the impression presented to passersby on Suburban Ave., and therefore no detrimental impact on the neighborhood or endangerment of the public health, safety, morals, or general welfare. Recommended limits on hours of operation, outdoor sales or displays, firearms sales, and adult materials sales, as well as requirements for trash removal, further ensure that the proposed use will not be detrimental to the area. A recommended restriction on signage facing Suburban Avenue ensures that any negative impression of economic vitality in this area is limited.
- d) *The use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.* This condition is met. The proposed use does not expand the building or alter the site layout, and will not impede surrounding development. Recommended signage restrictions would help ensure that the use does not impede normal and orderly development of the adjacent vacant land.
- e) *The use shall, in all other respects, conform to the applicable regulations of the district in which it is located.* This condition is met. Except for separation requirements addressed herein, the requested use conforms to B3 regulations.

6. The planning commission may approve modifications of special conditions when specific criteria of §61.502 are met: *strict application of such special conditions would unreasonably limit or prevent otherwise lawful use of a piece of property or an existing structure and would result in exceptional undue hardship to the owner of such property or structure; provided, that such modification will not impair the intent and purpose of such special condition and is consistent with health, morals and general welfare of the community and is consistent with reasonable enjoyment of adjacent property.* This finding is met. The strict application of the requirement to separate the

pawn shop and alternative financial establishments rather than housing them in a single building is unreasonably limiting in this case where they would effectively function as a single business. As noted in Finding 75(c), the intent of the separation requirement between pawn shops and alternative financial establishments is preserved, and there is no additional negative impact on the health, morals, and general welfare of the community. The proposal is consistent with reasonable enjoyment of adjacent property.

- I. **STAFF RECOMMENDATION:** Based on the above findings, staff recommends approval of the conditional use permit for an alternative financial establishment and pawn shop, with modification of special conditions, subject to the following additional conditions:
1. Substantial compliance with the plans and exhibits submitted as part of this application.
 2. The pawn shop and alternative financial establishment uses must be located in the same portion of the building and served by a single customer entrance. Neither use may be located in the portion of the building dedicated to PA Exchange without separate conditional use permit application and approval.
 3. The alternative financial establishment use is not permitted at the subject site until the existing alternative financial establishment use at 1696 Suburban Ave. is closed and loses its legal nonconforming status at that location.
 4. The hours of the pawn shop shall be no greater than 10am through 8pm Monday through Saturday and noon through 6pm on Sunday.
 5. No outdoor sales or outdoor displays of merchandise are approved for retail uses on this site.
 6. Firearms and adult materials shall not be bought, sold, or pawned at the pawn shop.
 7. The applicant shall participate in and oversee the Come Clean trash removal program for the parcel in its entirety.
 8. Signage on-site must not vary from the strict provisions of the zoning code, and should strictly conform to the restrictions outline in the SunRay-Suburban Avenue Plan. Free-standing signage which includes the name of the pawn shop must also include signage for at least two additional businesses not located within the subject building, and the names of each business on such signs must occupy substantially similar square footages, and utilize substantially similar materials and lighting methods. No signage may be placed on the south side of the building facing Suburban Avenue.

586135

2012 CUP

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Registrar of Titles, Ramsey County, MN
Certificate# 586135
2.1.3 727901

CITY OF SAINT PAUL, MINNESOTA
(Conditional Use Permit)

ZONING FILE NO: 12-064-233
APPLICANT: First & First LLC
PURPOSE: Modification of condition in previously approved pawn shop permit (Zoning File #11-103-193) that the pawn shop not face Suburban Avenue
LOCATION: 1891 Suburban Ave
LEGAL DESCRIPTION: PIN 352922330009, Registered Land Survey 276 Subj To Rds; Tract C
ZONING COMMITTEE ACTION: Recommended approval with conditions
PLANNING COMMISSION ACTION: Approved on June 29, 2012

CONDITIONS OF THIS PERMIT: Conditions specified in Sec. 65.531 and the following additional conditions:

1. No outdoor sales or outdoor displays of merchandise are approved for retail uses on this site;
2. Customer parking shall be located consistent with Section 63.200, as determined by site plan review;
3. The hours of the pawn shop shall be no greater than 10am through 7pm Monday through Saturday and noon through 6pm on Sunday;
4. Firearms and adult materials shall not be bought, sold or pawned at the pawn shop;
5. The applicant shall participate in and oversee the Come Clean trash removal program for the parcel in its entirety;
6. The pawn shop shall comprise no more than 8,500 square feet within a single building on-site;
7. Signage on-site must not vary from the strict provisions of the zoning code, and should strictly conform to the restrictions outlined in the SunRay-Suburban Avenue Plan. Free-standing signage which includes the name of the pawn shop must also include signage for at least two additional businesses, and the names of each business on such signs must occupy substantially similar square footages, and utilize substantially similar materials and lighting methods. No signage may be placed on the south side of the building facing Suburban Avenue; and
8. The separation requirement shall be met by purchase and closure by the applicant of the nearby alternative financial institution (Piggy Bank).

APPROVED BY: Barbara Wencil, Commission Chairperson

I, the undersigned Secretary to the Zoning Committee of the Planning Commission for City of Saint Paul, Minnesota, do hereby certify that I have compared the foregoing copy with the original record in my office; and find the same to be a true and correct copy of said original and of the whole thereof, as based on minutes of the Saint Paul Planning Commission meeting held on June 29, 2012, and on record in the Saint Paul Planning Office, 25 West Fourth Street, Saint Paul, Minnesota.

This permit will expire two years from the date of approval of the original conditional use permit Z.F. 11-103-193, April 15, 2011, if the use herein permitted is not established, subject to administrative extension not to exceed one year (§ 61.105). If one of the following occurs, the use herein permitted shall automatically expire: the use is established but subsequently is discontinued for 365 days or is replaced by another use, the lot area is reduced, or as otherwise provided in § 61.505.

The decision to grant this permit by the Planning Commission is an administrative action subject to appeal to the City Council. Anyone affected by this action may appeal this decision by filing the appropriate application and fee at the Zoning Office, 1400 City Hall Annex, 25 West Fourth Street. Any such appeal must be filed within 10 calendar days of the date of the Planning Commission's decision.

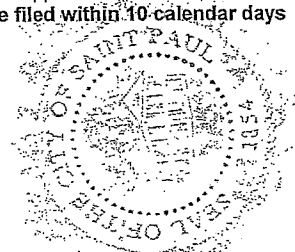
Violation of the conditions of this permit may result in its revocation.

Samantha Langer
Samantha Langer
Secretary to the Saint Paul
Zoning Committee

Copies to:
Applicant - First and First
File No. 12-064-233

License Inspector
District Council 1

Mailed: June 29, 2012



1-1

2011 CUP

CITY OF SAINT PAUL, MINNESOTA
(Conditional Use Permit)

ZONING FILE NO: 11-103-193
APPLICANT: Red Dog Holdings LLC
PURPOSE: Conditional Use Permit for a pawn shop with modification of separation requirement between a pawn shop and an alternative financial establishment (1053.5 ft. existing, 1320 ft. required)
LOCATION: 1891 Suburban Ave
LEGAL DESCRIPTION: PIN 352922330009, Registered Land Survey 276 Subj To Rds; Tract C
ZONING COMMITTEE ACTION: Recommended denial
PLANNING COMMISSION ACTION: Approved with conditions on April 15, 2011

CONDITIONS OF THIS PERMIT: Conditions specified in Sec. 65.531 and the following additional conditions:

1. No outdoor sales or outdoor displays of merchandise are approved for retail uses on this site;
2. Customer parking shall be located consistent with Section 63.200, as determined by site plan review;
3. The pawn shop shall not face Suburban Avenue;
4. The hours of the pawn shop shall be no greater than 10am through 7pm Monday through Saturday and noon through 6pm on Sunday;
5. Firearms shall not be bought, sold or pawned at the pawn shop;
6. The applicant shall participate in and oversee the Come Clean trash removal program for the parcel in its entirety;
7. The pawn shop shall comprise no more than 8,500 square feet within a single building on-site;
8. Signage on-site must not vary from the strict provisions of the zoning code, and should strictly conform to the restrictions outlined in the *SunRay-Suburban Avenue Plan*. Free-standing signage which includes the name of the pawn shop must also include signage for at least two additional businesses, and the names of each business on such signs must occupy substantially similar square footages, and utilize substantially similar materials and lighting methods; and
9. The modification of the separation requirement of the pawn shop from the nearby alternative financial institution shall be valid only if the entire site is developed as a multi-use center as proposed in the application and depicted in a site plan approved by the City. Should the site not be developed substantially in conformance with an approved site plan within two years, the modification of the separation requirement shall be void, and the pawn shop shall either locate elsewhere on the site where it conforms to the 1320 ft. separation requirement or, alternately, cease operations on the site.

APPROVED BY: Jon Commers, Commission Chairperson

I, the undersigned Secretary to the Zoning Committee of the Planning Commission for City of Saint Paul, Minnesota, do hereby certify that I have compared the foregoing copy with the original record in my office; and find the same to be a true and correct copy of said original and of the whole thereof, as based on minutes of the Saint Paul Planning Commission meeting held on April 15, 2011, and on record in the Saint Paul Planning Office, 25 West Fourth Street, Saint Paul, Minnesota.

This permit will expire two years from the date of approval if the use herein permitted is not established, subject to administrative extension not to exceed one year (§ 61.105). If one of the following occurs, the use herein permitted shall automatically expire: the use is established but subsequently is discontinued for 365 days or is replaced by another use, the lot area is reduced, or as otherwise provided in § 65.505.

The decision to grant this permit by the Planning Commission is an administrative action subject to appeal to the City Council. Anyone affected by this action may appeal this decision by filing the appropriate application and fee at the Zoning Office, 1400 City Hall Annex, 25 West Fourth Street. **Any such appeal must be filed within 10 calendar days of the date of the Planning Commission's decision.**

Violation of the conditions of this permit may result in its revocation.

Samantha Langer
Secretary to the Saint Paul
Zoning Committee

Copies to:

Applicant Red Dog Holdings LLC

District Council 1

File No. 11-103-193

License Inspector Christine Rozek

Mailed:

April 19, 2011



ZONING AMENDMENT

City of Saint Paul

City Hall and Court House
15 West Kellogg Boulevard
Phone: 651-266-8560

Legislation Details (With Text)

File #: Ord 10-33 **Version:** 1 **Name:** Currency Exchange Zoning Amendments
Type: Ordinance **Status:** Passed
In control: City Council
Final action: 10/27/2010

Title: Final Adoption - An ordinance amending Chapters 65 and 66 of the Saint Paul Legislative Code regarding currency exchanges and alternative financial establishments. (Old No. 10-1118)

Sponsors: Dave Thune

Indexes: Alternative financial establishment, Currency exchange, Pawn shop, Zoning

Code sections: Sec. 65.511. - Business sales and services., Sec. 65.512. - Currency exchange., Sec. 65.531. - Pawn shop., Sec. 66.421. - Principal uses., Sec. 66.521. - Principal uses.

Attachments: Table 66.421.pdf, Table 66.521.pdf, Planning Commission actions.pdf, PC- Currency Exchange Zoning Study.pdf, Correspondence: District 1 E-mail

Date	Ver.	Action By	Action	Result
11/15/2010	1	Mayor's Office	Signed	
10/27/2010	1	City Council	Adopted	Pass

Title

Final Adoption - An ordinance amending Chapters 65 and 66 of the Saint Paul Legislative Code regarding currency exchanges and alternative financial establishments. (Old No. 10-1118)

Body

WHEREAS, City Council Resolution 09-1349, adopted December 9, 2009, and City Council Ordinance 09-1386, adopted January 13, 2010, enacted a moratorium on the establishment of any new currency exchanges or industrial loan and thrifts in the City based upon the Council's findings and rationale for the moratorium: that businesses that cash negotiable instruments for a fee are being established within existing businesses, including pawn shops, and are therefore locating where they would not otherwise be permitted by the City as a conditional or permitted use; that these new businesses have been established and operated where they would not otherwise be permitted under the City's present zoning regulations under the auspices of a certificate of authorization issued by the State of Minnesota to operate a business known as an industrial loan and thrift; that these certificates of authorization are being used as a subterfuge to establish what are, in fact, currency exchanges; that the state-issued certificates further permit these businesses to make secured and unsecured consumer loans, including pay day loans; that businesses established in this manner are contrary to the zoning code and detrimental to the public health, welfare, and safety; and that the City's zoning regulations for these types of businesses and pawn shops are not coordinated; and

WHEREAS, Resolution 09-1349 and Ordinance 09-1386 directed the Saint Paul Planning and Economic Development (PED) department to conduct a study of the effectiveness of current zoning regulations regarding these uses before December 8, 2010 when the moratorium is set to expire; and

WHEREAS, a public hearing before the City Council having been conducted on October 20, 2010, at which all interested parties were given an opportunity to be heard, the Council having considered all the facts and recommendations concerning the amendments; NOW THEREFORE,

THE COUNCIL OF THE CITY OF SAINT PAUL DOES HEREBY ORDAIN:

Section 1

That Legislative Code Chapter 65 Zoning Code entitled Land Use Definitions and Development Standards is hereby amended as follows:

Sec. ~~65.511~~65.512. Business sales and services.

Sec. 65.51265.511. Currency Exchange Alternative financial establishment.

Currency Exchange, as defined in Minnesota Statutes section 53A.01, means any person, except a bank, trust company, savings bank, savings and loan association, credit union, or industrial loan and thrift company, engaged in the business of cashing checks, drafts, money orders or travelers' checks for a fee. A person, firm, association, corporation or partnership engaged in the business or service of check-cashing or making loans to be repaid in one lump sum or in installments over a set period of time, either collateralized or not, for which there is a fee or service charge, or interest received, including but not limited to loans collateralized by personal check, payroll check, wage assignment or personal property title, or collateralized with the promise to relinquish possession of any personal property upon default. Alternative financial establishment includes but is not limited to consumer small loan companies, currency exchanges, industrial loan and thrifts, and regulated loan companies, as defined and licensed by the Minnesota Department of Commerce. Alternative financial establishment does not include federal or state chartered banks, credit unions, or savings banks, nor does it "Currency Exchange" does not include a person, firm, association, corporation or partnership that provides the service of cashing checks, drafts, money orders, or travelers checks for a fee, incidental to the person's primary business, if and the charge for cashing a check or draft does not exceed one dollar (\$1.00) or one (1) percent of the value of the check or draft, whichever is greater.

Standards and conditions:

(a) The currency exchange alternative financial establishment business shall be located at least one hundred -fifty (150) (100) feet from any lot in a residential district or lot occupied with a one-, two-, or multiple-family dwelling, measured in a straight line from the closest point of the building in which the business is or is to be located to the closest point of the residential property line.

(b) No alternative financial establishment shall be located within (2,640) feet of another alternative financial establishment, measured from the nearest building wall of the existing establishment to the nearest building wall of the proposed use, or if there is no building, to the nearest lot line of the proposed use.

(c) No alternative financial establishment shall be located within (1320) feet of any pawnshop, measured from the nearest building wall of the existing establishment to the nearest building wall of the proposed use, or if there is no building, to the nearest lot line of the proposed use.

Sec. 65.531. Pawn shop

(c) No pawn shop shall be located within (1320) feet of any alternative financial establishment, measured from the nearest building wall of the existing establishment to the nearest building wall of the proposed use, or if there is no building, to the nearest lot line of the proposed use.

Section 2

That Legislative Code Chapter 66 Zoning Code - Zoning District Uses, Density and Dimensional Standards is hereby amended as follows:

Table 66.421. Principal Uses in Business Districts

[Insert Attachment 1: Table 66.421 here]

Table 66.521. Principal Uses in Industrial Districts

[Insert Attachment 2: Table 66.521 here]

Section 3

That the basis for this ordinance shall be for the reasons originally set forth in Council File Nos 09-1349 and 09-1386 as well as the staff report and the report of the planning commission, all of which are incorporated herein by reference but omitted for the purpose of brevity.

Section 4

This ordinance shall become effective thirty days after its passage, approval, and publication.



CITY OF SAINT PAUL
Christopher B. Coleman, Mayor

25 West Fourth Street
Saint Paul, MN 55102

Telephone: 651-266-6562
Facsimile: 651-228-3314

Date: August 24, 2010
To: Comprehensive Planning Committee
From: Ryan Kelley ryan.kelley@ci.stpaul.mn.us 651.266.6562
 Patricia James patricia.james@ci.stpaul.mn.us 651.266.6639
RE: **Currency Exchange Zoning Study**

Introduction

City Council Resolution 09-1349, adopted December 9, 2009, directed Saint Paul Planning and Economic Development (PED) to conduct a study regarding the zoning of currency exchanges after the City Council became aware of businesses similar to currency exchanges circumventing Saint Paul Municipal Code §381 and Zoning Code §65.512 by obtaining other state financial licenses. This resolution was enacted as an interim regulation placing a moratorium on the establishment of any new currency exchanges in the City.

City Council Ordinance 09-1386 was adopted January 13, 2010, enacting the moratorium on the issuance of any building or zoning permit or approval to open a currency exchange or industrial loan and thrift within the city. This ordinance directed PED to conduct a zoning study to determine whether the City's existing zoning regulations are adequate to regulate these uses and whether it is necessary to adopt new regulations. The moratorium will expire on December 8, 2010.

Regulatory Background

Currency Exchanges are defined in Minnesota Statute §53A. A zoning study regarding currency exchanges was completed in 1995. This study was in response to a 1992 change in the state statute implementing the procedure of notifying municipalities in which these businesses were applying for a license, thereby placing the decision for permission or denial with the city. The separation requirement of one-half mile between currency exchanges was also added to the statute at this time. The resulting zoning amendment also added a distance requirement of 100 feet between currency exchanges and residential districts or residential dwellings.

The city council passed ordinance 09-1386 in response to the discovery that businesses with operations similar to currency exchanges were obtaining an industrial loan and thrift license, which is not regulated by any City ordinance. This license allows a business to provide currency exchange services as well as provide loans, including loans often referred to as "payday loans". Businesses licensed as industrial loan and thrifts may also make larger loans, up to \$100,000, with regular payment plans similar to products provided by a federally chartered bank or savings institution.

Having identified the businesses that were obtaining industrial loan and thrift licenses, it was discovered that Saint Paul currently had no regulations regarding the establishment of payday loan lenders. Department of Commerce licenses were researched to determine what other licenses allowed either payday lending or currency exchange operations. Consumer small loan and regulated loan licenses were identified as licenses that could allow a business to operate as a payday loan lender.

Research Findings

The primary source of information for this study was provided by the Planning Advisory Service of the American Planning Association. The information consisted of reports regarding the operations of currency exchanges and “payday loan” lenders. There were also numerous examples of zoning regulations and ordinances from cities throughout the country. The Center for Responsible Lending was also used for data regarding “payday lending” in Minnesota.

In many of the research reports and zoning code examples, payday lenders and currency exchanges were regulated in the same ordinance. Such businesses are broadly referred to as “alternative financial establishments” in some codes; therefore this study includes such businesses for the proposed amendments to the zoning code.

Payday lenders typically offer small consumer loans, or payday loans, of amounts that range from \$100 to \$500. The full amount of the loan plus interest is typically due on the borrower’s next payday. The loans are typically secured by the borrower’s personal check or some form of electronic access to the borrower’s bank account. Because the lender has access to the customer’s financial account, they ensure that they get paid first, even if the person has other bills that must be met. This leads to the customer taking out another “payday loan” and a cyclical process of repeat loans begins.

Customers of these establishments typically do not have an account with a chartered and regulated financial institution such as a bank, credit union, or savings and loan corporation, or they may have a checking account at one of these institutions, but not qualify for that institution’s services such as short term loans. Nationally, the average “payday” loan amount is \$325¹, and in Minnesota the average is \$331². Finance charges are generally calculated as a fee per hundred dollars borrowed and is usually \$15 to \$30 per \$100 borrowed. In Minnesota these loans have a maximum APR on a two-week \$100 loan of 391%.¹ “American payday loan borrowers renew their loan an average of 8 times before being able to pay off the loan in full, consequently paying over \$800 for the original \$325 loan”.¹ Total payday loan volume in Minnesota for 2009 was \$76.5 million with \$58.1 million from renewed or rollover loans and \$17.2 million from payday lending fees paid annually.²

According to other cities identified in the information received from the Planning Advisory Service, these businesses have the potential to be harmful to the public welfare with respect to potential effects on the quality, aesthetics and functional aspects of the community. These cities have found that alternative financial establishments may be attractive to criminals

¹ Griffith, Hilton, Drysdale: Controlling the Growth of Payday Lending Through Local Ordinances and Resolutions. March 2010.

² Center for Responsible Lending. April 2010. www.responsiblelending.org/mortgage-lending/tools-resources/factsheets

seeking to commit robberies. Additionally, it has been found that when these businesses are clustered in an area or along an arterial street, this concentration creates a negative impression regarding the economic vitality of a commercial district and the surrounding community.

One of the six initiatives stated in the Economic Development Strategy, as described in the Introduction chapter of the Saint Paul Comprehensive Plan is business attraction. A proliferation of alternative financial establishments could have a negative impact on attracting a variety of new businesses.

With the increased potential for crime and the potential deleterious effects on the economic vitality of surrounding areas, limitations on the location of alternative financial establishments is consistent with the Saint Paul Comprehensive Plan and the general intent of the Saint Paul Zoning Code, especially "To promote and to protect the public health, safety, morals, aesthetics, economic viability and general welfare of the community."

Staff Recommendation

1. The current zoning code is specific only to currency exchanges and therefore does not regulate any of the other identified business types established under Department of Commerce licenses, some of which can operate in the same manner as currency exchanges. Staff recommends the following Zoning Code text amendments, with a broader use category and definition to include these other financial establishments, so as to fully realize the intent of the code to regulate such businesses. Consistency with pawnshop regulations was employed as these businesses have similar business operations and have been found to have similar effects on the public health, safety, and welfare.
2. The required public hearing on these amendments can be held by the City Council. Staff recommends that the Planning Commission review the draft amendments and make its recommendation to the City Council without a separate Planning Commission public hearing so that the City Council can take action on the amendments before the moratorium expires.
3. The existing state statute for currency exchanges specifies that the Department of Commerce must notify the local governing body when an application for a currency exchange license is made. The local government then has 60 days to review the request, hold a public hearing, and notify the Department if the application is approved or not. The Department may not approve a currency exchange license without the concurrence of the local governing body. There is no similar statutory provision for the other types of financial establishments proposed to be included in the amendments, which presents an administrative and enforcement issue for local regulation of these uses. Staff therefore also recommends that the Mayor and City Council work with the city's legislative delegation to add a similar provision to the statutes governing consumer small loan, industrial loan and thrift, and regulated loan establishments.

Proposed Zoning Text Amendments

1. That Sections 65.511 and 65.512 be amended as follows:

Sec. ~~65.511~~ 65.512. Business sales and services.

Sec. ~~65.512~~ 65.511. ~~Currency Exchange~~ Alternative financial establishment.

~~Currency Exchange, as defined in Minnesota Statutes section 53A.01, means any person, except a bank, trust company, savings bank, savings and loan association, credit union, or industrial loan and thrift company, engaged in the business of cashing checks, drafts, money orders or travelers' checks for a fee. A person, firm, association, corporation or partnership engaged in the business or service of check-cashing or making loans to be repaid in one lump sum or in installments over a set period of time, either collateralized or not, for which there is a fee or service charge, or interest received, including but not limited to loans collateralized by personal check, payroll check, wage assignment or personal property title, or collateralized with the promise to relinquish possession of any personal property upon default. Alternative financial establishment includes but is not limited to consumer small loan companies, currency exchanges, industrial loan and thrifts, and regulated loan companies, as defined and licensed by the Minnesota Department of Commerce. Alternative financial establishment does not include federal or state chartered banks, credit unions, or savings banks, nor does it "Currency Exchange" does not include a person or firm that provides the service of cashing checks, drafts, money orders, or travelers' checks for a fee, incidental to the person's primary business, if the charge for cashing a check or draft does not exceed one dollar (\$1.00) or one (1) percent of the value of the check or draft, whichever is greater.~~

[This change is to encompass the various businesses operating in similar practice as currency exchanges. The new definition is more comprehensive to include the various business practices potentially engaged in by these establishments, and may be more effective in regulating such businesses by identifying the business practice and not just a Department of Commerce license]

Standards and conditions:

- (a) ~~The currency exchange alternative financial establishment business~~ shall be located at least one hundred-fifty (150) ~~(100)~~ feet from any lot in a residential district or lot occupied with a one-, two-, or multiple-family dwelling, measured in a straight line from the closest point of the building in which the business is or is to be located to the closest point of the residential property line.
- (b) No alternative financial establishment shall be located within (2,640) feet of another alternative financial establishment, measured from the nearest building wall of the existing establishment to the nearest building wall of the proposed use, or if there is no building, to the nearest lot line of the proposed use.
- (c) No alternative financial establishment shall be located within (1320) feet from any pawnshop, liquor store, gun shop as defined in Saint Paul Code §65.520, drug treatment facility, transitional housing, sober house, community residential facility, grade K-12 school, or house of worship.

[The distance of (150) feet is consistent with the current zoning regulation regarding pawn shops. Since these uses have similar impacts on commercial areas, it makes sense for both of them to have the same distance requirement. The distance of (2,640) feet is consistent with the Commerce Department regulation regarding currency exchanges. The 1320 ft. distance between these establishments and other uses provides enough distance between businesses to address the issue of clustering while still permitting a variety of alternative locations.]

2. That Table 66.421 be amended as follows:

Table 66.421. Principal Uses in Business Districts

Use	OS	B1	BC	B2	B3	B4	B5	Development standards
...								
Retail Sales and Services								
General retail		P	P	P	P	P	P	
<u>Alternative financial establishment</u>					<u>C</u>	<u>P</u>	<u>P</u>	✓
Bank, credit union	P	P	P	P	P	P	P	
Business sales and services					P	P	P	
Currency exchange					<u>C</u>	<u>P</u>	<u>P</u>	✓
...								

3. That Table 66.521 be amended as follows:

Table 66.521. Principal Uses in Industrial Districts

Use	IR	I1	I2	I3	Development Standards
...					
Retail Sales and Services					
General retail	P	P	P		
<u>Alternative financial establishment</u>		<u>C</u>	<u>P</u>		✓
Bank, credit union	P	P	P		
Business sales and services	P	P	P		
Currency exchange		<u>P</u>	<u>P</u>		✓
...					

[Making this use a conditional use in the I1 district is consistent with the treatment of pawn shops.]

APPENDIX I

Existing Regulations for Currency Exchanges

Minnesota Statute

State statute §53A governs currency exchanges within Minnesota. The definition of a currency exchange is as follows:

53A.01 DEFINITIONS.

Subdivision 1. Currency exchange. "Currency exchange" means any person, except a bank, trust company, savings bank, savings association, credit union, or industrial loan and thrift company, engaged in the business of cashing checks, drafts, money orders, or travelers' checks for a fee. "Currency exchange" does not include a person who provides these services incidental to the person's primary business if the charge for cashing a check or draft does not exceed \$1 or one percent of the value of the check or draft, whichever is greater.

The licensing and approval for the establishment of currency exchanges is as follows:

53A.02 LICENSE.

Subdivision 1. Requirement.

A person may not engage in the business of a currency exchange without first obtaining a license from the commissioner. Not more than one place of business may be operated under the same license, but the commissioner may issue more than one license to the same licensee upon compliance by the applicant with all the provisions of this chapter for each new license issued.

Subd. 2. Distance limitation.

No license may be issued or renewed under this chapter if the place of business to be operated under the license is located or proposed to be located within one-half mile of another licensed currency exchange. The distance limitation imposed by this subdivision is measured by a straight line from the closest points of the closest structures involved.

Subd. 3. Prohibition.

A licensee may not contract with another person or business entity to manage the currency exchange business. This subdivision does not prohibit the licensee from employing persons to operate a currency exchange facility.

The statute further stipulates that the approval or denial of the license is determined by the municipality in which the business is proposed to be located.

53A.04 APPROVAL OR DENIAL OF AN APPLICATION.

(a) Within 30 days after the receipt of a complete application, the commissioner shall deny the application or submit the application to the governing body of the local unit

of government in which the applicant is located or is proposing to be located. The commissioner may not approve the application without the concurrence of the governing body. The governing body shall give published notice of its intention to consider the issue and shall solicit testimony from interested persons, including those in the community in which the applicant is located or is proposing to be located. If the governing body has not approved or disapproved the issue within 60 days of receipt of the application, concurrence is presumed. The commissioner must approve or disapprove the application within 30 days from receiving the decision of the governing body. The governing body shall have the sole responsibility for its decision. The state shall have no responsibility for that decision.

(b) If the application is denied, the commissioner shall send by mail notice of the denial and the reason for the denial to the applicant at the address contained in the application. If an application is denied, the applicant may, within 30 days of receiving the notice of a denial, request a contested case hearing pursuant to chapter 14; provided that if the denial is based upon the refusal of the governing body to concur the governing body must afford the applicant a hearing. The applicant shall have no right to the hearing provided for in this section if the denial is based upon the governing body's refusal to concur but shall have a hearing before the governing body.

(c) This section applies to initial applications and renewal applications.

(d) The state shall have no responsibility for the action of the governing body.

Saint Paul Municipal Code

Licensure: Municipal Code §381

Municipal Code §381 governs the licensure of currency exchanges within the city of Saint Paul. This code adheres to the Minnesota Statute indicated above and further delineates the process of licensing and basis for approval or denial.

Sec. 381.02. Procedures; hearing; fee.

- (a) *Procedures.* Upon receipt of a completed application from the commissioner of commerce for a new license, the matter shall be referred to the department of safety and inspections for investigation of the application. Published notice shall be given of the receipt of the application, and notice shall also be given to the affected neighborhood groups, giving them fifteen (15) days to respond with any objections to issuance of the license. If no objections are received to the issuance of the license, the department of safety and inspections shall recommend issuance of the license to the commissioner of commerce. In the event objections are raised to the issuance of the license, the applicant is entitled to a hearing as set forth below.

The code then continues by outlining the process for a hearing, renewal licenses, and fee structure. The municipal code refers to the state statute to define currency exchanges.

Zoning: Municipal Code §65.512

The zoning code of the City of Saint Paul again refers to Minnesota state statute for the definition of currency exchanges. The zoning code places an additional stipulation on the establishment of currency exchanges by specifying the distance they may be located from residentially zoned properties, which is in addition to the state statute proximity restriction of ½ mile between currency exchanges.

Section 65.512. Currency Exchange.

Currency Exchange, as defined in Minnesota Statutes section 53A.01, means any person, except a bank, trust company, savings bank, savings and loan association, credit union, or industrial loan and thrift company, engaged in the business of cashing checks, drafts, money orders or travelers' checks for a fee. "Currency Exchange" does not include a person who provides these services incidental to the person's primary business if the charge for cashing a check or draft does not exceed one dollar (\$1.00) or one (1) percent of the value of the check or draft, whichever is greater.

Standards and conditions:

The currency exchange business shall be located at least one hundred (100) feet from any lot in a residential district or lot occupied with a one-, two-, or multiple-family dwelling, measured from the closest point of the building in which the business is located to the closest residential property line.

Furthermore, currency exchanges are currently only permitted in zones B4, B5, I1 and I2 and are conditionally permitted in zone B3.

APPENDIX II

Minnesota Definitions of Types of Alternative Financial Establishments

As defined in Minnesota Statute:

§47.60 CONSUMER SMALL LOANS.

Subdivision 1. Definitions.

For purposes of this section, the terms defined have the meanings given them:

- (a) "Consumer small loan" is a loan transaction in which cash is advanced to a borrower for the borrower's own personal, family, or household purpose. A consumer small loan is a short-term, unsecured loan to be repaid in a single installment. The cash advance of a consumer small loan is equal to or less than \$350. A consumer small loan includes an indebtedness evidenced by but not limited to a promissory note or agreement to defer the presentation of a personal check for a fee.

As defined by the Minnesota Department of Commerce:

INDUSTRIAL LOAN & THRIFT COMPANIES

These Minnesota corporations are formed for the purpose of conducting the business of loaning money to people. These institutions also may apply for the right to issue thrift certificates for investment (similar to a deposit) upon application to determine reasonable demand for and probable volume of business to ensure solvency of the applying institution as well as already existing financial institutions in the area. Thrift certificates (deposits) must be insured by the FDIC to the extent of the insurance offered by that agency. See Minnesota Statutes, Chapter 53.

These companies are required to be licensed in Minnesota.

REGULATED LOAN COMPANIES

Regulated Loan Companies make consumer loans, up to \$100,000, and are frequently referred to as finance companies. See MS Chapter 56.001 to 56.26.

These companies are required to be licensed in Minnesota.

