

To:

President of City Council
Rochester Hill., MI

October 13th, 2009

Sub: Request to Delist 2371 Livernois Road Historic District

Dear Mr. President,

Premium Construction, the owner of the property 2371 Livernois Road, a listed Historic District, hereby referred to as "House", hereby humbly requests that the said property be delisted due to lack of documentation to support that it was ever really listed along with strong evidence, that even if it was, it does not qualify for listing due to insignificance and defective procedures. The Study Committee report for delisting the "Dequindre House" hereby referred to as "Report" was used to in preparing this petition and many of the their criteria's laid out in the report have been utilized to support our beliefs and conclusions..

Pursuant to Rochester Hills Code of Ordinances, Chapter 118, as amended in 1999, and PA 169 of 1970 as amended, if considering elimination of a historic district, any one of the following reasons qualify for the said elimination.

- 1) Insignificance: The historic district is/was not significant in a way previously defined; or
- 2) Defective procedure: The historic district was established pursuant to defective procedures. (Section 118-134, Rochester Hills Code of Ordinances)

Pg 4 of Codified Ordinance 528 dated 12 January 2009 was amended to (Section 118-129) " Upon receipt of a request to establish or eliminate a historic district City Council, after making a determination that there are reasonable grounds for such a request, may (~~deleted word "shall"~~) refer the request to the Study Committee to conduct an investigation in accordance with this section". The word shall was specifically removed to convey the intent and authority vested in

the Council. The intent of the state law and the city ordinance is that Council is the sole authority and can in such cases where evidence is compelling and strong , approve such elimination without further delay.

The LHDA also provides that the city council may eliminate a historic district when the local unit has created it contrary to the required procedures.

Based on our research and findings and Mr. Robert J Morris report(attached) , a well known preservationist and Ex Chair of Lansing Historic District, it is our belief that the said property is NOT historic due to reasons stated above and discussed below. We humbly request that the property be eliminated by the council based on these facts and if at all any comments are requested from another administrative body, then the amount for such comments should be very minimal as the documentation provided is self sufficient.

UNRECORDED PROPERTY:

In 1978 the City established some historic districts. Property 2409 Livernois 15-27-101-014 was on that list and sometime thereafter the house number was changed to 2371 and parcel number was changed to 15-27-151-003. Based on our research and documents collected from state, county and city we cannot find any documents such as 1978 Study Committee Report, public hearings, or any of the procedures outlined in 399.214 designating 2371 as the historic property including the registrar of deeds. The recorded property is 2409. It is our belief that the said property was never officially designated a historic district and many of the documents lead toward a Defective Procedure.

ERRONEOUS / INCOMPLETE SURVEY AND DATA:

One of the most fatal error seem to be that the affidavit filed in 1978 for historic designation is for house 2409 Livernois with parcel number 15-27-101-014 that was on the same parcel but the

scanty survey records, a picture and hardly any description or historical data are of 2371 Livernois. In 2001, the house 2409 was issued a demolition permit by the Building Department, after earlier issuing a notice to repair, and demolition was completed in 2001. The parcel number of the house at the time was 15-27-101-014 same as the filed affidavit. Legally the historic designated property 2409 Livernois was removed and demolished.

The incomplete survey shows the house to be a Greek Revival Plantation, and on another as Greek Revival and still another Colonial Revival. It is in fact a Colonial Revival (See Robert Morris Letter) a popular term independent of period and was not in any way extraordinary or significant architecture. All surveys 1978, 1993,,2002 have no listed Historical Data , Historical Significance or Architectural Significance and are merely just description of the property.

PARCEL NUMBERS CHANGED:

In 1980 or so another error happened when the City and County eliminated parcel number 15-27-101-014 that was the parcel ID for 2409 House and replaced it with the parcel ID of 2371 house , 15-27-151-003. Once the house 2409 was demolished the only thing that was left was 2371 with parcel number 15-27-151-003. Both the old house 2409- the designated house and the parcel number were gone. Hence record showed 2371 on parcel number 15-27-151-003 with the legal of 15-27-101-014 and this was what flowed thru on the designation from there on. The affidavit filed for 2409 with the parcel number and legal and the district boundary of 100ft was never rerecorded under the new number 15-27-151-003

CITY CRITERIA FOR HISTORIC DESIGNATION:

In a recent report by Study Committee for the “Dequindre House it states:

“ In 1978, when the Avon Township Historic District Study Committee conducted their investigation of potential historic districts in the township they had relatively little guidance. Michigan's Local Historic Districts Act, PA 169 of 1970, instructed study committees to conduct studies and research and make a written report on the cultural, social, economic, political, architectural, or historical significance of the property under consideration. The law did not specify how to go about this study, what the report should include, or what criteria should be used to evaluate historical significance. Furthermore, in the 1970s methods to identify and evaluate historic properties were less sophisticated than they are today. “

However one thing was clear both at the State Level as well as the City, that was “Age”. The Rochester Hills Historic Property Owner Guide states on page 3 the criteria for selection and designation that must be met. The first criterion state ” property “**MUST be 50 years old**”. This statute was followed in the other surveys and the supposed undated survey (assumed to be of 1978) done on our house does not state the age at all. The Historical Data section is blank too and no names of the surveyor etc are there. It is therefore assumed and stated that the survey was not in compliance with the statute and therefore invalid due to lack of information on it. In any event it did not meet the most important criterion of age and therefore was not worthy of designation.

The 1978 survey has no data regarding Historical Data or description of significance. It does not even have any history. All it says is Greek Revival Plantation The 2002 survey has no significance described in “Statement of Significance” but rather has only the history of the house and this survey it says it is Colonial Revival.

Hence as the Dequindre Report suggests, it seems that there was some lack of guidance in this case therefore the error.

2371 HOUSE FACTS:

The 2371 house was built around 1945-1950 and moved from 3215 Rochester Road and extensive additions were made to it via Building Permit issued in 1971. The occupancy certificate for this house was issued in Aug 1976. The owners at the time added a brand new section to the front(entrance) of the house measuring approximately 12x40 ft including new crawl space and new porch with columns . They also added new porches to the back of the house (facing Livernois) measuring approx 10x8ft and 10x20 ft with new columns, concrete and fascias. They also added new siding, new windows, and new roof on all new construction. On further examining the house it is evident that extensive structural changes had to be made due to the move and the sections and many bearing walls and roof lines had to be changed to accommodate the new additions. Copies of all permits are available. Very minor features and millwork are seen like the dentil molding that was put by the owners nephew using standard 2x4 lumber in early 80's and is not a real dentil molding. Therefore it is evident that the apparent character of the house misled the surveyors and there was no architectural significance whatsoever of the house that was only 30 years old to begin with due to 1) moving, 2) extensive additions and 3) modifications.

..In summary the house did not retain integrity even if it was designated and had no architectural significance at all. Robert Morris, a long time well known preservationist and Ex Chairman of Lansing Historic District feels that once structure is moved it is not the same anymore. (Letter Enclosed). Study Committee Report for Dequindre also supports it and states” Properties that have been moved from their original locations are not eligible for listing in the National Register, except in the circumstances described in Consideration B below. “ This house did not meet any exceptions listed such as “...significant primary for architectural value or which

is the surviving structure most importantly associated with a historic person or event.”

INSIGNIFICANCE:

The house has no significant event, person, agriculture or architecture significance as per any reports and surveys we could find. The Study Committee Report on Dequindre Road specifically states” The amended Local Historic Districts Act requires that study committees be guided by the criteria for listing in the National Register of Historic Places. National Register Criteria A and C and Criteria Consideration B are relevant to the designation of 56187 Dequindre Road.

Evaluation of the property according to these criteria leads to the conclusion that the house is not historically significant. The Criteria stated in the report is as follows:

The National Register Criteria

The quality of significance in American history, architecture, archaeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and:

A. That are associated with events that have made a significant contribution to the broad patterns of our history.

Report says ”Agriculture is the central theme in the city's history and is its most significant pattern of events. Note that the events referred to in National Register Criterion A are not necessarily single events. As explained in *How to Apply the National Register Criteria for Evaluation*: "Criterion A recognizes properties associated with single events, such as the founding of a town, or with a pattern of events, repeated activities, or historic trends, such as the gradual rise of a port city's prominence in trade and commerce."

No documents seem to exist to associate any such significance to the House or persons even if it was the designated house.

C. That embodies the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction.

Report mentions “Residential architecture dominates Rochester Hills, and most of the houses that have been designated are single-family houses, usually former farmhouses, some with associated out buildings.” The construction date of 2371 Livernois is estimated about 1945-50. The house was called Colonial Revival design. No distinction characteristics of a particular style ever existed. The term Colonial Revival” and Plantation Style “ suggest that the surveyors were misled by the very features(porches, dentil moldings) that were added after the move in 1970.

With extensive addition on the entire front of the house and three new porches it did not retain sufficient historic character in 1978 to warrant designation as an example of architectural style or type.

National register Criteria Considerations(Exceptions)

B. A building or structure removed from its original location but which is significant primarily for architectural value, or which is the surviving structure most importantly associated with a historic person or event.

Report says ”Properties that have been moved from their original locations are not eligible for listing in the National Register, except in the circumstances described in Consideration B above.”

The house has been moved from its original location and did not have any significant architectural value..

The Dequindre Study Committee Report sums it “**that only properties of high significance can be designated**” and therefore due to lack of documentation of any such significance this property even if it was designated, also does not meet any of the above criteria’s.

DEFECTIVE PROCEDURE:

A.MODIFICATION

According to the City, City modified the boundaries of this district in 90’s. We have not found any documentation showing that required procedures laid out in 399.214 Section 14 (1) and

Section 3 were followed for such modification including but not limited to appointment of study committee, study committee report, notification to owner, public hearing and registering the final with the county..

The affidavit filed in the county for the house 2409 Livernois Road Parcel No: 15-27-101-014, the only document found to be filed with the county as per the title search done by Metro Title Company , designated 100 ft around the house as the district. City modified the district with no certain procedures as called for in 399.214 Sec 14 “Before ...modifying...local body shall comply with procedures set forth in Section 3”and Section 3 3(b) “file a copy of the ordinance with registrar of deeds”. It seems that, as law mandates following the 399.214 Section 3 for such modifications, the property 2371 Livernois was therefore never designated.

B. NONCONTIGUOUS DISTRICTS:

It also seems to be defective in the establishment of non contiguous district. First, under the LHDA, as it existed in 1978, there was no statutory basis to create a single resource historic district. The *Draprop* court held contrary to the Michigan State Historic Preservation Office's ("SHPO") opinion that the most recent amendments to the definition of "historic district" in the LHDA do not permit single resource districts, per se. A noncontiguous historic district may contain a single historic resource, but that historic resource must be connected to other resources, if not geographically, then in other required ways to form a valid historic district. Although it is lawful to designate single resources as a historic district, the 2371 Livernois does not fit the SHPO's criteria for a single resource historic district. The SHPO states that a qualified single resource district must meet the criteria for designation under the National Register of Historic Places. To meet the national standards for inclusion in the

Register, a qualified single resource must be an outstanding example of architecture, such as a Frank Lloyd Wright house, or the home of a nationally prominent person. (See “Local Historic Districts in Michigan,” State Historic Preservation Office, p.20.)

C. INCOMPLETE SURVEYS AND LACK OF INFORMATION:

There was lack of guidance in early times during 1978 (Dequindre report). For whatever reasons, the first 1978 survey has no data at all and there is no information as to justifying why it was either significant- whether architecturally or historically. The sections are blank suggesting that they needed more information to proceed. The picture is of 2371 but house number and parcel number is 2409. It may have been that no objection were raised either in discussions or the hearing as 2409 was the designated house and not 2371. The owner had no chance to dispute it or represent as they were notified about the 2409 house and not 2371. To begin with , it seems that there was a lack of information and had it been investigated further it would never have been designated then or in future surveys as well. WAS IT 2409 OR 2371? That is a question. As per registrar of deeds it is not and as per surveys it is not, and as per age it is not . But even if it was 2371, it did not meet any of the requirements starting with the first one that of AGE. Surveys alone show that the designation was unjustified.

D. RECORDING:

All properties that are designated as per the procedures laid out in 399.214 are registered with the county. This isa required for any tax credits and any other incentives . This is a requirement and in case of 2371 no such documents exist and therefore owner was not entitled to any benefits. As per the meeting of March 23, 2009 City Attorney John Staran states” ..**there is a notice recorded in the chain** of title that would appear ...” verifying that filing does take place at the county of any such historic districts and when boundaries, parcel number, and house address are

changed then it really warrants such recording. Attached is the Metropolitan Title commitment which does not show any restriction or exceptions on this address and feel that they can provide full title insurance.

CONCLUSION:

The LHDA requires strict rather than substantial performance to create a valid district. The LHDA provides that the city council may eliminate a historic district when the local unit has created it contrary to the required procedures. Moreover, the City's designation seems to have numerous inconsistencies that it was void *ab initio* and the purported district simply does not exist.

We value history and support real preservation .However we ask the city to eliminate the 2371 Livernois district as purported district because there was no justification to designate the property as significant in any manner . The designation was insufficient and was granted through defective procedure ..

We have developed several properties in the City and have loyally contributed significantly to the city's tax base. Due to the financial catastrophe and unprecedented economy, the property is for sale through a well known brokerage house and broker has indicated that due to almost no demand for encumbered land, the historic designation shall be a great hindrance in the sale of this land. Petitioner has already suffered huge financial loss and cannot bear the burden of the carrying cost and hence would like to sell it at the earliest. At this time we do have a individual prospective buyer's LOI and therefore ask for relief and mercy from any further infliction of pain and suffering and most respectfully urge the city to eliminate the district and remove the cloud from the property immediately.

Mukesh Mangla
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Bloomfield Hills, MI 48304

Reference:

Dequindre Road Delisting Study Committee Report
City of Troy "Qualridge" Delisting Petition

Enclosures:

1. Survey Sheet 1978
2. Survey Form 1978
3. Moving Permit
4. Building Permit for additions
5. Occupancy Certificate for 2371
6. 2409 Affidavit filed at Oakland County
7. 2409 Demolition Permit
8. 2002 Survey Sheet 2371 Livernois
9. Bob Morris Letter.
10. Metropolitan Title Policy
11. Tax Records showing number changes
12. Assessing Records
13. Mr. Pat McKay's documents