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May 10, 2019

Austin Historic Landmark Commission
301 W. Second St.
Austin, Texas 78701

Re: 1400 Winsted Lane; HDP-2018-0673

Dear Chair Reed and Commissioners:

I represent Gitar Family, LLC, the owner of the 1400 Winsted Lane property.

At the end of public testimony on this case on April 22, 2019, the Commission voted 8-0 to close the public hearing. The Commission also voted 8-0 to continue its discussion on whether to recommend historic zoning to its May 20, 2019 meeting. To my knowledge, the Commission took no further action at its April 22, 2019 meeting on this historic zoning case.

Section 25-2-354(c) states: "The Historic Landmark Commission shall make a recommendation to the Land Use Commission on a zoning or re-zoning application governed by this section not later than the 14th day after the Historic Landmark Commission ***closes the public hearing on the application.***" (Emphasis added).

More than 14 days have passed since the Commission closed the public hearing. As a result, the Commission no longer has the authority to make a recommendation on this zoning application. Therefore, the Commission cannot make a "final decision on whether to recommend designation of the structure as a historic landmark" under Section 25-11-214(D)(2).

If the Commission proceeds with further consideration on this historic zoning application, then the remainder of this letter responds to several matters raised at the April 22, 2019 meeting.

The Commission asked staff to research the question of whether my client's property has community value by being a contributing structure to a "garden suburb."

As an initial matter, the term "contributing structure" refers to a structure within a designated historic area (HD) combining district which has been designated as a contributing structure by the ordinance creating the district, or within a National Register District. See Section 25-11-211(5) and Section 25-2-350. My client's property is not within a historic district. It would be a misapplication of the criteria in Section 25-2-354 to analyze my client's property as a "contributing structure."

When researching “garden suburbs” on the internet, I found very few articles and publications on topic. After reviewing the few articles I did find, it became apparent the term “garden suburb” generally described late 19th century and early 20th century well-planned neighborhoods in England with strict architectural and landscaping restrictions.¹

The National Register Bulletin *Historic Residential Suburbs* describes 20th century garden suburbs as follows²:

Neighborhoods with a park like setting to reinforce the separation of city and suburb. Entrance ways with plantings, signs, and sometimes portals, reinforced a neighborhood’s separation from noisy and crowded arterials and outlying commercial and industrial activity. The circulation network, often laid out in the formal geometry of axial lines and radical curves, imposed a rational order on may new subdivisions.

Attached to my letter are copies of the Westfield A subdivision plat, a title commitment issued for my client’s property, and a copy of the restrictive covenants applicable to the property. The Westfield A subdivision included 18 blocks and covered the large area bounded by Mopac to the east, Windsor to the north, Exposition to the west, and current 12th street to the south. The Westfield A plat does not contain traffic circles, landscaped boulevards, parks or other common areas. The lots generally appear to average an acre or more in size. Other than containing large lots, Westfield A subdivision plat does not contain the essential planning elements of a “garden suburb.”

The title commitment references only two sets of restrictive covenants. The instrument recorded in Volume 668, Page 141, Travis County Deed Records pertains to Lot 18 in Block 9, which is on the north side of Enfield and west of my client’s property. It has no applicability to my client’s property. The other set of restrictive covenants appears in a deed recorded in Volume 387, Page 214, Travis County Deed Records and imposed four restrictions:

1. Prohibition of mercantile businesses and commercial signboard; residential uses only.
2. A racist prohibition no longer enforceable as a matter of law.
3. Set a minimum original construction cost of \$3,500.00.
4. No subdivision of Lot 3, Block 3 could occur before January 1, 1930.

Based on these two documents, it appears the Westenfield Development Company established a common plan of development through restrictions placed in individual deeds. Regarding my client’s property, there was no master declaration, architectural standards, landscaping standards or architectural control committee. Thus, Westfield A does not have the strict development controls characteristic of “garden suburbs.”

Further, the density of Westfield A has increased significantly since 1925. For example, Block 3 originally had 7 lots. According to TCAD maps, Block 3 has 18 lots. Likewise, Block 4 originally had 8 lots. According to TCAD maps, Block 4 has 16 lots. What exists on the ground today within the Westfield A subdivision plat hardly resembles the original lot layout.

¹ Preserving the Historic Suburb: Case Studies from London and New York by Jefferey Kroessler published in Suburban Sustainability, Volume 2, Issue 1, University of South Florida.

² Page 41; National Register Bulletin *Historic Residential Suburbs*

At the April 22, 2019 hearing, proponents of historic zoning represented the area within the Westfield A plat remained a cohesive neighborhood and that my client's property contributed to the Westfield A neighborhood.

Attached are land use maps for the Tarrytown and Deep Eddy neighborhoods from the Central West Austin Neighborhood Plan. As you will see, Enfield is the southern boundary of the Tarrytown neighborhood. Nearly two thirds of the land in Westfield A plat now identifies as the Tarrytown neighborhood. My client's property, as well as the Westfield A subdivision land south of Enfield, is included in the Deep Eddy neighborhood. The representation that the land within the Westfield A plat remains a cohesive, self-identifying neighborhood is unfounded.

A key characteristic of a "garden suburb" is its separation from the densely populated centers of large cities and its standalone planning. According to Central West Austin Neighborhood Plan, residential development in Tarrytown and Deep Eddy began in the 1910s. Westfield A was not the first residential subdivision west of the railroad. Instead, it was merely the extension of roads and residential development already occurring west of the railroad. The Westfield A plat indicates a railroad bridge crossing Enfield.

Finally, the effort to include "community value" as a Section 25-2-352(A)(3)(b) criteria does not cure the failure to meet the Section 25-2-352(A)(1) criteria that the property "represents a period of significance of at least 50 years ago."

Proponents for historic zoning argue the house is historically significant because Dean Smith lived there. Professor Smith did not become Dean Smith until 1974. According to the National Register Bulletin *Guidelines for Evaluating and Nominating Properties that have achieved significance within the Past Fifty Years*: "Although a property may be more than 50 years or age, if it is significant solely for a reason that dates from within the past 50 years, it must be exceptionally important to be listed in the National Register."

No one has argued or submitted evidence that either the house or Professor Dean meet the "exceptionally important" standard found in National Bulletin 22.

For the reasons provided above, I ask the Commission to take no further action on the historic zoning application and allow the issuance of the demolition permit.

Very truly yours,

SNEED, VINE & PERRY,
A PROFESSIONAL CORPORATION

By: 
Robert J. Kleeman