City Staff Report

Appeal – 3100 Highland Terrace West, Austin 78731

Appeal

- Property: 3100 Highland Terrace West
- Homeowner: Dallas Thompson
- Appellant: Highland Terrace Preservation Group

(Allegation 1) Property owner began construction of a garage, foundation and structure, without initially filing for the required COA permits.

- Work without permits occur every day throughout Austin. The City issued the permit, and the customer paid an additional fee for commencing work without a permit. As per fee schedule: An investigation fee is charged when work is commenced without a permit. The fee shall equal the cost of a permit and is collected in addition to the fee for the permit. Investigation fee of $150.80 was added.

(Allegation 1) Continued:

- R108.6 Work commencing before permit issuance. Any person who commences work requiring a permit on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary permits shall be subject to a fee established by the applicable governing authority that shall be in addition to the required permit fees.

- Staff Recommendation – The Property owner has pulled the required permits.

(Allegation 2) Operated property as an STR and rooming house without licensing

- Austin Code Department (ACD) has a process in place for illegal operation of Short Term Rental properties. They must have a Certificate of Occupancy and register with ACD as a Short Term Rental property.

- Staff Recommendation– Austin Code Dept. has investigated the case. Property owner is allowed to have tenants.

(Allegation 3) Permit should have been reviewed as a commercial permit and given thorough examination of the intended purpose and use of the property as a "Rooming House" and/or "Short Term Rental operated in a residential neighborhood within walking proximity of an elementary school.

Staff Recommendation: The 2012 IBC would provide an exception to detached one and two family homes and their accessory structures. As per zoning requirements this lot is designated as an SF3 lot, and only council can change zoning. Short term rental use is a permitted use in an SF-3 family residence as per ordinance 20130926-144.

(Allegation 3) Continued:

- **R101.2 Scope.** The provisions of this code shall apply to the construction, *alteration*, relocation, enlargement, replacement, *repair*, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures.

- **Exception from the IBC:** Detached one- and two-family *dwellings* and multiple single-family *dwellings* (*townhouses*) not more than three *stories* above *grade plane* in height with a separate *means of egress* and their accessory structures shall comply with the *International Residential Code*.

(Allegation 4) There are deficiencies in the submitted BP application, which clearly contains Omissions on the application, which potentially affects impervious cover as well as public utility easement provisions. *[Note: that Highland Park West (HPW) has plat restrictions that restrict size, height, and materials of detached garage].*

Staff Recommendation: As per R104.4, 2012 IRC, the Building Official is authorized to request an impervious coverage survey and any additional surveys to verify compliance.

The submitted permit application indicated impervious cover at 27.5%.

(Allegation 4) Continued:

- **R104.4 inspections.** The building official is authorized to make all required inspections or to accept reports of inspection by approved agencies, registered design professionals or individuals. Reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The" buildings official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority. Where special conditions exist, the building official is authorized to require additional construction documents to be prepared by a registered design professional such as but not limited to: building envelope survey, impervious-coverage survey for a project within 5% of the maximum allowable impervious cover, building height survey, finish floor elevations, foundation report and flood elevation certificate. All surveys shall be performed by a Texas registered professional surveyor.

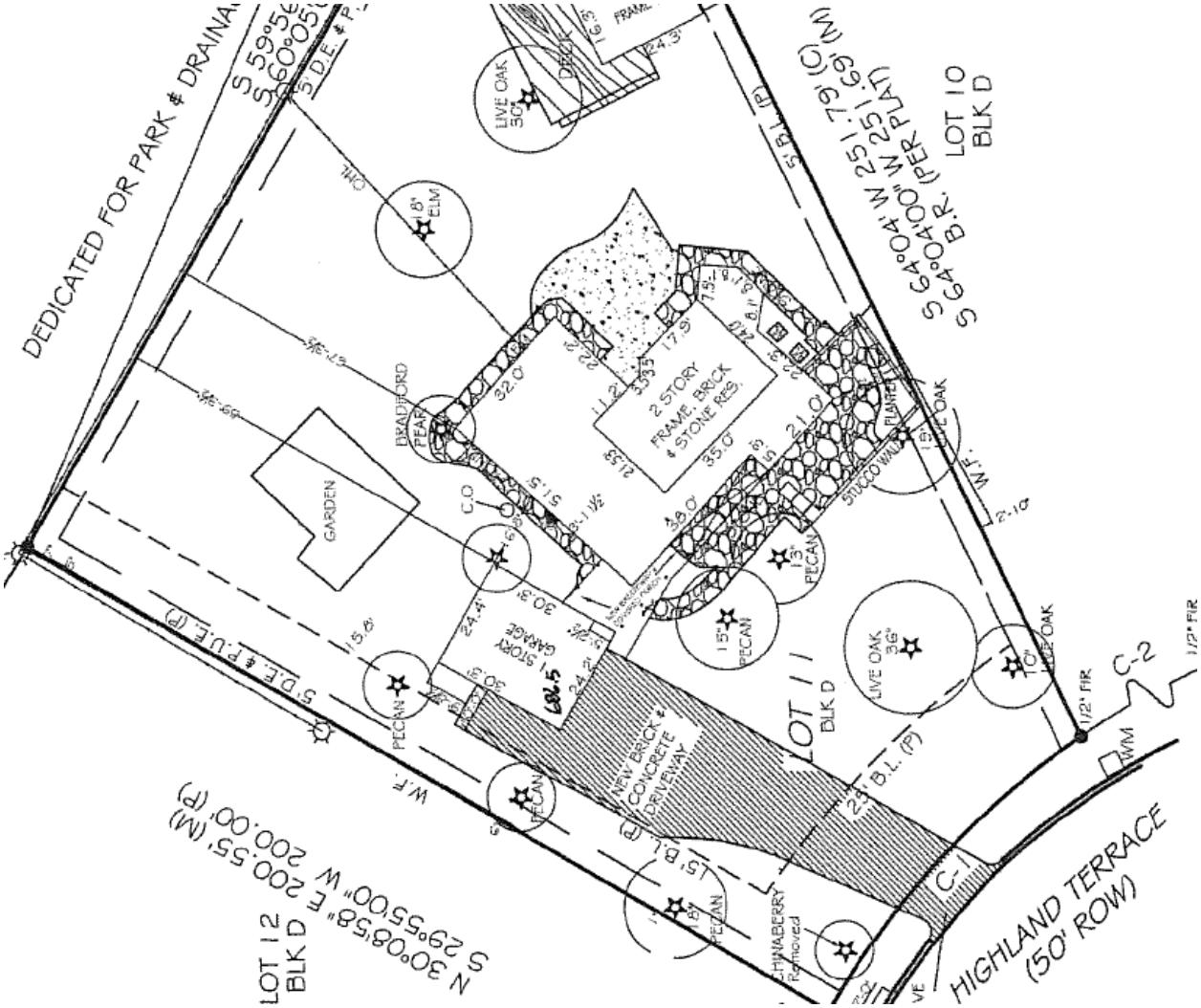
(Allegation 5) There are deficiencies in the submitted BP application related to Potential PUE encroachments.

- **R109.1.7 Layout Inspection.** A layout inspection shall be made after the permanent location of the structure is established and foundation forms and or piers have been erected and are in place, but before any concrete is placed. The layout inspection must be performed by a surveyor registered in the State of Texas. The surveyor will provide an as-built survey with all new and existing improvements, legal boundaries, easements, encroachments, lot size square footage and all required dimensions.

Staff Recommendation: The plans indicated that a portion of the driveway is in the PUE, however, flatwork is allowed in the setback.

- As per R109.1.7 the Building Official is authorized to request a survey verifying the PUE. (See proposed driveway)

Proposed Driveway



(Allegation 6) Highland Park West plat restrictions violated which restricts size, height and material of detached garage. *[Note: that Highland Park West (HPW) has plat restrictions that restrict size, height, and materials of detached garage].*

Staff Recommendation: The City does not enforce deed restrictions.

Additional Concerns from NH

1. Violation of Accessory Uses CC 25-3-88
   - This section applies to accessory dwellings, this is an accessory structure/garage.
   - (LDC§ 25-3-1 - This chapter regulates the design and development of a traditional neighborhood zoning district. Property is not located in a traditional neighborhood zoning district. Source: Section 13-9-1; Ord. 990225-70; Ord. 031211-11.

2. Violation of Garage Placement CC 25-2-1604
   - The Property is not located in a neighborhood plan. (see attached map)

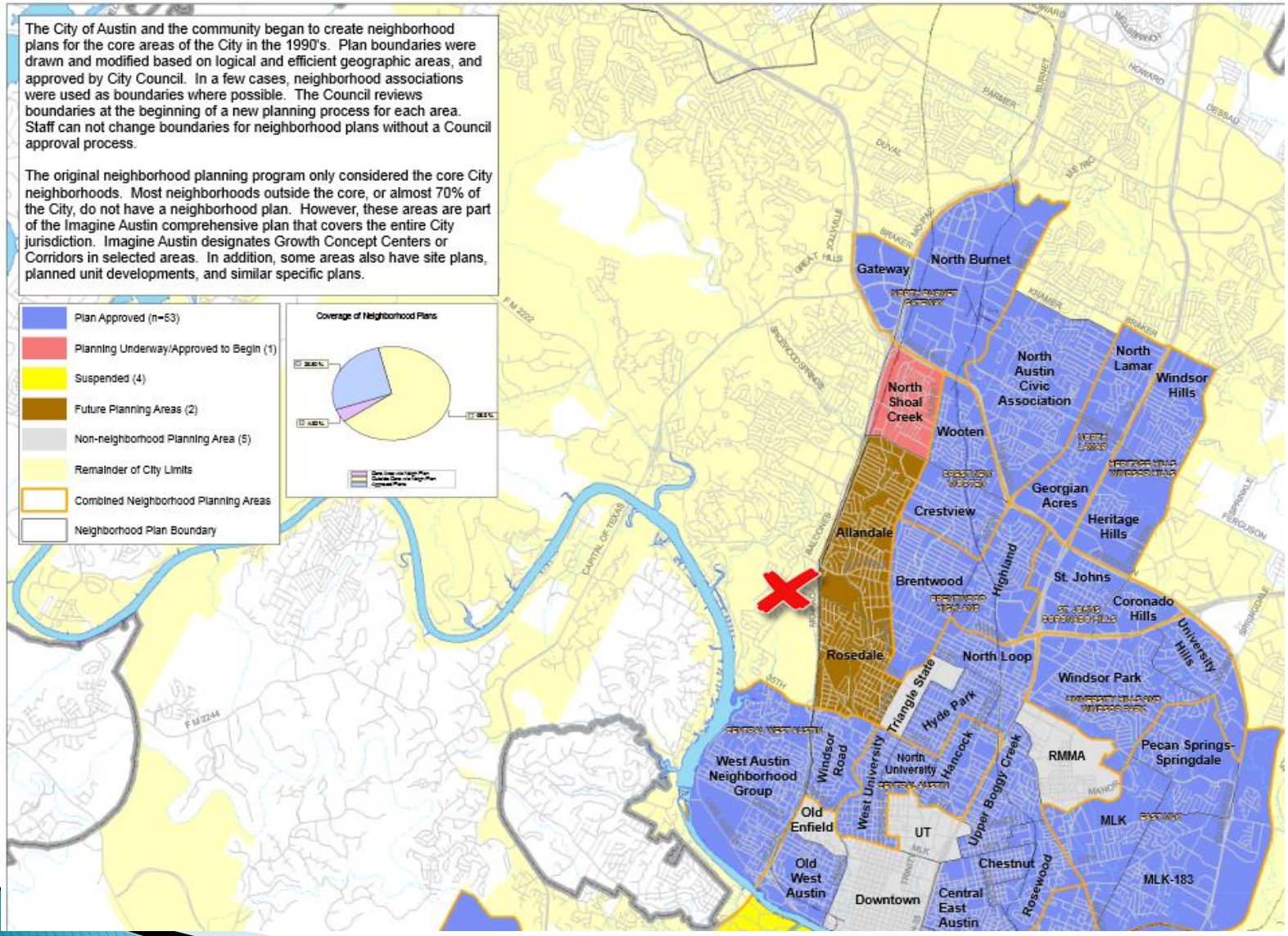
3. Violation of Tree Ordinance by removing a tree.
   - Plans show a ChinaBerry removed. Not a protected Tree. Any future removal of trees must be preapproved.

4. Violation of constructing a driveway without a licensed contractor.
   - Driveway permit was pulled by a Right-of-Way Contractor and who installed the curb cut.

5. Garage Foundation
   - The City may require an Engineers report verifying compliance with the code.

6. Violation of Short Term Rental requirements.
   - Austin Code Dept. Investigated. Homeowner has tenants.

Neighborhood Districts



Staff Recommendation

- Recommendation: Uphold the Building Official's decision and deny the appeal. The permits are valid.