

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 18, 2014 **BY:** Bill Dermody
 9. **DATE RECEIVED:** August 20, 2014 **60-DAY DEADLINE FOR ACTION:** October 19, 2014
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- 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 5(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. The subject site's CUP for an alternative financial establishment shall be forfeited if the 1696 Suburban Ave. site does not lose its legal nonconforming status for alternative financial establishments within 366 days.
 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.

**CONDITIONAL USE PERMIT APPLICATION**

Department of Planning and Economic Development
Zoning Section
1400 City Hall Annex
25 West Fourth Street
Saint Paul, MN 55102-1634
(651) 266-6589

PD = 1
Ward = 7
ZM = 18
352922330009



Zoning office use only
File # 14-321546
Fee: _____
Tentative Hearing Date: 9-11-14

#352922330009

APPLICANT

Name Pawn America Minnesota, L.L.C. / Payday America, Inc.
Address 181 River Ridge Circle South
City Burnsville St. MN Zip 55337 Daytime Phone 952-250-5364
Name of Owner (if different) First & First LLC
Contact Person (if different) Chuck Armstrong Phone 952-250-5364

PROPERTY LOCATION

Address / Location 1885 Suburban Avenue, Saint Paul
Legal Description See Below
Current Zoning B3
(attach additional sheet if necessary)

TYPE OF PERMIT: Application is hereby made for a Conditional Use Permit under provisions of
Chapter 61, Section 502, Paragraph 1 of the Zoning Code.

SUPPORTING INFORMATION: Explain how the use will meet all of the applicable standards and conditions. If you are requesting modification of any special conditions or standards for a conditional use, explain why the modification is needed and how it meets the requirements for modification of special conditions in Section 61.502 of the Zoning Code. Attach additional sheets if necessary.

Additional supporting information attached on Exhibit A.
Legal Description of Property: That part of Tract C, Registered Land Survey No. 276, lying Northerly of the following described line:
Commencing at the Southwest corner of said Tract C; thence Northerly along the West line of said Tract C a distance of 40 feet to the point of beginning of the line to be described; thence Easterly along a line 40 feet Northerly of and parallel to the South line of said Tract C a distance of 266.20 feet; thence Easterly along a line to a point on the East line of Tract C which point is 163.21 feet North of the Southeast corner of said Tract C, and there terminating.

☐ Required site plan is attached

Applicant's Signature

Date

8/6/14

City Agent

pdc
8-8-14



Todd M. Phelps
612.335.1871 DIRECT
612.335.1657 DIRECT FAX
todd.phelps@stinsonleonard.com

August 5, 2014

City of Saint Paul
Department of Planning and Economic Development
Zoning Section
1400 City Hall Annex
25 Fourth Street West
Saint Paul, MN 55102
Attention: Bill Dermody

Re: Pawn America Minnesota, L.L.C./Payday America, Inc.
Application for Conditional Use Permit
1855 Suburban Avenue, Saint Paul

Dear Mr. Dermody:

This letter is submitted on behalf of Pawn America Minnesota, L.L.C., a Minnesota limited liability company ("Pawn America"), and its affiliate Payday America, Inc., a Minnesota corporation ("Payday"), in support of their conditional use permit application attached as Exhibit A (the "Application"), for real property and improvements located at 1885 Suburban Avenue, Saint Paul, Minnesota, (PIN: 35.29.22.33.0009) legally described on the Application (the "Property"). As noted on the Application, the Property is zoned B3 "General Business District." Both a "pawn shop" and an "alternative financial establishment" are conditional uses in the B3 "General Business District".

Pawn America owns and operates a pawn business located at 1885 Suburban Avenue, Saint Paul (the "Property") under an existing conditional use permit (Zoning File No. 12-064-233), which was filed on July 17, 2012, with the Register of Titles, Ramsey County, Minnesota, as Document No. 2179616 (the "Existing CUP"). Pawn America's affiliated company, Payday America ("Payday"), owns and operates an industrial loan and thrift business providing consumer loans and related financial services at 1696 Suburban Avenue. Collectively, they own and operate over 29 stores (three in St. Paul) in four states (Minnesota, Wisconsin, North Dakota, and South Dakota) and employ over 500 people.

Pawn America and Payday America are jointly submitting the Application for two purposes: (1) to remove the distance restrictions contained in Sections 65.511 and 65.531 of the Saint Paul Zoning Code (the "Code") to allow Pawn America and Payday America to co-locate their businesses at the Property, and (2) to amend the hours of operation set forth in the Existing CUP to be no greater than 10:00 am through 8:00 pm Monday through Saturday and noon through 6:00 pm on Sunday.

Section 66.421 of the St. Paul Zoning Code permits a pawn store and an alternative financial establishment within the B-3 zoning classification, subject to (1) the standards specified for all condition uses as set forth in Section 61.501, and (2) the development standards specified for alternative financial establishments as set forth in Section 65.511 and the development standards set forth for pawn stores as set forth in Section 65.531.

Section 61.501 (Conditional Use Permit—General Standards).

Section 61.501 of the St. Paul Zoning Code provides that before the Planning Commission may grant its approval of a conditional use, the Commission shall find that:

1. 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 proposed co-location and expansion of operating hours align with the City's own Comprehensive Plan (e.g., Land Use Policies 1.46 (promoting close proximity of retail establishments), 1.48 (encouraging mixed-use businesses), 2.5 (redeveloping sites on arterial streets, such as Suburban Avenue)) and the Sun-Ray Suburban Small Area Plan that focuses on the development of the Village Center in which Pawn America is located. Extending the operating hours increases the availability of the services provided to consumers by Payday America and Pawn America, further encouraging customers to visit an area targeted by the City for economic development efforts, as identified in the Comprehensive Plan and Small Area Plan.

Additionally, Payday America is currently located in a shopping center on an isolated end of Suburban Avenue that has faced high vacancy rates, as can be seen on the storefront photograph attached as Exhibit D. This location has recently struggled with crime as well, including an armed robbery, which is a serious concern for the safety of customers, employees and community residents. Moving Payday America out of this location frees up the almost vacant shopping center for re-development, benefitting the economic health of the neighborhood, and allows Payday America customers, employees and neighborhood residents to safely patronize the newly-constructed, centrally-located Pawn America Property.

2. The use will provide adequate ingress and egress to minimize traffic congestion in the public streets. This condition is met. The Property was specifically designed and built for commercial-retail uses. It is located on the former Suburban Chrysler site on the south side of U. S. Interstate Highway 94 between White Bear Avenue and Ruth Street. The Property currently has two (2) ingress and egress points to Suburban Avenue. Pawn America and Payday America do not plan on changing the current ingress or egress configuration of the Property. Accordingly, the Property has adequate ingress and egress to minimize traffic congestion.

3. 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. Pawn America and Payday America collectively own and operate over 29 stores (three in St. Paul) in four states (Minnesota, Wisconsin, North Dakota, and South Dakota) and employ over 500 people.

Payday America's services, including check cashing and other financial services, will be incidental to and are customarily found in connection with the operation of Pawn America's business. The attached photograph in Exhibit B depicts the planned integration of Payday America's services within the Pawn America store. Payday America's services will be offered as an option for customers at only a limited number of Pawn America's existing service counters. Pawn America's services will remain the primary focus of store operations. As further shown on the floor plan attached as Exhibit C, the Pawn America customer service area of the building will continue to comprise the vast majority of the floor area.

Based upon the predominance of commercial-retail, industrial and institutional uses in the immediate neighborhood, the proposed use is clearly compatible with the surrounding uses and zoning classifications. In short, the co-location of Pawn America and Payday America will not be detrimental to the existing character of the development in the immediate neighborhood or endanger the public health, safety and general welfare.

4. 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. As described in the preceding paragraph, the area in which the Property is located is fully developed with commercial-retail uses. Granting the Conditional Use Permit would in no way impede the normal and orderly development and improvement of the surrounding property for uses permitted in this district.
5. The use shall, in all other respects, conform to the applicable regulations of the district in which it is located. The proposed uses are in character with both the existing use of the Property as well as the neighboring uses.

Section 65.511 (Development Standards for Alternative Financial Establishments)

In addition to the general requirements set forth in Section 61.501, Pawn America and Payday America are subject to the standards for alternative financial establishments set forth in Section 65.511:

(a) The alternative financial establishment shall be located at least one hundred fifty (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 condition is met. There is no residentially zoned property within 150 feet of the Property.

(b) No alternative financial establishment shall be located within two thousand six hundred forty (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 condition is met. There is not another alternative financial establishment located within two thousand six hundred forty (2,640) feet of the Property.

(c) No alternative financial establishment shall be located within one thousand three hundred twenty (1,320) feet of any pawnshop, measured from the nearest building wall of the existing establishment to the nearest wall of the proposed use, or if there is no building, to the nearest lot line of the proposed use. While this standard is not met, the use of the Property is unreasonably limited under the setback conditions for a number of reasons:

(i) First, Pawn America and Payday America are affiliated entities with shared ownership that both provide financial services to their customers. A reasonable use of two affiliated businesses providing complementary services would be to co-locate the businesses for efficiency and convenience to customers, all for the promotion of the economic development of the surrounding area. Pawn America is currently co-located with a Payday America at 73% of its existing stores. A strict enforcement of the setback requirement leads to the unreasonable result that two affiliated businesses cannot operate under the same roof and that are convenient for and desired by customers.

(ii) Second, the removing the setback condition in this instance promotes the welfare of the surrounding area and adjacent property rather than solely or unfairly benefitting Payday America or Pawn America. Co-locating Pawn America and Payday America is part of larger efforts to develop and attract businesses to the Suburban Avenue hub. The relocation also benefits Payday America customers by allowing them to visit a newer, safer, and more attractive location, increasing the likelihood that they will come into the neighborhood and visit surrounding locations and businesses as well, benefitting multiple neighboring properties and stimulating economic development.

(iii) Third, removing the setback condition in this instance will eliminate a legal non-conforming use. Payday America's current location is within the B2 zoning district. Alternative financial institutions are currently permitted per Section 66.421 of the Code by conditional use in the B3 district but are not permitted in the B2 district. Relocating Payday America to the Property (B3) from its current location (B2) will eliminate this legal non-conformity.

Section 65.531 (Development Standards for Pawn Stores).

In addition to the general requirements set forth in Section 61.501, and the specific standards set forth in Section 65.511 with respect to alternative financial establishments, Pawn America and Payday America must also meet the following the development standards specified for pawn stores as set forth in Section 65.531:

(a) The business shall be conducted within a completely enclosed building. This condition is met. As indicated on the attached site plan, Pawn America and Payday America will conduct their businesses completely within the existing building.

(b) The building in which the business is located shall be at least one hundred fifty (150) feet from the closest point of any residentially zoned property. This condition is met. There is no residentially zoned property within 150 feet of the building.

(c) No pawn shop shall be located within one thousand three hundred twenty (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. While this standard is not met, the use of the Property is unreasonably limited under the setback conditions for the same reasons set forth above. Accordingly, Pawn America and Payday America are respectfully requesting a waiver of this setback condition.

In summary, Pawn America and Payday America respectfully request that the City issue a conditional use permit that removes the distance restrictions contained in Sections 65.511 and 65.531 of the Code, which would allow Pawn America and Payday America to co-locate their businesses at the Property.

Additionally, Pawn America would like to extend its hours of operation through 8:00 pm daily and requests that the current approved operating hours, which are limited to 7:00 pm Mondays through Saturdays and 6:00 pm on Sundays, be extended to 8:00 pm daily. This extension is consistent with Pawn America's typical practices, as permitted in many other municipalities in which Pawn America operates.

Thank you in advance for your time and consideration of the Application. If you have any questions or concerns, please feel free to contact me at (612) 335-1871 or Chuck Armstrong at (952) 646-3780.

Very truly yours,

STINSON LEONARD STREET LLP



Todd M. Phelps
Enclosure

cc: Council President, Ward 7, Kathy Lantry (w/enc)
Ms. Betsy Leach, Executive Director
District 1 Community Council (w/enc)
Mr. Chuck Armstrong (w/enc)

EXHIBIT A—APPLICATION

[attached]

EXHIBIT D—CURRENT PAYDAY AMERICA LOCATION
(1696 SUBURBAN AVENUE)





August 20, 2014

Bill Dermody
City of Saint Paul
Department of Planning and Economic Development
1400 City Hall Annex
24 Fourth Street West
St. Paul, MN 55102

VIA EMAIL

Re: Zoning Application for 1855 Suburban Avenue

Dear Mr. Dermody:

I write in support of the zoning application submitted by Pawn America, and its affiliate Payday America. We believe the proposed changes are consistent with the Saint Paul Comprehensive Plan. We also feel the changes will encourage shoppers to visit an area targeted for economic development by the City of Saint Paul.

Sincerely,

Matt Kramer
President

586135

2012 CUP

Document# 2179616
Certified Filed On 07/17/2012 1000
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.

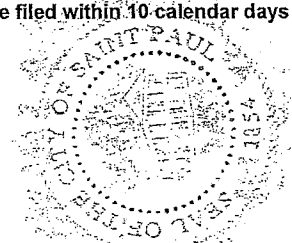
Violation of the conditions of this permit may result in its revocation.

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



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) (400) 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	
<u>Currency exchange</u>					<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		
<u>Currency exchange</u>		<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.

Tom Dimond
2119 Skyway Drive
Saint Paul, MN 55119

August 19, 2014

RE: 1855 Suburban Ave

The City of Saint Paul has received a conditional use permit application for a use of property that is prohibited. State law does not allow the use of a CUP to permit the use of property in a way that is prohibited by ordinance. Conditional use permits only can be granted for use of property that the ordinance expressly permits. Sec. 65.511 expressly prohibits the use of property within 1,320 feet of a pawn shop for an alternative financial establishment.

The consideration of this application could affect all neighborhoods. The Planning Commission and City Council considered the adverse impacts to neighborhoods resulting from the concentration of pawn shops and alternative financial establishments. The City Council adopted an ordinance that prohibits their concentration in neighborhoods. A variance of 1,320 feet to the setback requirement that reduces the setback to zero would be a precedence that threatens all neighborhoods. The City Council must ensure that the ordinance to prevent concentration of pawn shops and alternative financial establishment is enforced. Allowing the concentration of these facilities by any means would be a step backward in revitalizing neighborhoods in Saint Paul.

A variance allows the use of property in a manner that is forbidden by ordinance. A variance must be applied for and the requirements of a variance must be met. To allow the use of property in a manner prohibited by ordinance requires the property to meet the requirements for a variance or a change in the ordinance. Sec. 65.001 provides that the prohibition contained in Sec.65.511 are applicable to both permitted uses and uses permitted by conditional use permit.

A variance shall not be granted unless the findings in Sec. 61.601 Variances are met. The application does not meet the findings required to approve a variance and listed below. The requirements for a variance must be applied.

MN Statute 462.3595 requires the applicant of a conditional use permit show that the standards and criteria stated in the ordinance will be satisfied. The planning commission is not able to make that finding without a variance or change in the ordinance. The ordinance (Sec. 65.511) specifically prohibits the use of property within 1,320 feet of a pawn shop for an alternative financial establishment.

Many residents expressed their concern about the proposal for a pawn shop in the neighborhood. The property is a large parcel (former car dealership) with great potential for redevelopment. Residents had concerns that a pawn shop would not be helpful in attracting desirable development to this site and support existing businesses like Byerly's we want to retain. The neighborhood was promised an urban village type redevelopment of the whole site. The plans showed a well known coffee shop, well known ice cream parlor and other attractions. What we got is a pawn shop in the former dealership building and no new buildings constructed or promised other businesses located on the site. A concentration of pawn shop affiliated businesses on this site is not what the neighborhood was promised or a wise use of land that will hopefully be served by a new rapid transit line in the near future. The neighborhood deserves better. The zoning code requires better.

Relevant regulations

MN Statute 462.3595 Conditional Use Permits, Subdivision 1.

The governing body may by ordinance designate certain types of developments, including planned unit developments, and certain land development activities as conditional uses under zoning regulations. Conditional uses may be approved by the governing body or other designated authority by a showing by the applicant that the standards and criteria stated in the ordinance will be satisfied. The standards and criteria shall include both general requirements for all conditional uses, and insofar as practicable, requirements specific to each designated conditional use.

Sec. 65.511. Alternative financial establishment - (b) No alternative financial establishment shall be located within two thousand six hundred forty (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 one thousand three hundred twenty (1,320) 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. 65.001 Land use definitions and development standards -

For the purposes of this zoning code, the land use terms defined in this chapter shall have the meanings ascribed to them herein. Where land use terms are not specifically defined in this zoning code, they shall have ascribed to them their ordinarily accepted meanings and/or such as the context herein may imply. The standards and conditions listed for land uses in this chapter are applicable to both permitted uses and uses permitted by conditional use permit, as specified for each zoning district, unless otherwise noted.

Sec. 61.601. Variances

The board of zoning appeals and the planning commission shall have the power to grant variances from the strict enforcement of the provisions of this code upon a finding that:

- (a) The property in question cannot be put to a reasonable use under the strict provisions of the code;
- (b) The plight of the landowner is due to circumstances unique to the property, and these circumstances were not created by the landowner;
- (c) The proposed variance is in keeping with the spirit and intent of the code, and is consistent with the health, safety, comfort, morals and welfare of the inhabitants of the city;
- (d) The proposed variance will not impair an adequate supply of light and air to adjacent property, nor will it alter the essential character of the surrounding area or unreasonably diminish established property values within the surrounding area;
- (e) The variance, if granted, would not permit any use that is not permitted under the provisions of the code for the property in the district where the affected land is located, nor would it alter or change the zoning district classification of the property; and
- (f) The request for variance is not based primarily on a desire to increase the value or income potential of the parcel of land.

In granting a variance, the board shall make written findings stating the grounds upon which the variance is justified. Hardship as described in the finding set out in subsection (a) above shall include the need for access to direct sunlight for solar energy systems.

Tom Dimond
2119 Skyway Drive
Saint Paul, MN 55119

August 23, 2014

RE: Record of neighborhood opposition and District 1 promise

The neighborhood has a record of concern and opposition to what is proposed at 1885 Suburban Ave. The application is to grant a 100% setback variance to the 1,320 feet separation requirement and an expansion of hours of operations. The record indicates, the hours of operation is a Planning Commission condition of the conditional use permit. The record indicates, the Planning Commission modification of condition 3 of conditional use permit 11-103-193, to allow the pawn shop on Suburban Ave, was based on a condition to eliminate the 250 feet variance by the purchase and closure of the nearby alternative financial institution. The application is in conflict with the Planning Commission conditions.

The stated position of District 1 regarding this property - The District 1 Community Council recognizes that not everyone in our neighborhoods is happy that this development will happen. We promise to be vigilant about the conditions imposed on the pawn shop. (District 1 BlogSpot)

A District 1 letter to Ryan Kelley at the City of St. Paul dated September 9, 2010 mentions: The District 1 Community Council Land use Committee is in strong support of the amendments proposed to the Currency Exchange Zoning Code.

It is vitally important that neighborhoods receive notice of businesses such as these that are coming to our neighborhoods. As we have seen, predatory type lending can have a devastating effect on our communities. In areas such as ours where there are large populations of individuals who may not have ready access to standard banking services, it is important that we control the numbers and location of these types of services.

Thank you for your work to bring about these changes to the zoning code.

(For a copy of the full letter contact District 1 or Saint Paul PED)

District 1 BlogSpot dated April 15, 2011 mentions: The pawn shop CUP was more contentious.

At the core of the discussion was a brand new ordinance restricting the clustering of businesses that have the reputation/image of preying on the poor as they conduct banking-like transactions. This new ordinance is intended to

keep pay day (and other) check-cashing businesses, pawn shops and other institutions that have high transaction fees from coming to neighborhoods and locating within 1/4 mile of each other. The fear or experience is that a clustering of these types of enterprises lower property values and discourage other businesses from locating in the same area.

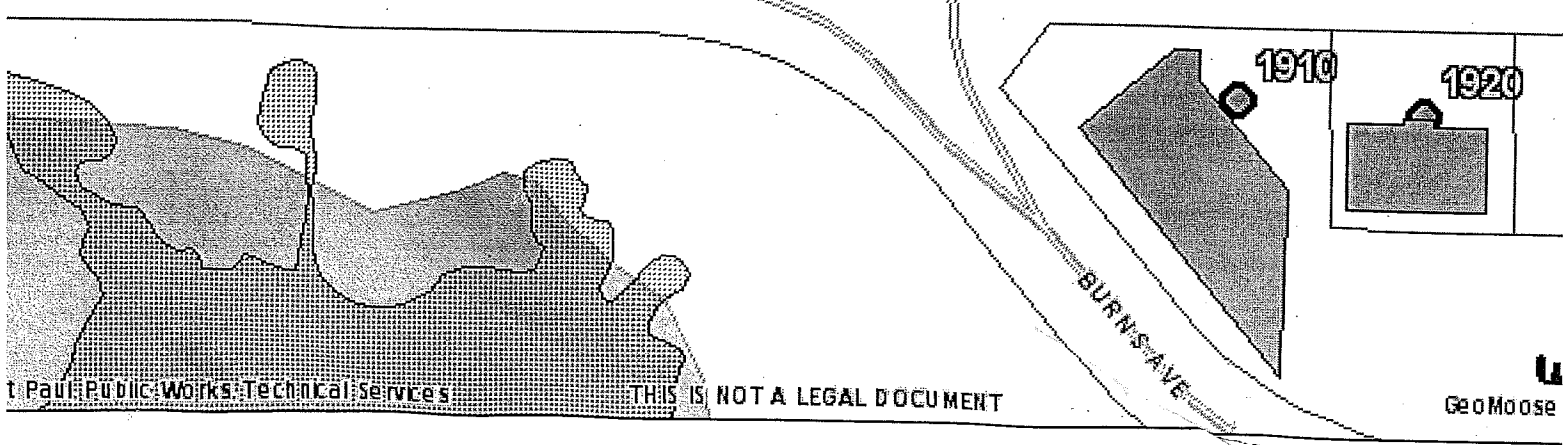
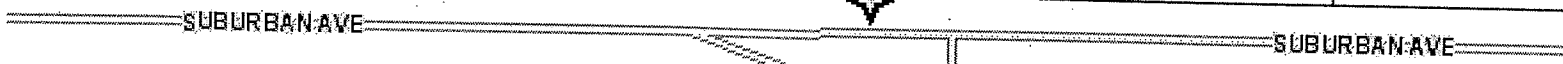
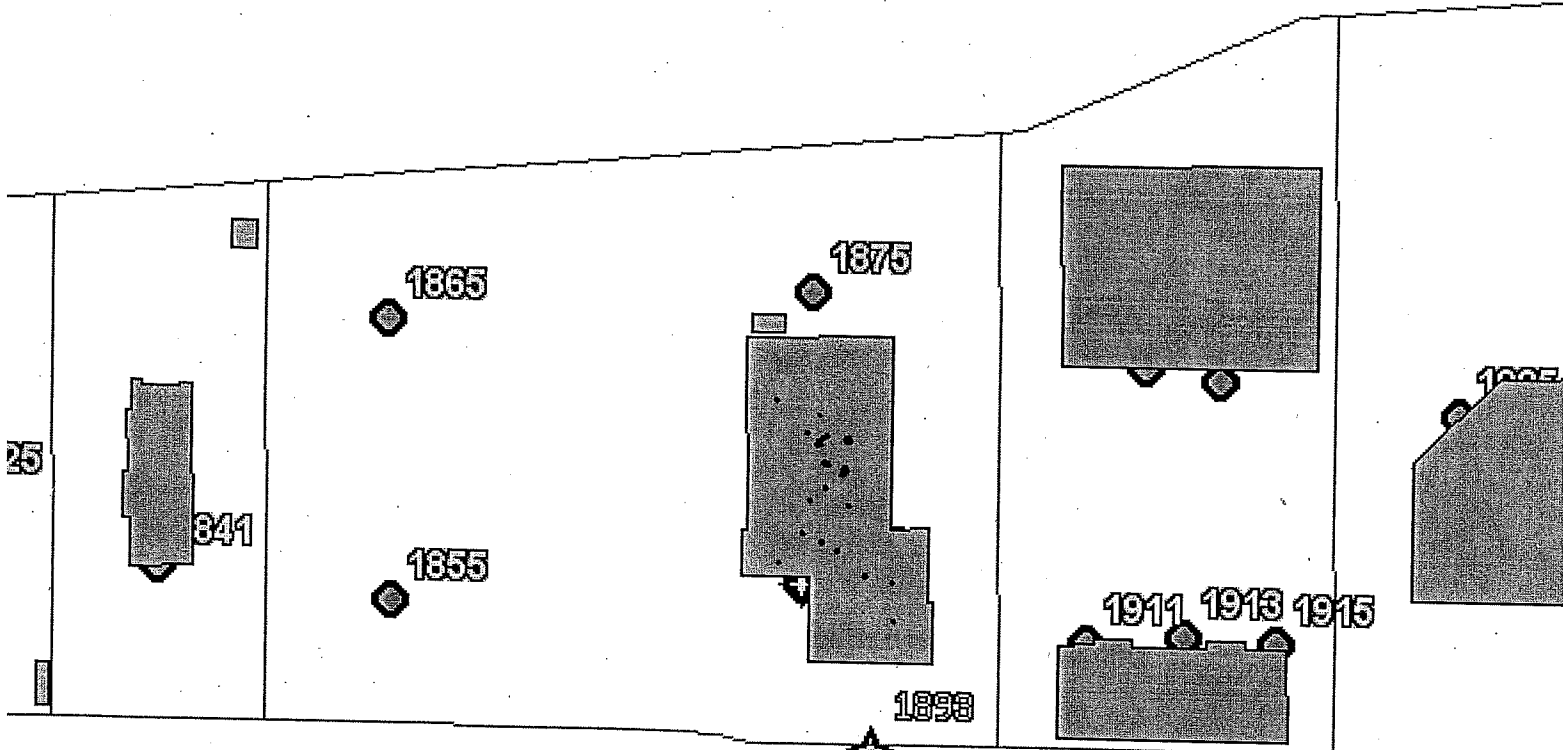
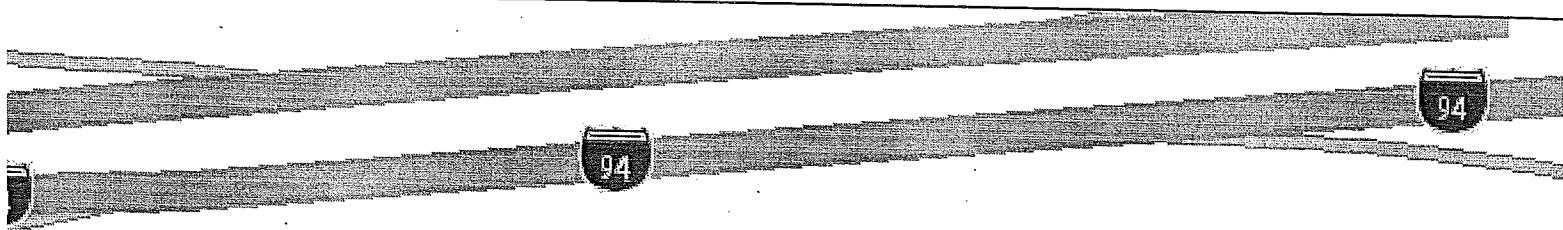
In this case, the proposed pawn shop would be located less than 1/4 mile from Piggy Bank - a money transfer/check cashing enterprise in Scenic Hills Center. The distance between them would be about 250 feet less than the required 1/4 mile.several commissioners feared that approval of this CUP was setting a dangerous precedent.

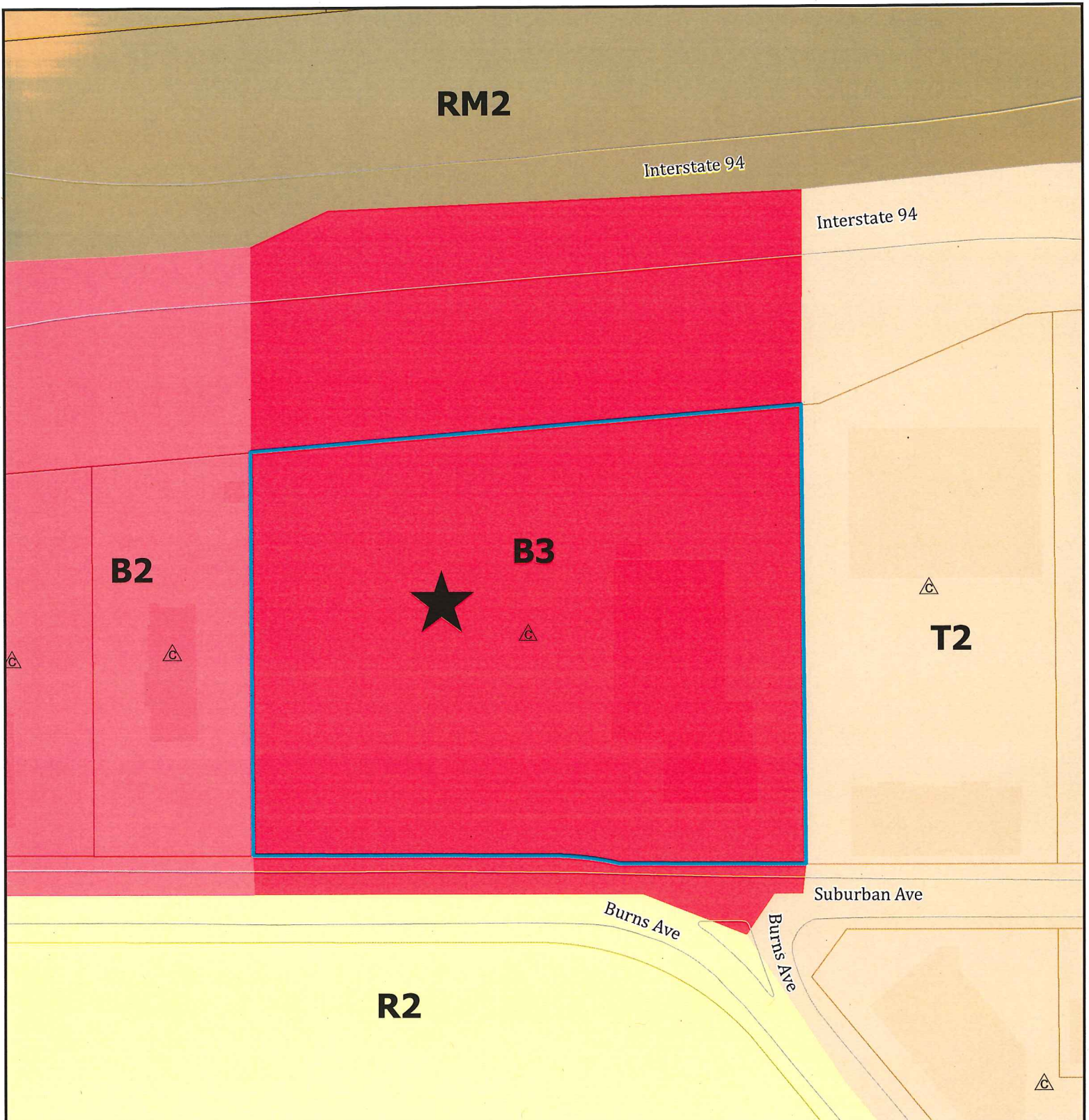
District 1 had argued that the criteria allowing a modification were met, and that the proposal, with its \$15 million in private investment, estimated 200 new jobs, and enhancements of the overall site plan - including a plan to deal with stormwater, was needed to help revitalize our business area. We had worked with the developer to outline restrictions that we felt would protect the neighborhood from some of the negative impacts of the proposed development. The Zoning Committee, however, had recommended denial of the CUP, saying essentially, that there was no testimony to say why the pawn shop couldn't be moved to the other side of the development, thus not needing the modification.

When the discussion of the motion to deny the CUP for the pawn shop began, one of the Commissioners, Bob Spaulding, offered an alternative to the restrictions that had been negotiated (it included all previous conditions, but added some more). Commissioners Spaulding, Oliver and Fernandez led the effort to produce the alternative that was finally approved on a 12-4 vote with one abstention.

What is included in these conditions on the pawn shop? They can't buy, sell or deal in firearms at the location, the hours of operations are restricted, there is a restriction on the size the pawn shop can reach, there will be no outdoor sales, the presented site plan is what will be constructed, they will participate in a city-wide litter program (come clean), the signage has to strictly comply with restrictions in our small area plan and in city code, and the CUP sunsets if the site is not developed in the plan presented within two years of the pawn shop starting operations.

The District 1 Community Council recognizes that not everyone in our neighborhoods is happy that this development will happen. We promise to be vigilant about the conditions imposed on the pawn shop. (You can read the full statement on the District 1 Community Council Blog.)





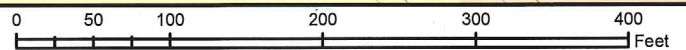
APPLICANT Pawn America Minnesota

APPLICATION TYPE Conditional Use Permit

FILE # #14-321546 DATE 8/20/2014

PLANING DISTRICT 1

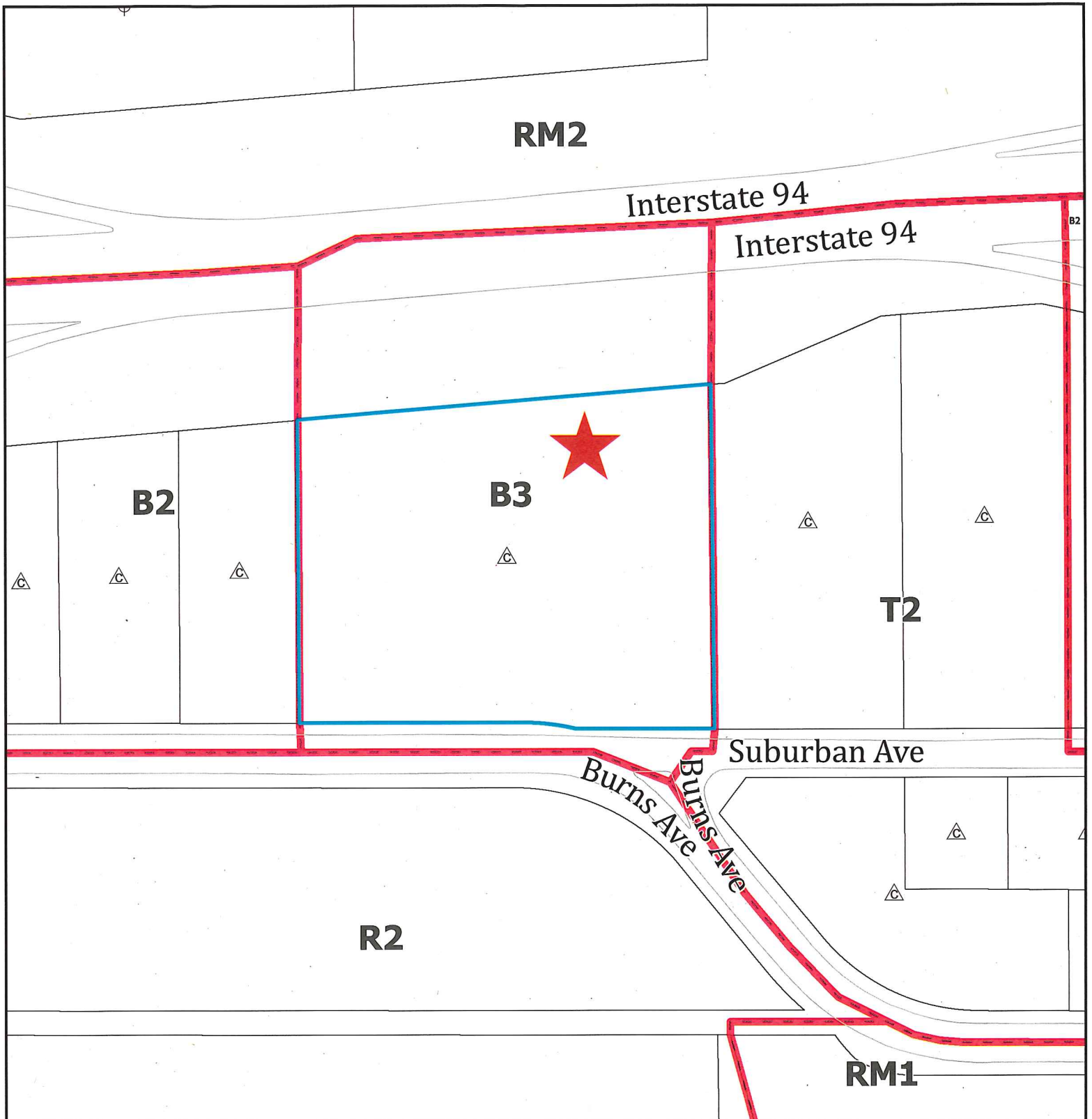
ZONING MAP # 18



- | | |
|----------------------|--------------------------|
| Commercial & Office | Residential One Family |
| Industrial & Utility | Residential Two Family |
| Institutional | Residential Three Family |
| Vacant/Undeveloped | Multifamily |

Saint Paul Department of Planning and Economic Development
Ramsey County





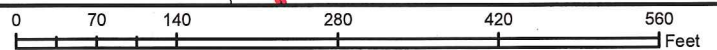
APPLICANT Pawn America Minnesota

APPLICATION TYPE Conditional Use Permit

FILE # _____ DATE 8/13/2014

PLANING DISTRICT 1

ZONING MAP # 18



- | | |
|----------------------|--------------------------|
| Commercial & Office | Residential One Family |
| Industrial & Utility | Residential Two Family |
| Institutional | Residential Three Family |
| Vacant/Undeveloped | Multifamily |

Saint Paul Department of Planning and Economic Development
Ramsey County

