

Department of Community Planning and Economic Development - Planning Division Report**Appeal of the Decision of the Zoning Administrator
BZZ-1846****Date:** August 19, 2004**Appellant:** Eduardo Salgado, Los Gallos**Address of Property:** Citywide**Date Application Deemed Complete:** July 19, 04**End of 60 Day Decision Period:** September 17, 04**End of 120 Day Decision Period:** November 16, 04**Appeal Period Expiration:** August 30, 04**Contact Person and Phone:** Eduardo Salgado, 612-822-1000**Planning Staff and Phone:** Carrie Flack, 612-673-3239**Ward:** Citywide **Neighborhood Organization:** Citywide**Existing Zoning:** Citywide

Appeal of the decision of the Zoning Administrator: Eduardo Salgado on behalf of Los Gallos has filed an appeal of the decision of the Zoning Administrator dated June 15, 2004, regarding *Money Transmitters*. The Zoning Administrator has determined that *Money Transmitters* are substantially similar to *Currency Exchange* uses. The appellant challenges this decision and argues that businesses like Los Gallos are substantially similar to retail sales and services uses.

525.170. Appeals of decisions of the zoning administrator. All findings and decisions of the zoning administrator, planning director or other official involved in the administration or the enforcement of this zoning ordinance shall be final subject to appeal to the board of adjustment, except as otherwise provided by this zoning ordinance. Appeals may be initiated by any affected person by filing the appeal with the zoning administrator on a form approved by the zoning administrator. All appeals shall be filed within twenty (20) calendar days of the date of the decision. Timely filing of an appeal shall stay all proceedings in the action appealed, unless the zoning administrator certifies to the board of adjustment, with service of a copy to the applicant, that a stay would cause imminent peril to life or property, in which case the proceedings shall not be stayed. The board of adjustment shall hold a public hearing on each complete application for an appeal as provided in section 525.150. All findings and decisions of the board of adjustment

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concerning appeals shall be final, subject to appeal to the city council as specified in section 525.180.

Background: The appellant has appealed the decision of the Zoning Administrator regarding the determination that the use *Money Transmitter* is not substantially similar in character and impact to *Currency Exchange* and should not be regulated the same. Money transmitting businesses wire funds from the business location to other locations and/or countries.

The Zoning Administrator has determined that *Money Transmitter* is substantially similar in character and impact to *Currency Exchange* as defined in section 520.160 of the zoning code as follows:

Currency Exchange. An establishment, 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 traveler's checks or exchanging currency for a fee, as defined in Minnesota Statutes section 53A.01.

This definition is the essentially the same as the definition of *Currency Exchange* found in Minnesota Statutes Chapter 53A which states:

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.

Both the State and City impose a spacing requirement for *Currency Exchange* uses. The State's licensing regulations for *Currency Exchanges* impose a spacing requirement of one-half mile (2,640 ft.) from other licensed *Currency Exchanges*. Minn. Stat. sec. 53A.02, subd.2. The Minneapolis Zoning Code requires *Currency Exchanges* to be 1,000 ft. from other *Currency Exchanges* as well as from secondhand goods stores, pawnshops and missions.

The zoning code identifies *Currency Exchange* as a conditional use in C2, Neighborhood Corridor Commercial District, C3S, Community Shopping Center District, C4, General Commercial District, B4S, Downtown Service District, and B4C, Downtown Commercial District subject to the following specific development standards:

1. The use shall be located at least one thousand (1,000) feet from all existing currency exchanges, secondhand goods stores, pawnshops and missions.
2. Back-lighted signs, back-lighted awnings, portable signs, temporary signs and freestanding signs shall be prohibited.
3. The window and door area of any existing first floor façade that faces a public street or sidewalk shall not be reduced, nor shall changes be made to such windows or doors that block views into the building at eye level.

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4. For new construction, at least thirty (30) percent of the first floor façade that faces a public street or sidewalk shall be windows or doors of clear or lightly tinted glass that allow views into and out of the building at eye level.
5. The use of bars, chains or similar security devices that are visible from a public street or sidewalk shall be prohibited.
6. The premises, all adjacent streets, sidewalks and alleys, and all sidewalks and alleys within one hundred (100) feet shall be inspected regularly for purposes of removing any litter found thereon.

The Minneapolis Zoning Code has no definition for *Money Transmitters*. In 2001 the State began regulating *Money Transmitters* and defines *Money Transmitter* in Minn. Stat. sec. 53B.03, subd. 13.

Money transmission means selling or issuing payment instruments or engaging in the business of receiving money for transmission or transmitting money within the United States or to locations abroad by any and all means, including but not limited to payment instrument, wire, facsimile, or electronic transfer.

The State does not impose a spacing requirement for *Money Transmitters*. Los Gallos is licensed as a *Money Transmitter*.

Analysis: The Zoning Administrator has determined that *Money Transmitters* are substantially similar to *Currency Exchanges* for zoning purposes. The factors that were considered in reaching this conclusion include:

1. Both *Money Transmitter* and *Currency Exchange* engage in transactions involving payment instruments (one charges fees for issuing payment instruments, the other charges fees for check cashing);
2. The uses tend to be similar in size and scale;
3. The uses appear to have similar security needs (customers potentially entering or leaving the premises with large amounts of cash); and
4. The uses raise similar aesthetic concerns of the city (e.g., security bars or other devices that may be visible from the public street).

The appellant argues that *Money Transmitters* are not like *Currency Exchanges* because of the differences reflected in the licensing requirements of both uses by the State of Minnesota. The appellant further argues that *Money Transmitting* is substantially similar to neighborhood serving retail sales and services uses which are conditional uses in the OR2 and OR3, Office Residence Districts, or substantially similar to general retail sales and services uses which are permitted uses in the C1, Neighborhood Commercial District, C2, Neighborhood Corridor Commercial District, C3A, Community Activity Center District, C3S, Community Shopping Center District and C4, General Commercial District. The appellant's full statement is attached.

General retail sales and services uses include the retail sale of products or the provision of services to the general public that produce minimal off-site impacts. General retail sales and services include: bakery, barber shop/beauty salon, bicycle sales and repair, clothing and accessories, drug store, dry

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cleaning pick-up station, electronics, film developing, furniture store, hardware store, interior decorating/upholstery, jewelry store, locksmith, picture framing, radio and television service and repair, shoe repair/tailor.

Money Transmitters may reflect some characteristics of general retail sales and services uses, including minimal off-site impacts. If it were determined that *Money Transmitters* were substantially similar to general retail sales and services uses, *Money Transmitters* would be a permitted use beginning in the C1 District and would not be subject to spacing requirements. However, planning staff agrees that the Zoning Administrator has correctly and appropriately determined that *Money Transmitter* is substantially similar in character and impact to *Currency Exchange* and is thus subject to the requirements and standards for *Currency Exchange* set forth in the zoning ordinance.

Recommendation of the Department of Community Planning and Economic Development Planning Division:

The Department of Community Planning and Economic Development Planning Division recommends **denial** of the appeal of the decision of the Zoning Administrator.