



CITY OF SAINT PAUL
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Date: August 24, 2010
To: Comprehensive Planning Committee
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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 | |
| Currency exchange | | | | | C | P | P | ✓ |

...

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 | | P | P | | ✓ |

...

[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:

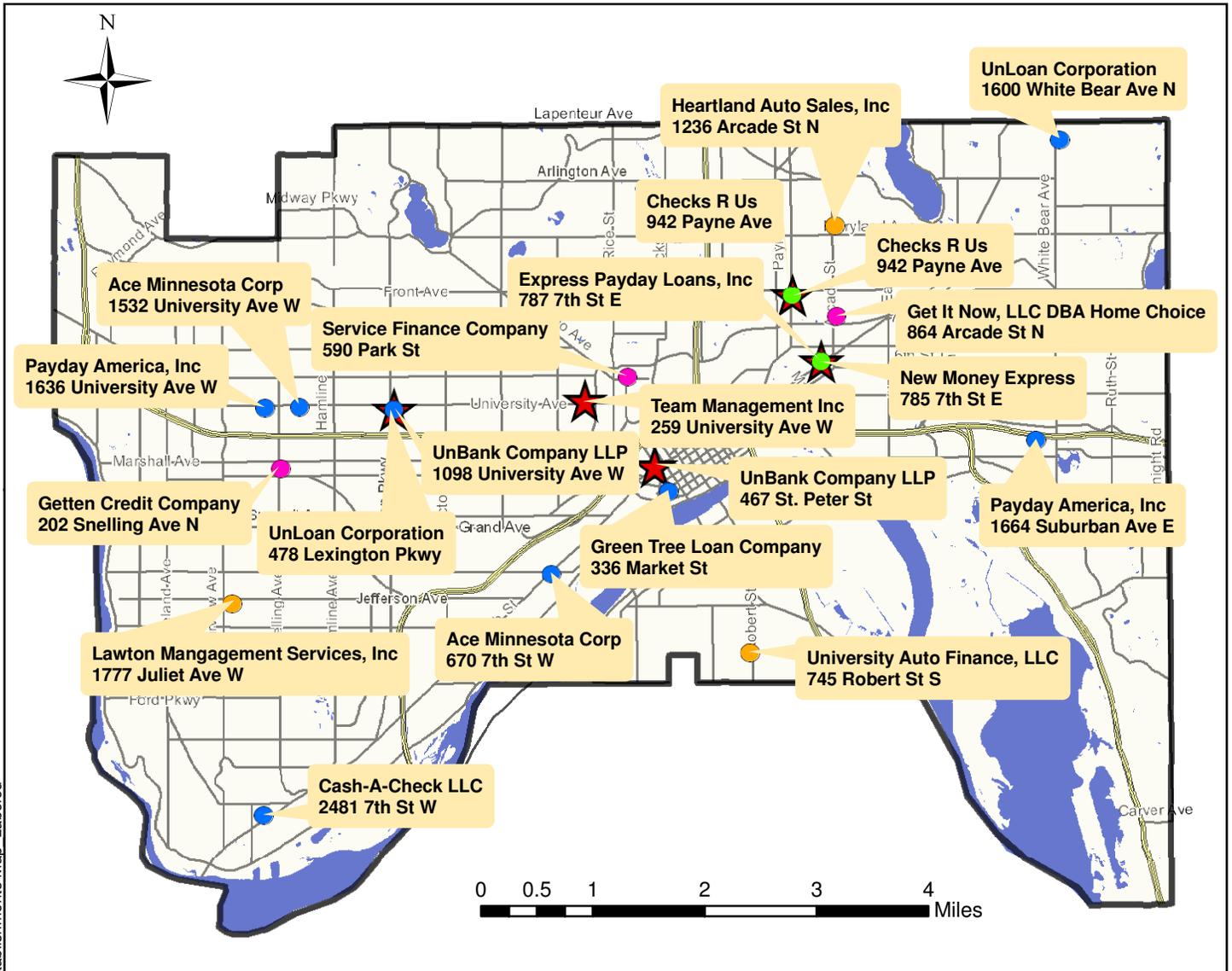
INDUSTRIAL LOAN & THRIFT COMPANIES

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.

Alternative Financial Establishments



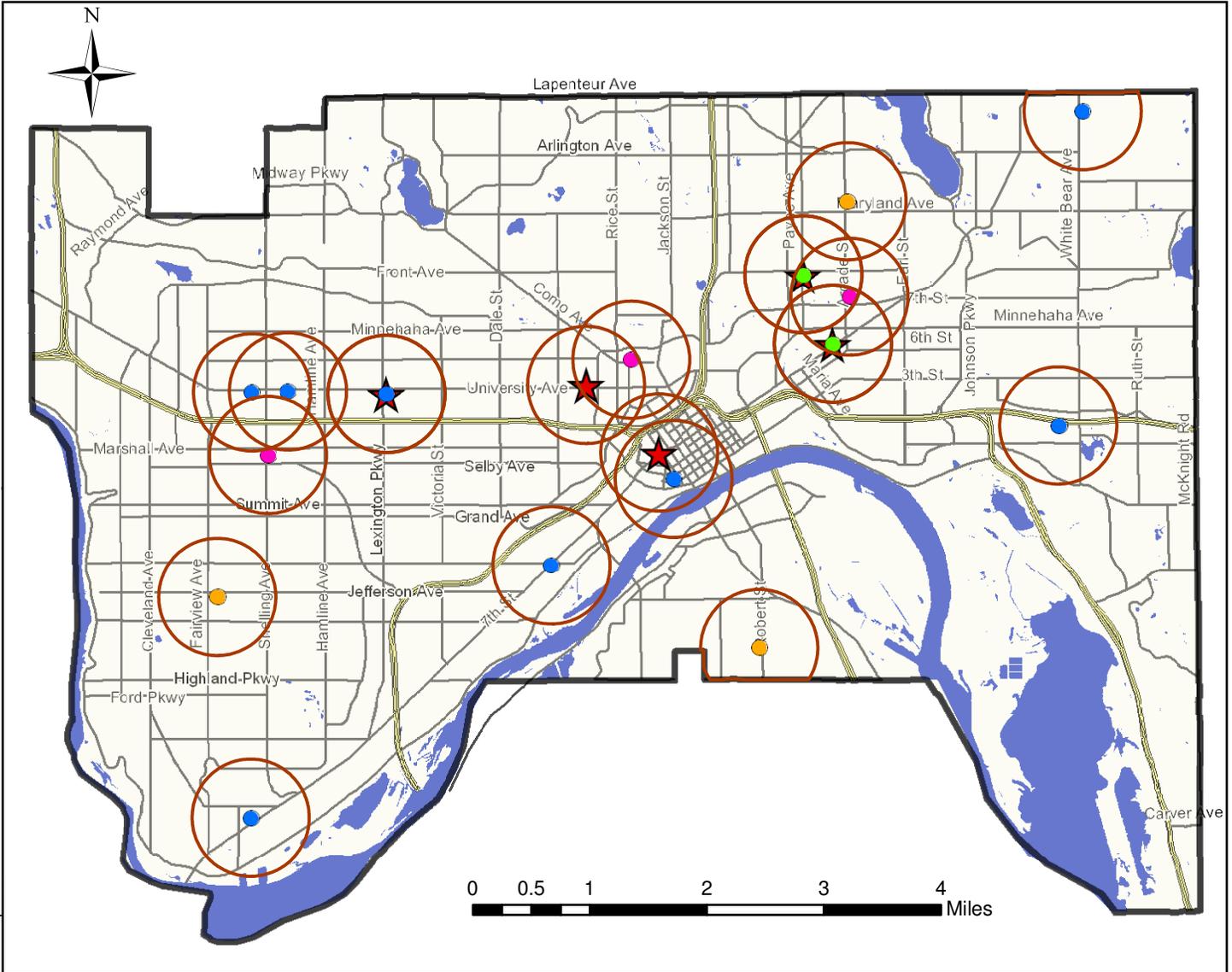
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Alternative Financial Establishments

Establishment to Establishment Distance



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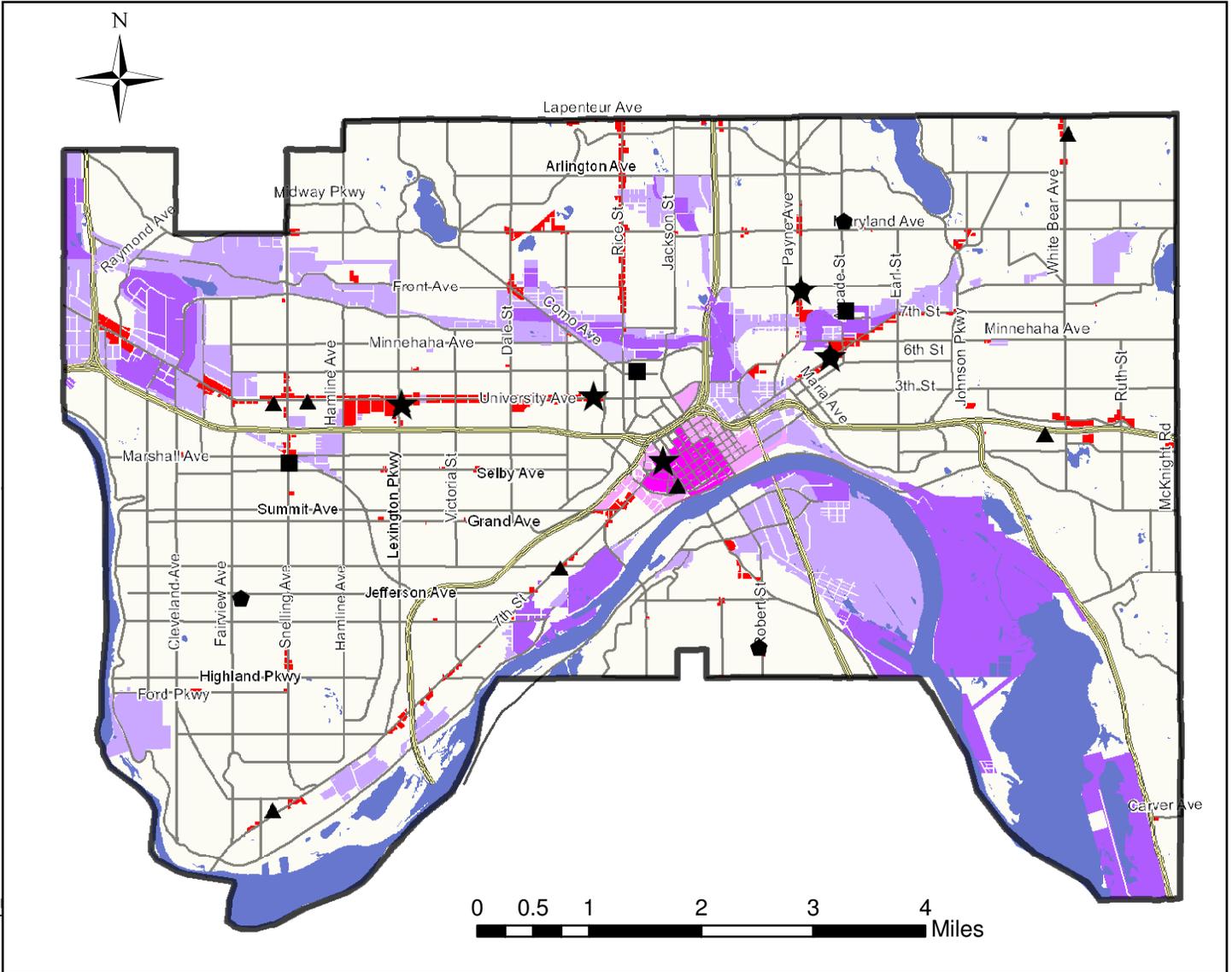
Legend

 2,640 ft Distance

Establishment License

-  Consumer Small Loan Co
-  Currency Exchange
-  Industrial Loan & Thrift
-  Motor Vehicle Sales Finance Co.
-  Regulated Loan Co.

Alternative Financial Establishments



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These zoning districts are a general representation of where alternative financial establishments could locate as a permitted or conditional use, so long as all other standards and conditions are met. There may be areas within the indicated districts that are within 150 ft of a residential unit or district, in which case an alternative financial establishment would not be allowed.

Legend

Establishment License

- Consumer Small Loan Co
MN Statute 47.6x
- ★ Currency Exchange
MN Statute 53A
- ▲ Industrial Loan & Thrift
MN Statute 53
- ◆ Motor Vehicle Sales Finance Co.
MN Statute 53C
- Regulated Loan Co.
MN Statute 56



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