

Objections



HIGHLAND
DISTRICT
COUNCIL

Highland District Council
1978 Ford Parkway Saint Paul, Minnesota 55116
651-695-4005 Fax 651-695-4019
Email: hdc@visi.com

FILE
14-199046

Resolution Regarding Getten Credit Company at 1338 Bayard Avenue

WHEREAS, Getten Credit Company, a consumer lending company licensed by the Minnesota Department of Commerce, has been operating at 1338 Bayard Avenue since November, 2013; and

WHEREAS, the Saint Paul Zoning Administrator found that Getten Credit's business is not a permitted land use in a Residential zoning district nor under the existing Nonconforming Use Permit for an office at 1338 Bayard Avenue; and

WHEREAS, Getten Credit Company is appealing the Saint Paul Zoning Administrator's decision to the Board of Zoning Appeals; and

WHEREAS, the Highland District Council's Community Development Committee (CDC) hosted a public meeting with Getten Credit and residential neighbors on May 20, 2014; and

WHEREAS, the CDC expects business owners to research zoning and licensing requirements for a given location before opening and operating a business; and

WHEREAS, the CDC does not want an Alternative Financial Establishment operating in a residential neighborhood: Now therefore,

BE IT RESOLVED that if Getten Credit Company is allowed to operate at 1338 Bayard Avenue under the existing Nonconforming Use Permit for an office, then the CDC requests the following conditions be applied:

- Consumer Lending operations at 1338 Bayard be limited to Getten Credit Company and non-transferable,
- Getten Credit's business operations as a Consumer Lender cannot be expanded or changed to include other Alternative Financial Establishment uses such as a Pay Day Lender, Currency Exchange, or Check Cashing Operation.

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May 28, 2014

Dear BZA members:

My name is Dan Smith and I live at 1346 Bayard Avenue. My family and I have lived in this neighborhood for the past 11 years and at our current address for more than three years. We live directly across Hamline Avenue from the building that Getten Credit is occupying.

I do not wish to focus my comments on traffic, noise or any other impacts of this land use in our neighborhood. And I do not believe that the zoning administrator's ruling or your decision today should be considered a referendum on whether the Gettens are good people or run a good business. Instead, I believe that this is a simple matter of zoning law.

And in this regard, this is not a close call. It is an egregious example of a property owner paying no attention to the law. This property owner ignored the change-of-address requirements of their state license in order to begin operating one of the most restricted land uses in one of the least permissive zoning districts available in Saint Paul.

Please consider the following:

- Getten Credit is a licensed Regulated Loan Company under state law. This indisputably qualifies them as an alternative financial establishment under the City zoning code. Furthermore, it also requires them to notify the Department of Commerce that they are moving 30 days prior to changing addresses. In a list of regulated loan companies current as of April 4, 2014, the Department of Commerce still lists Getten Credit's address as 202 Snelling Avenue. Since Getten Credit has been operating at 1338 Bayard since November, one can only conclude that this license requirement was not met.
- The zoning code only allows alternative financial establishments in a B3 district and then only with a conditional use permit. The B3 district is a general business district and is the most permissive zoning district outside of industrial areas or the downtown central business district. For comparison's sake, other uses zoned similarly (allowable only with conditions in a B3 district) include pawn shops, fast food restaurants, adult entertainment uses and car washes.
- In 2009-10, the City Council enacted a moratorium and then spent several months studying zoning changes to determine whether additional restrictions were needed on where alternative financial establishments can be located. The result of this was an additional requirement that these establishments cannot be located within 150 feet of a single family home or duplex. Our home is within 60 feet of this use.
- The property in question is zoned R4 (residential) with a legal nonconforming use as an office. As you know, any commercial use is allowed at this site only because it is "grandfathered in" from its historic use as a low-impact office. New commercial land uses are not permitted. Put

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simply, this is the most restrictive non-residential zoning designation in existence within the City of Saint Paul.

I must also say that I find it difficult to believe that Mr. Getten did not know that proper zoning was required to operate his business when he purchased the building at 1338 Bayard and improved it. The 2010 zoning study listed only 17 businesses in the entire city – including Mr. Getten's – that would be impacted by this well-publicized regulatory effort. In addition, Minnesota State law requires that regulated loan companies notify the State Commerce Commissioner before changing addresses.

The BZA has perhaps the most thankless job in all of civic engagement: to mediate localized land use disputes. These disputes can be emotionally draining as property rights are weighed against the desires of a community. Most disputes involve business owners seeking permission to build something or do something new. Laws are applied by well-intentioned administrators. Property owners or neighbors appeal to elected or appointed officials, sometimes with facts, sometimes with law and sometimes with pure emotion.

None of that happened here because no one had a chance to comment. The zoning staff, who a few short years ago spent several months carefully crafting a zoning law, did not even know about the move. They couldn't have known because the Commerce Commissioner was not notified. No one got to debate the merits of rezoning this property to B3 with a conditional use permit. I am confident that no one would have supported this result, as it could have effectively allowed the previously mentioned land uses. Instead, Getten just moved in and is now effectively "begging forgiveness."

It is possible that after hearing from Mr. Getten about his business, several of you may have sympathy for his position. However, this committee knows better than anyone that begging forgiveness has no part in zoning or land use planning. If a City does not enforce its zoning code because someone lives in the neighborhood or seems like a decent person, it can later have difficulty enforcing that same code when those conditions are not present.

This situation is unique in that the property owner is violating not only a local zoning district but also a citywide zoning law. If the City does not enforce the law here, someone who wanted to open a pawn shop, adult entertainment use or fast food restaurant at 1338 Bayard could rightly claim that there is a precedent and that fair treatment and equal protection under the law requires the City to allow them to do so. At the same time, someone who wants to open a check cashing or payday lending shop virtually anywhere in Saint Paul could rightly claim that the City cannot enforce its new ordinance in that case either because it did not do so here.

Thank you for your time and consideration and your service to Saint Paul.

Sincerely,

Dan Smith; 1346 Bayard Avenue

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Tilley, Corinne (CI-StPaul)

From: Diatta, YaYa (CI-StPaul)
Sent: Wednesday, May 21, 2014 11:30
To: Tilley, Corinne (CI-StPaul)
Subject: FW: 1338 Bayard Avenue

From: Drew Johnson [<mailto:drew.johnson10@gmail.com>]
Sent: Wednesday, May 21, 2014 11:23 AM
To: Diatta, YaYa (CI-StPaul)
Subject: 1338 Bayard Avenue

Dear BZA Members,

My family lives on the same block as 1338 Bayard Avenue, the site of a building being occupied by Getten Credit. We have lived in our house (1287 Scheffer Ave.) for 11 years.

I share the concerns of others regarding the mismatch between the type of business that Getten Credit operates and the type of business that 1338 Bayard is zoned for. I am concerned that a dangerous precedent would be set by allowing Getten to continue to operate there. Such a precedent would make it hard or impossible for the city to enforce zoning restrictions on that property or elsewhere.

In addition, I doubt that Getten Credit had no idea of the existing zoning laws or the change of address requirements for alternative financial establishments. It appears the company is trying to push through a project without going through the appropriate channels. As a potential neighbor, this is disturbing and raises concerns about how they might behave regarding city law or neighborhood concerns down the road.

I urge the board to seriously consider the long term consequences when weighing the concerns surrounding the 1338 Bayard property.

Sincerely,
Drew Johnson
1287 Scheffer Ave.

FILE
14-199146

Diatta, YaYa (CI-StPaul)

From: P Bran <pbran@comcast.net>
Sent: Wednesday, May 21, 2014 7:54 AM
To: Diatta, YaYa (CI-StPaul)
Cc: hdc@visi.com
Subject: Getten Credit Zoning
Attachments: Getten Letter.docx

Dear Mr. Diatta,

I am writing to offer my input on the question of the review of the zoning status on Getten Credit located at 1338 Bayard in St Paul. My family and I have lived at 1276 Eleanor Ave since October of 1987. We very much like the neighborhood and value its residential character with its schools, churches and parks. Please insure that the commercial zoning regulations are enforced as clearly defined in the attached letter by Mr. Dan Smith.

I am unable to attend the Zoning Board of Appeals meeting next Wednesday May 28, but would be happy to provide more written prospective on why I support Mr. Smith's position if requested. Thank you for your consideration of our opinions on this matter.

Respectfully yours,

Patrick and Patrice Schober Branigan
1276 Eleanor Ave.
St Paul, MN
651 698-5398

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Tilley, Corinne (CI-StPaul)

From: Matt Johnson <nevada.california@gmail.com>
Sent: Saturday, May 03, 2014 22:13
To: Tilley, Corinne (CI-StPaul)
Subject: gotten credit 1338 bayard ave st paul mn 55116

Corinne Tilley -

I am writing to inform you I do not support any rezoning for the property at 1338 Bayard Avenue. I do not feel this property is suitable for general business zoning and I do not believe it is in the best interest of our neighborhood to have a B3 general business operating at this property. I would appreciate your support in this matter.

- Matt

Matt Johnson
1314 Bayard Ave
Saint Paul, MN 55116
(651) 470-7048
nevada.california@gmail.com

FILE
14199096

Diatta, YaYa (CI-StPaul)

From: Mark Ratner <mratner@hotmail.com>
Sent: Thursday, May 01, 2014 3:31 PM
To: Diatta, YaYa (CI-StPaul)
Subject: Getten Credit Co.

Dear Mr. Diatta,

My wife, Marcy R. Frost, and I live at 1367 Bayard Ave., just a doors from Getten Credit Co. at 1338 Bayard Ave.

We oppose the rezoning of their building. This is a completely residential neighborhood. Getten Credit Co. should be located in a commercial zone (like it was at their old location at 202 Snelling Ave. No.)

Thank you for seeing to it that our opposition to the Getten Credit Co. rezoning is registered with the Zoning Commission.

Mark Ratner
1367 Bayard Ave.

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Tilley, Corinne (CI-StPaul)

From: Jenny Rogers <jennymrog@gmail.com>
Sent: Monday, April 28, 2014 12:20
To: Tilley, Corinne (CI-StPaul)
Subject: Getten Credit

Dear Corinne,

Hi my name is Jenny Rogers. My husband and I live in Highland Park on Bayard Ave. It has come to our attention that the business Getten Credit has purchased the building on the corner of Hamline and Bayard (1338 Bayard Ave) and may seek rezoning of this property in order to open up business in this location. It is our understanding that Getten Credit is not approved to operate their business at 1338 Bayard Ave per its current zoning.

We are hoping you might be able to shed some light on this matter. Do you happen to know Getten Credit's intentions with this location? Given the current zoning restrictions, how will Getten Credit be allowed to operate their business? What is your stance on the issue?

We strongly believe opening this type of business would be detrimental to the welfare of the community and are opposed to having Getten Credit operate at this location.

Thank you, in advance, for your attention to this issue.

Sincerely,

Jenny Rogers

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Tilley, Corinne (CI-StPaul)

From: Kantner, Libby (CI-StPaul)
Sent: Wednesday, April 23, 2014 12:06
To: Sally Koering Zimney; Tilley, Corinne (CI-StPaul); #CI-StPaul_Ward3
Cc: azimney@gmail.com
Subject: RE: Hamline/Bayard Business concern

Sally,

On behalf of Councilmember Tolbert, thank you for your email. This is a situation we have been closely monitoring. The area at Bayard and Hamline is zoned as a R4 (residential), however that property was grandfathered in as a C-Office so it is a legal non-conforming property. Getten Credit Company, the business who has bought and remodeled the building, is an alternative financial institution. This is not admissible in C-Office or R4 zoning. It would need to be at least 150 feet away from any residential properties and be in a Business district. Unfortunately, because Getten forgot to change the address on their state business license the city was not made aware of their plans and was unable to inform them of the zoning laws until recently. It is truly unfortunate given the work they have put into the property. At this time their options are to stop operating their business out of that location by May 15, 2014 or to apply to have the property rezoned. This would be very challenging because they would need to have the support of 2/3 of the property owners within 100 feet of their business, among other hurdles.

The current uses allowed by the zoning are:

- Multiple-family dwelling, home occupation
- Mixed residential and commercial use
- Community residential facility, human service
- Day care, school, library, park, church
- College, university, trade school, arts school
- Noncommercial recreation
- Utility/public service building
- Artist and photography studio
- Business office, bank, insurance, real estate office
- Professional office, medical clinic
- Drive-through sales and services
- Service businesses, e.g. shoe repair, tailor, barber

Corinne, please feel free to correct me if I'm mistaken on any of the zoning intricacies I detailed above.

Sally, thank you again for your email. At this time we must allow the appeal process to play out. It will be very difficult for Getten Credit Company to continue working out of that space.

Best,

Libby

Libby Kantner
Legislative Aide to
Councilmember Chris Tolbert
Ward 3, St. Paul
(651) 266-8631
Libby.kantner@ci.stpaul.mn.us