

**BARBARA MCDANIEL,**  
*Applicant*

**CITY OF DALLAS**

v.

**DALLAS COUNTY MEDICAL SOCIETY  
ALLIANCE FOUNDATION,**  
*Respondent.*

**BOARD OF ADJUSTMENT,  
PANEL B**

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**RESPONDENT DALLAS COUNTY MEDICAL SOCIETY ALLIANCE FOUNDATION’S  
REQUEST FOR HEARING DEFERRAL, AND, SUBJECT TO SUCH REQUEST,  
RESPONSE TO BARBARA MCDANIEL’S APPLICATION TO SET A COMPLIANCE  
DATE FOR THE NONCONFORMING USE AT 5500 SWISS AVENUE**

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TO THE HONORABLE BOARD OF ADJUSTMENT:

Respondent Dallas County Medical Society Alliance Foundation (the “Foundation”) files this response to Barbara McDaniel’s Application to Set a Compliance Date for the Nonconforming Use at 5500 Swiss Avenue (the “Application”). The Foundation respectfully requests that the Board of Adjustment deny the Application with prejudice.

**I.  
INTRODUCTION**

When the Swiss Avenue Historic District was created forty years ago, a special zoning category was carved out for the historic home located at 5500 Swiss Avenue (commonly referred to as the “Aldredge House”). Instead of requiring the home to remain single-family, the City of Dallas worked together with Swiss Avenue neighbors, the Foundation, and the Aldredge family to define a special zoning use description that would allow public access to the interior and grounds of one of Swiss Avenue’s most historic homes. The Foundation accepted the responsibility of preserving the Aldredge House, and it became a showcase for Swiss Avenue’s history: serving as home to the Foundation, providing a meeting place for the neighborhood

association and other non-profit groups, offering tours to the public, and hosting events to support its upkeep.<sup>1</sup> Because its use was not single-family, the Aldredge House was subsequently defined as having explicit “nonconforming use rights.”

For more than four decades, the Swiss Avenue neighborhood has embraced the Aldredge House as central to the history of the Swiss Avenue Historic District. One of the reasons for this continued community-wide support is the Foundation’s diligence in ensuring that the operation of the Aldredge House does not negatively impact its neighbors. When four residents complained to the Foundation about noise and traffic issues in May, the Foundation responded quickly. Although the Foundation strenuously rejects Applicant’s characterization of its operation of the Aldredge House and questions the claims made in the Application, the Foundation immediately addressed neighbors’ concerns. City staff have independently confirmed that the Foundation’s response has all but eliminated noise issues. To offer further assurances to its neighbors, the Foundation has proposed to rezone the property to codify certain restrictions on the operation of the Aldredge House.

Despite these efforts, Applicant seeks to terminate the nonconforming use rights of the Aldredge House, claiming that the current use of the house has so inconvenienced her and some other residents that the only remedy is to close this historic home to the public and force it to become a single-family residence. If the Application is granted, the result would be to close the home permanently to the public and deprive the city of Dallas of this historical hallmark. Given the immediate and affirmative steps taken by the Foundation to address neighbors’ concerns, as well as the potential loss of an historic landmark, terminating the Aldredge House’s nonconforming use would be an extreme and punitive measure. Moreover, the alleged activity

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<sup>1</sup> Affidavit of Lori Routh, ¶ 5 (Exhibit 1).

asserted by Applicant as objectionable does not adversely impact nearby neighbors, and therefore does not trigger termination of nonconforming use rights.

For these and the following reasons, Barbara McDaniel's Application must be denied.

## **II. THE HISTORY OF THE ALDREDGE HOUSE AND THE SWISS AVENUE NEIGHBORHOOD**

The history of the Aldredge House is inextricably linked to the neighborhood in which it resides, the Swiss Avenue Historic District. Built in 1917 by the most prominent Dallas architect of the time, Hal Thomson, the Aldredge House is one of approximately 220 stately homes that grace the Swiss Avenue neighborhood. By the 1970s, however, the area was threatened with decline: vacant lots, deteriorated houses, communes and boarding houses began to overtake the few stately mansions that still provided a glimpse into the grandeur of early Dallas.<sup>2</sup> In the midst of this physical and socio-economic decline, a very small group of determined homeowners in the Swiss Avenue area banded together to fight decay and to preserve their historically-significant neighborhood.<sup>3</sup>

Part and parcel with the creation of the historic district was the public dedication of the Aldredge House by its owner, Rena Aldredge. Mrs. Aldredge sought to gift her family home to a non-profit organization, on the condition that the architectural and historic integrity of the house be maintained and opened to the public. While the proposed historic district was designed to protect the exterior architecture of Swiss Avenue homes, Mrs. Aldredge sought to further protect the interior of her home to showcase Dallas's past.<sup>4</sup>

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<sup>2</sup> See, e.g., Affidavit of Harryette Ehrhardt at ¶ 8 (Exhibit 2).

<sup>3</sup> *Id.* at ¶¶ 7-16; Affidavit of Larry Offutt at ¶¶ 6-11 (Exhibit 3).

<sup>4</sup> Recent photographs of the Aldredge House's exterior and interior (Exhibit 4).

The recipient of Mrs. Aldredge’s gift was the Dallas County Medical Society Auxiliary (now, the “Foundation”), a 501(c)(3) non-profit organization formed in 1917 to provide charitable medical services to the Dallas community.<sup>5</sup> The Foundation was then, as it is now, an all-volunteer organization that spends countless hours annually on community health projects and health education.<sup>6</sup> Among its philanthropic activities, the Foundation has provided financial support to over 1,350 students wanting to become nurses through the Edith Cavell Nursing Scholarship; holds an annual community health fair which serves families and students living near North Dallas High School; donates to domestic violence non-profits Genesis Women’s Shelter and The Family Place; and provides donations and volunteer services to East Dallas’s Agape Clinic, which offers free health services to those in need.<sup>7</sup> One of the Foundation’s chief purposes is the preservation of the Aldredge House.<sup>8</sup>

As the City of Dallas’s zoning ordinance for the Swiss Avenue Historic District was being drafted, Swiss Avenue neighbors worked closely with the Foundation, the Aldredge family, and the city to carve out a special use for the Aldredge House. The newly defined use was created to allow the Aldredge House to be preserved and operated as a headquarters for the

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<sup>5</sup> Affidavit of Lori Routh at ¶ 3 (Exhibit 1).

<sup>6</sup> See Affidavit of Sandra Z. Brothers at ¶ 6 (Exhibit 5) (noting that “[t]he DCMSA partners with the Dallas County Medical Society to provide programs of health education, health awareness, and philanthropy throughout Dallas County. The DCMSA has a long history of helping the community alongside the physicians in Dallas, including assisting with providing medical care, physical exams, vaccines and bicycle helmets to the underserved in Dallas County. The DCMSA also provides annual scholarships to young people in need, predominantly those pursuing nursing and other medical careers.”).

<sup>7</sup> Affidavit of Lori Routh at ¶ 4.

<sup>8</sup> *Id.* at ¶ 5.

Foundation as well as serve as a neighborhood anchor.<sup>9</sup> Protection of the Aldredge House was critical to the creation and success of the historic district.<sup>10</sup> The Aldredge House was to be the anchor for the district.<sup>11</sup> This directive was, in part, because neighbors needed a public location to help promote the deteriorating neighborhood: “The intent of the ‘public’ uses of the Aldredge House and the associated income stream was always clearly meant to promote the neighborhood.”<sup>12</sup>

A 1973 letter of the Historic Preservation League confirms this promotional purpose, noting:

Every historic district needs one house that can be opened to the public regularly. Aldredge House is the ideal house, identified in historic landmark study as one of the three most architecturally outstanding residential structures in Dallas and is therefore of crucial importance to Swiss Avenue; It is very fortunate that a club of the caliber of the Medical Alliance is willing to provide the upkeep of this residence as a public service.<sup>13</sup>

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<sup>9</sup> See Affidavit of Larry Offutt at ¶ 11 (Exhibit 3) (remembering that “[t]he Aldredge Family joined these efforts in its very early stages. Our group went door to door promoting revitalization...At the time the Aldredge House ordinance was drafted, we did not have many of the refined tools and wording that we now have in our city codes and statutes. We worked with the definitions and zoning terms available at the time and strove to be fair to all property owners”); see also Affidavit of Virginia Savage McAlester at ¶ 15 (Exhibit 6) (remembering that “It would not be an exaggeration to say that there were almost a dozen people who gave almost full-time . . . to the creation and the marketing of the Swiss Avenue Historic District . . . for a period of at least two years”); see also Affidavit of Frank Rinaldi at ¶ 6-7 (Exhibit 7) (noting that neighbors “worked diligently with both [the Foundation] and the city staff to carefully craft the Aldredge House exception to residential zoning”).

<sup>10</sup> See Affidavit of Henry K. Tatum at ¶ 4 (Exhibit 8). Mr. Tatum is retired from his role as Associate Editor of The Dallas Morning News Editorial Page, where he was closely involved in the coverage of City Hall when efforts were underway to create the Swiss Avenue Historic District.

<sup>11</sup> Affidavit of Harryette Ehrhardt at ¶ 14 (Exhibit 2).

<sup>12</sup> Affidavit of Frank Rinaldi at ¶ 7 (Exhibit 7); see also Affidavit of Glenn Offutt at ¶ 14 (Exhibit 9) (noting that “[t]he neighborhood’s desire and desperate need was to have a beautiful, preserved and ‘public’ location to ‘sell’ our deteriorated neighborhood”); Letter of Janis Adams (Exhibit 10).

<sup>13</sup> June 21, 1973, Letter of the Historic Preservation League (Exhibit 11), and referenced in Affidavit of Virginia Savage McAlester at ¶ 22 (Exhibit 6).

Accordingly, a large and key part of the effort to create an historic district specifically hinged on the preservation of the Aldredge House and its use by the Foundation. The Aldredge House “became a place to showcase Swiss Avenue, to invite prospective buyers to the neighborhood, and to introduce outsiders to an ‘inner-city’ neighborhood of Dallas.”<sup>14</sup>

On September 10, 1973, the neighbors succeeded in their quest to create the Swiss Avenue Historic District as PD 63-H, the first historic district in the City of Dallas.<sup>15</sup> The original ordinance recognized that “[t]he additional use in the 5500 Block of Swiss Avenue shall be ... set aside as a charitable and philanthropic designation for the Women’s Auxiliary to the Dallas County Medical Society, and this use is hereby approved.”<sup>16</sup> Because city planners doubted that the neighborhood’s preservation efforts would be successful, the original ordinance also allowed for one non-residential “special use” per block.<sup>17</sup> In 1982, the neighborhood asked the city to eliminate all these “special uses,” with two exceptions. One of these exceptions was the Aldredge House, which neighbors and the city explicitly recognized with a legally protected nonconforming use status.<sup>18</sup> The Foundation’s use is similarly carved out in the current ordinance, which states that “[t]he medical auxiliary social club use currently operated by the

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<sup>14</sup> Affidavit of Larry Offutt at ¶ 14 (emphasis in original) (Exhibit 3).

<sup>15</sup> See City of Dallas Ordinance No. 14247 (1973) (Exhibit 12).

<sup>16</sup> *Id.*

<sup>17</sup> See Affidavit of Virginia Savage McAlester at ¶ 16 (citing 1973 SAHDA Ordinance) (Exhibit 6).

<sup>18</sup> *Id.* at ¶ 58; see also relevant pages from City of Dallas Ordinance No. 17285 (1982) (Exhibit 14).

Dallas County Medical Society Auxiliary at 5500 Swiss Avenue is expressly recognized as a nonconforming use.”<sup>19</sup>

The fact that the Swiss Avenue Historic District ordinance specifically recognizes the use of the Aldredge House as “nonconforming” is highly unusual and indicative of its special zoning status within the Swiss Avenue Historic District. Typically, non-conforming uses are not referenced in zoning ordinances; rather, zoning ordinances are silent in regards to obsolete uses.

### **III. ALL RELEVANT FACTORS REQUIRE CONTINUANCE OF THE ALDREDGE HOUSE’S CURRENT USE OF THE PROPERTY**

When an area is rezoned, certain long-standing uses may no longer be permitted under the new zoning ordinance. These obsolete uses are referred to as “nonconforming” because they no longer conform to the new zoning standards. *Tellez v. City of Socorro*, 226 S.W.3d 413, 414 (Tex. 2007). Such nonconforming uses may be terminated by the Board of Adjustment if found to adversely affect nearby property owners. Because of the unusual protections offered by the Swiss Avenue Historic District ordinance, the Foundation questions whether the typical nonconforming use termination analysis is appropriate. Nevertheless, even under those factors, there are no legal grounds for terminating the current use of the property.

The Board of Adjustment may not terminate the Foundation’s use of the Aldredge House unless it finds that continued use “will have an adverse effect on nearby properties.”<sup>20</sup> The Dallas Development Code sets forth factors for making that determination, none of which favor termination in this matter. The factors include: (1) the character of the surrounding neighborhood; (2) the degree of incompatibility of the use with the zoning district in which it is

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<sup>19</sup> City of Dallas Ordinance No. 18563 (1985), codified in Article 63 of the Dallas Development Code. *See* Sec. 51P-63.114(5) (Exhibit 15).

<sup>20</sup> Article III of the Dallas Development Code Ordinance No. 19455, Section 51A- 4.704(a)(1)(B).

located; (3) the manner in which the use is being conducted; (4) the hours of operation of the use; (5) the extent to which continued operation of the use may threaten public health or safety; (6) the environmental impacts of the use's operation, including but not limited to the impacts of noise, glare, dust, and odor; (7) the extent to which public disturbances may be created or perpetuated by continued operation of the use; (8) the extent to which traffic or parking problems may be created or perpetuated by continued operation of the use; and (9) any other factors relevant to the issue of whether continued operation of the use will adversely affect nearby properties.<sup>21</sup>

Importantly, the factors are forward looking: the question is whether continued use will have an adverse effect, not whether past use has had such an effect. The Foundation rejects the argument that events at the Aldredge House ever rose to the point of adversely affecting surrounding properties. To the contrary, the *loss* of the Aldredge House would be a loss to the surrounding community.<sup>22</sup> Nevertheless, the Foundation has carefully addressed each of Applicant's concerns through enacting new event rules and through filing the Zoning Case to give the neighbors a means to enforce those rules. Accordingly, there is no plausible legal basis for Applicant's claim that continued operation of the Aldredge House will have an adverse effect on either her property or any other nearby property.

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<sup>21</sup> *Id.*

<sup>22</sup> See Affidavit of Linda Thacker Solomon at ¶¶ 6-7 (Exhibit 16) (“The Aldredge House has been and still is a symbol of our historic district . . . If the Aldredge House is unable to continue serving the Dallas County Medical Society Women’s Alliance (“DCMSA”) in its current capacity, their ability to maintain the house, provide services to the community, and provide cash flow to the SAHD will be seriously curtailed. This will have a negative impact on our community”).



**1. The character of the surrounding neighborhood.**

The neighborhood immediately surrounding the Aldredge House is the protected Swiss Avenue Historic District, which was recognized this past April for its “pioneering role” as the city’s first historic district.<sup>23</sup> As explained more fully above, the Swiss Avenue Historic District is a remarkable collection of stately, historic homes. Nonetheless, Applicant’s description of the neighborhood as strictly “residential” is an oversimplification. In fact, the neighborhood surrounding the Aldredge House is unique, diverse, and multi-use.

Jordan Kaiser, who has lived in the neighborhood since 1981, observes that “[w]hile Swiss Avenue may first appear to be a calm single-family neighborhood, in actuality we are a narrow peninsula of single-family zoning in the midst of multi-family and commercial uses.”<sup>24</sup> The immediate neighborhood surrounding the Swiss Avenue Historic District is a mix of multi-family and retail uses, including liquor stores, bars, and car washes.<sup>25</sup> This is reflected in the Swiss Avenue Historic District Boundary Border Zoning map below.<sup>26</sup>

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<sup>23</sup> Swiss Avenue Historic District Association Occasional, July 2015, available at <http://www.sahd.org/sites/g/files/g1001621/f/201508/July2015Occasional.pdf> (Exhibit 17).

<sup>24</sup> Affidavit of Jordan Kaiser at ¶ 4 (Exhibit 18).

<sup>25</sup> *Id.* at ¶ 7.

<sup>26</sup> Swiss Avenue Historic District Boundary Border Zoning Map, Exhibit 1 to Affidavit of Jordan Kaiser (Exhibit 18).



Lyn Dunsavage Young, who was one of the “urban pioneers” that helped create the historic district, recalls:

There was only one “mixed use” in the Swiss Avenue Historic District, if you exclude the post office, but the Aldredge House and its new owners had panache. They came to understand that people can live side by side with mixed use which is the essence of Old East Dallas. It is NOT a suburban neighborhood, in which all the houses are the same size, the same materials, the same uses. Within a block of the Aldredge House, you still have apartments. Within ten, you still have the Lakewood Shopping Center. Within twenty, a hospital, which we are proud to say is still there.

The fact that a select few “new” residents of Swiss Avenue do not appreciate the diversity component as much as those of us who fought so hard to protect it is not a reason to force the Alliance to sell the Aldredge House.<sup>27</sup>

Applicant makes much of the size and celebratory nature of the events hosted at the Aldredge House, but the Swiss Avenue neighborhood is one of active public engagements.

<sup>27</sup> Affidavit of Lyn Dunsavage Young at ¶¶ 20-21 (Exhibit 19).

Frequent and regular large-scale public events are hosted by the neighborhood association and homeowners, including the Mother’s Day home tour (for 3000-4000 people), the annual holiday party (for 300-500 people), Halloween trick-or-treating (for 3000-5000 visitors), and election fundraisers (for hundreds of people, including the general public).<sup>28</sup> Glenn Offutt, who has lived in the neighborhood for over 40 years, affirms that “[a] part of the character of [the Swiss Avenue Historic District] with its large homes and yards is the ongoing large parties throughout the neighborhood.”<sup>29</sup> Likewise, Harryette Ehrhardt, one of the founders of the Swiss Avenue Historic District, emphasizes that “[m]any of our neighbors on Swiss Avenue also host both small and large events throughout the year; facilitating parties and fundraisers is a defining characteristic of living on Swiss Avenue.”<sup>30</sup>

## **2. Degree of Incompatible Use.**

The Aldredge House’s use is not incompatible with the Swiss Avenue neighborhood. In fact, the Aldredge House has peacefully co-existed with its residential neighbors in the Swiss Avenue Historic District for over 40 years. During that time, the Aldredge House has been the Foundation’s home.<sup>31</sup> It has also been the site of countless meetings and events of other non-profit organizations, the anchor of the Swiss Avenue Historic District, and the location of many special events, including wedding celebrations.

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<sup>28</sup> Affidavit of Glenn Offutt at ¶¶ 6-10 (Exhibit 9).

<sup>29</sup> *Id.* at ¶ 5.

<sup>30</sup> Affidavit of Harryette Ehrhardt at ¶ 18 (Exhibit 2) (listing political events, non-profit fundraisers, 100-person teas, weddings, memorial services, and an immersion baptism held at her own home, which no neighbor has ever complained about).

<sup>31</sup> *See, e.g.*, Affidavit of Sarah Ford Hardin at ¶ 11 (Exhibit 20) (“Aldredge House is more than a house to me. It is my second home...Aldredge House is the heart of the [Foundation].”)

From the inception of the Foundation’s ownership of the Aldredge House, it was contemplated that the Foundation would raise funds to preserve the historic property by hosting events and charging rental fees for use of the house. Neighborhood residents, city staff, and the Foundation had “a clear understanding” of how the Aldredge House would be used, including “but not limited to, weddings, meetings, parties, and receptions.”<sup>32</sup> As explained by Harryette Ehrhardt, one of the original founders of the Swiss Avenue Historic District who still resides on Swiss Avenue, “When we originally discussed preserving the Aldredge House, we always knew the home would have to host events as a means of funding its maintenance. Historic homes are expensive to maintain.”<sup>33</sup> Noted architectural historian Virginia Savage McAlester, who was also an original founder of the Swiss Avenue Historic District and actively engaged in the development of its original ordinance, recalls that, “It was always contemplated that Aldredge House would be used for entertaining.”<sup>34</sup> Indeed, annual costs for the property are typically approximately \$120,000, including significant property taxes and maintenance costs.<sup>35</sup>

Lindalyn Adams, who at the time was president of the Foundation, and who personally helped the Foundation to secure the Aldredges’ gift of the house, confirms that neighbors

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<sup>32</sup> See Affidavit of Frank Rinaldi at ¶ 4 (Exhibit 7). Mr. Rinaldi resided within the area that is now the Swiss Avenue Historic District for over 60 years and attended all neighborhood meetings regarding the creation of the historic district and the application by the Foundation for a Certificate of Occupancy. See also Affidavit of Larry Offutt at ¶ 21 (Exhibit 3) (noting that “[i]t was always understood, acknowledged, and agreed during the time leading up to the Aldredge House receiving its special use ordinance, that the house would be used for income-producing events. These events (weddings, receptions, seminars, teas, luncheons, and parties) were intended to be activities permitted by the Ordinance and were relied upon in order to maintain and protect the historic property”).

<sup>33</sup> Affidavit of Harryette Ehrhardt at ¶ 19 (Exhibit 2).

<sup>34</sup> Affidavit of Virginia Savage McAlester at ¶ 31 (Exhibit 6); see also Notes from Executive Board Meeting of the Auxiliary to the Dallas County Medical Society of July 31, 1974 at p. 3 (demonstrating that it was contemplated from the inception that the Aldredge House would be rented for weddings) (Exhibit 21).

<sup>35</sup> Affidavit of Lori Routh at ¶ 5 (Exhibit 1).

understood and supported its rental as a means of not only financially supporting its upkeep, but also a way to allow the gracious home to remain open to the public. She recalls:

The Foundation realized that [it] could not accept this magnificent gift unless [it] could have appropriate rentals to provide for the finest maintenance of this treasure. As the acceptance of the Aldredge House as a non-conforming home as part of a new ordinance... [the Foundation was] assured [it] could preserve this historic home's interior and exterior as an historic asset to benefit the newly formed Swiss Avenue Historic District.<sup>36</sup>

Since as early as 1976, the Aldredge House has had a frequent and prominent role in Dallas society, hosting everything from the filming (and first watch party) of the TV show "Dallas"<sup>37</sup> to black tie benefits,<sup>38</sup> 200-person art gallery fêtes,<sup>39</sup> political parties,<sup>40</sup> sorority designer showcases,<sup>41</sup> tours,<sup>42</sup> workshops,<sup>43</sup> and, of course, weddings.<sup>44</sup> All rental income is used exclusively for the preservation and maintenance of the Aldredge House.<sup>45</sup>

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<sup>36</sup> Affidavit of Lindalyn Adams at ¶ 7 (Exhibit 22).

<sup>37</sup> "A monochromatic party: Stunning or invisible?" *Dallas Morning News*, April 11, 1978 (noting that "The TV soapy-series 'Dallas' filmed much of the interior scene footage at the historic Aldredge House on Swiss Avenue, and that members and their "assorted guests gathered for champagne and buffet to view the opening show segments at the house") (Exhibit 23). *See also* "Film & TV: Out-Takes," *Dallas Morning News*, February 5, 1984, noting that the movie *Time Bomb* would be shooting at the Aldredge House (Exhibit 24).

<sup>38</sup> "Appetites Keen for Cooking," *The Dallas Morning News*, March 3, 1976, publicizing that "The Dallas Symphony Orchestra Guild's 1976 Scholarship Benefit will be a recital by James Mathis with cocktails and buffet following at Aldredge House, 5500 Swiss Ave. this Saturday. It'll be a black tie affair!" (Exhibit 25).

<sup>39</sup> "In Preparation for Pompeii," *The Dallas Morning News*, October 17, 1978 ("About 200 Dallas art patrons are expected to attend the Oct. 18 reception in German's honor at the Aldredge House on Swiss Ave..." (Exhibit 26).

<sup>40</sup> "Post-Convention Parties Cost \$10,000, FEC Reports," *The Dallas Morning News*, November 3, 1984 (referring to a political volunteer party at the Aldredge House) (Exhibit 27).

<sup>41</sup> "Bare Bones Peak, Today Only, Designers Showcase Aldredge House, Sponsored by Kappa Alpha Theta," *The Dallas Morning News*, August 29, 1976 (Exhibit 28).

<sup>42</sup> "Antique House Gets New Life," *The Dallas Morning News*, May 30, 1975 ("And as the first special use structure designated in the first Historic District in the city, it will be open to the public for tours.")

### 3. Manner in which the use is being conducted.

The manner in which the Foundation uses the Aldredge House is not detrimental to neighboring properties, and its use does not favor converting the property to single-family zoning.

In response to the Applicant's filing of this Board of Adjustment matter, the board of Swiss Avenue's neighborhood association confirmed the community's support for continued operation of the Aldredge House, voting overwhelmingly to approve the following statement: "We are in support of allowing Aldredge House, located in the Swiss Avenue Historic District, to maintain its current uses and operations."<sup>46</sup> As shown by the many supporting affidavits filed in connection with this Response, the manner in which the Aldredge House operates is a source of pride for many Swiss Avenue residents:

"The beauty of the Aldredge Home and its surroundings is important to the Swiss Avenue Historic District and Dallas at large. The house demonstrates a way of living that no longer exists. The DCMSA takes good care of the house and the Aldredge House makes me proud to be part of this neighborhood."<sup>47</sup>

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(Exhibit 29); "Take Notice," *The Dallas Morning News*, October 20, 1980 (announcing that "Historic Dallas lives on through guided tours of beautiful Aldredge House...Oct. 21, Nov. 4 and Dec. 2") (Exhibit 30). The Aldredge House was also featured in a tour of Swiss Avenue homes given for national media and delegates to the Republican National Convention in 1984: "What the Boys on the Bus Will See," *The Dallas Morning News*, August 2, 1984 (Exhibit 31).

<sup>43</sup> Advertisement, *The Dallas Morning News*, March 15, 1981, inviting the public to a "Party Planning Workshop, Dallas Style," featuring "Dallas' Newest Cookbook 'Entertaining at Aldredge House'" (Exhibit 32).

<sup>44</sup> See, e.g., announcements of October 14, 1978, wedding of Dr. Martha Love Hardee and Alan Lawrence Duff; April 22, 1979, wedding of Jill Harbaugh and Randall G. Goss; May 20, 1979, wedding of Lisa Jeanne Cline and Rand Phillip Goldstein; and June 14, 1980, wedding of Patricia Ellen Potts and Thomas Hearne Aldredge (Exhibit 33).

<sup>45</sup> Affidavit of Lori Routh at ¶ 4 (Exhibit 1).

<sup>46</sup> Swiss Avenue Historic District Association Minutes, August 18, 2015, p. 3 (Exhibit 34).

<sup>47</sup> Affidavit of Roger Carroll at ¶ 10 (Exhibit 35).

—Roger Carroll  
6004 Bryan Parkway  
Swiss Avenue resident for over 30 years

“I urge the City to NOT revoke the special-use permit that has for 40 years enabled this grand home to play a significant role in improving the overall quality of life in the SAHD.”<sup>48</sup>

—Robert “Bob” Cox  
6119 Bryan Parkway

“I have driven or walked by the Aldredge House almost every day for the last five years in the mornings, during the day, and at night. At all times, the Aldredge House has been well maintained and is an asset to our street and neighborhood. I cannot imagine how any neighbor could complain about the maintenance of the Aldredge House.”<sup>49</sup>

—Jacqueline F. Winslett  
5731 Swiss Avenue

“My experiences concerning the Aldredge House have only been positive...My family believes that the Aldredge House is a good neighbor....I believe the Aldredge House is a great asset to the neighborhood.”<sup>50</sup>

—Sue Miller  
5520 Swiss Avenue  
Swiss Avenue resident for over 30 years

“I am impressed by [the Foundation’s] concern for maintaining the contents of the house, and I am inclined to believe that they show similar dedication to holding this important house to museum-quality preservation standards and in keeping it available to the public for education and enjoyment. The Aldredge House is an important historical gem to Dallas and should be preserved by the City.”<sup>51</sup>

—Dr. Evelyn Montgomery, Ph.D.  
4603 Swiss Avenue

“I support and agree with the current use of the Aldredge House as the foundation and cornerstone for all that the DCMSA does for the community.”

—Dr. Sandra Z. Brothers, M.D.  
5020 Swiss Avenue  
Swiss Avenue resident for over 15 years

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<sup>48</sup> Affidavit of Robert “Bob” Cox at ¶ 8 (Exhibit 36).

<sup>49</sup> Affidavit of Jacqueline F. Winslett at ¶ 8 (Exhibit 37).

<sup>50</sup> Affidavit of Sue Miller at ¶¶ 2-3, 7-8 (Exhibit 38).

<sup>51</sup> Affidavit of Evelyn Montgomery, Ph.D. at ¶¶ 10-11 (Exhibit 39).

“Our district has always valued the Alliance’s commitment to the neighborhood, and the role of the Aldredge House in the neighborhood.”<sup>52</sup>

—Virginia Savage McAlester  
5703 Swiss Avenue  
Swiss Avenue resident for over 70 years

“The Aldredge house has been and remains an amazing asset to the SAHD and has provided thousands of people the opportunity to see an historic home in its original, excellent condition.”<sup>53</sup>

—Linda Thacker Solomon  
6145 Bryan Parkway  
Swiss Avenue resident for over 60 years

“[T]he Aldredge House is a great neighbor and we are lucky to have them...It would be a tremendous loss if the Aldredge House was no longer accessible to the public.”<sup>54</sup>

—Donna Rogers  
5518 Swiss Avenue  
Swiss Avenue resident for over 15 years

“The Aldredge House, and its operation as a public event venue, along with being the ‘living room’ of our neighborhood, was and still remains a vital part of our continued inner-city revitalization.”<sup>55</sup>

—Larry Offutt  
6038 Bryan Parkway  
Swiss Avenue resident of over 60 years

“I support the continued use of the Aldredge House by the Medical Alliance including for social events. I believe the Aldredge House is an amazing asset to the City of Dallas.”<sup>56</sup>

—Richard Edward Thacker  
6040 and 6140 Bryan Parkway owner  
Swiss Avenue resident during original  
founding of Swiss Avenue Historic  
District

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<sup>52</sup> Affidavit of Virginia Savage McAlester at ¶ 53 (Exhibit 6).

<sup>53</sup> Affidavit of Linda Thacker Solomon at ¶ 5 (Exhibit 16).

<sup>54</sup> Affidavit of Donna Rogers at ¶¶ 15, 18 (Exhibit 40).

<sup>55</sup> Affidavit of Larry Offutt at ¶ 15 (Exhibit 3).

<sup>56</sup> Statement of Richard Edward Thacker (Exhibit 41).



“The decision was made in the 1970’s that the grandeur of the Aldredge House was not meant to be a single family house anymore, and I personally think it’s abhorrent to think it could be reversed to that status, particular when we, the City, basically shook hands with them – something I value enormously – and they have spent 40 years living up to their end of the bargain...”<sup>57</sup>

—Lyn Dunsavage Young  
One of the original founders of the Swiss  
Avenue Historic District

“Please do not deny others this unique opportunity to be exposed to such well-maintained historical beauty in such a memorable setting. There is nothing else like it in Dallas.”<sup>58</sup>

—R. Lynn O’Neil  
Former Swiss Avenue resident of 20  
years

In contrast to these observations of many of her nearby neighbors, Applicant alleges that the Aldredge House is a neighborhood nuisance. The crux of Applicant’s complaint regarding the manner of operation of the Aldredge House is that event guests and staff sometimes are unruly and uncouth.<sup>59</sup> She alleges that band members take smoke breaks and leave their cigarette butts in the alley behind the Aldredge House, and that guests urinate in the alley.<sup>60</sup> She

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<sup>57</sup> Affidavit of Lyn Dunsavage Young at ¶ 22 (Exhibit ).

<sup>58</sup> Letter of R. Lynn O’Neil (Exhibit 42).

<sup>59</sup> Past attendees of Aldredge House events dispute this characterization. Kathleen Cox, for example, recalls that in the events she has attended, “[t]he Aldredge House always placed its concern for the neighborhood as its first priority.” Affidavit of Kathleen Cox (Exhibit 43). Margaret Lackey Fraker, whose September 2014 visit to the Aldredge House was her first experience in the Swiss Avenue area, recalls that the wedding she attended “was an elegant, refined, and well-managed affair.” Affidavit of Margaret Lackey Fraker at ¶ 4 (Exhibit 44). *See also* Wedding-related social media comments (Exhibit 45). Further, should any event become bothersome, neighbors can always find the contact information for the Aldredge House caretaker, the Aldredge House Foundation committee chair, and the Foundation/Swiss Avenue neighborhood association liaison on the Swiss Avenue Historic District’s website (Exhibit 46); *see also* Statement of Barena Hino (Exhibit 47).

<sup>60</sup> Application at p. 6. One of these neighbors says that she believes that the problems with cigarette butts and urine in the alley stem from Aldredge House events. Part of her conclusion seems to be based on her misapprehension about the number of bathrooms in the Aldredge House. The Application asserts that the Aldredge House has only two bathrooms for guest use, which is incorrect; there are four. Affidavit of Lori Routh at ¶ 5 (Exhibit 1).

also asserts that neighbors have seen three pieces of women's undergarments in front of their homes.<sup>61</sup>

The Foundation questions the conclusion that the alley problems are caused by its guests. The Aldredge House and its neighbors share the alley with apartment buildings along Gaston Avenue. Adam Palmer, the Aldredge House caretaker, frequently has observed homeless people urinating in the alley.<sup>62</sup> In addition, he has seen substantial amounts of litter throughout the alley, including trash, clothes, and shoes.<sup>63</sup> Foundation Board Member and former Swiss Avenue resident Elizabeth Gunby testifies that when she walked the alley recently to inspect it, she discovered exactly one cigarette butt behind the Aldredge House.<sup>64</sup> But she found 173 cigarette butts scattered throughout the rest of the alley.<sup>65</sup> On another property backing up to the alley, Ms. Gunby observed one man's undershirt; and, in the adjacent lot, two pair of men's underwear, a seat cushion, and an empty Vodka bottle.<sup>66</sup> The remainder of her alley findings included paper Z wrappers, a used syringe, two deflated balloons, and empty firecracker packages.<sup>67</sup> Ms. Gunby's findings – during a time when no Aldredge House events had been

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<sup>61</sup> Application at p. 10.

<sup>62</sup> Affidavit of Adam Palmer at ¶ 5 (Exhibit 48). Mr. Palmer also recalls that in spring 2015, extreme rains created a mud problem in the alley that prevented sanitation trucks from getting through, and thereby caused a trash buildup. *Id.* at ¶ 8.

<sup>63</sup> *Id.*

<sup>64</sup> Affidavit of Elizabeth Gunby at ¶ 13 (Exhibit 49).

<sup>65</sup> *Id.*

<sup>66</sup> *Id.*

<sup>67</sup> *Id.*

occurring – suggests that far from being an Aldredge House problem, the alley issues are attributable to the inherent challenges of living in an inner city neighborhood.

In further contrast to the picture painted by Applicant, nearby neighbors Sue Miller, of 5520 Swiss Avenue, and Donna Rogers, of 5518 Swiss Avenue, have experienced no problems with the manner in which the Aldredge House’s use is conducted. Ms. Rogers observes that “[t]he Aldredge House is maintained to perfection. You would be hard pressed to find a chip in its paint or a rogue blade of grass on its lawn.”<sup>68</sup> Ms. Miller and her family have had zero issues with trash or garbage associated with any activities at Aldredge House.<sup>69</sup>

In addition to its history of acting as a good neighbor, the Foundation has acted swiftly and definitively in response to the four neighbors’ recently-expressed concerns.<sup>70</sup> Since May of this year, the Foundation has worked diligently to address the complaints, even going so far as to stop booking new events to focus on addressing the alleged issues. For example, to address the neighbors’ concerns about noise and parking, the Foundation has made the following changes to its rental event rules:

- Security is required at every rental event with over 40 attendees;
- Valet service is required at every event with over 40 attendees, and guests are instructed not to park on the street (despite its being legal to do so);
- Outdoor amplification is entirely prohibited;
- Large tents are no longer allowed.<sup>71</sup> The Foundation has required the termination of their caterer’s former tent vendor;

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<sup>68</sup> Affidavit of Donna Rogers at ¶ 6 (Exhibit 40).

<sup>69</sup> Affidavit of Sue Miller at ¶ 4 (Exhibit 38).

<sup>70</sup> Affidavit of Wendy Hansen, ¶ 5 (Exhibit 50).

<sup>71</sup> The Foundation received information from the Applicant that tent permits had been obtained from the City in which neighbors’ signatures had been forged. The Foundation strenuously denies any knowledge or involvement with the forgeries. Upon receipt of the information, the Foundation banned the vendor from servicing any future Aldredge House events and discontinued use of the tents. Affidavit of Wendy Hansen at ¶ 7 (Exhibit 50).

- Events are limited to 150 guests;
- Outdoor “sendoffs” of newlyweds are no longer allowed; and
- Events must end by 10:00 p.m.<sup>72</sup>

The Foundation believes that these changes are completely sufficient to address Applicant’s complaints, and that there is no basis to contend that the ongoing use of the property is a nuisance.

**4. Hours of operation of the use.**

The Foundation has always strived to ensure that its operating hours do not impose an unreasonable hardship on its neighbors. However, when the four neighbors expressed concern that events were ending too late in the evening, the Foundation voluntarily agreed to move up the end time of its events to 10:00 p.m.<sup>73</sup> Event setup and breakdown now occurs only between 8:00 a.m. and 11:00 p.m.<sup>74</sup> The Foundation is confident that these hours, coupled with its other limiting measures, have eliminated disruption to surrounding properties.

**5. Extent to which continued operation of the use may threaten public health or safety.**

In support of her argument that the weddings at the Aldredge House are a threat to public safety, Applicant cites eight incidents that have occurred since 2009. Of those eight incidents, one involved the tragic suicide of a former caretaker’s grandson in her garage apartment.<sup>75</sup> Two were domestic disputes involving residents of the garage apartment.<sup>76</sup> Four involved the theft or

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<sup>72</sup> See Aldredge House Rental Agreement (Exhibit 51).

<sup>73</sup> *Id.*

<sup>74</sup> *Id.*

<sup>75</sup> Application at p. 14.

<sup>76</sup> *Id.*

attempted theft of property from the Aldredge House grounds.<sup>77</sup> One was the random, aggravated assault of the Aldredge House's current caretaker.<sup>78</sup>

None of the cited incidents involved Foundation members or event guests at the Aldredge House. Indeed, Applicant has failed to connect any of these incidents to the Foundation's use of the Aldredge House. Applicant offers no evidence that wedding guests committed the crimes cited or otherwise contributed to a criminal element in the neighborhood.

Additionally, Applicant fails to place the incidents in context. There were 1,074 non-traffic crimes reported in the Swiss Avenue neighborhood and surrounding police beat between January 2012 and August 2015.<sup>79</sup> The Swiss Avenue neighborhood is located in the inner city of Dallas.<sup>80</sup> The immediate neighborhood surrounding the Swiss Avenue Historic District is a mix of multi-family and retail uses, including liquor stores, bars, and car washes.<sup>81</sup> The park directly across the street from the Aldredge House is a site where homeless individuals sleep, urinate, litter, and change clothing.<sup>82</sup> The cross-streets are a thoroughfare from one high-crime area with prostitution, drug sales, and drug usage, to another area: Ross to Gaston to Columbia.<sup>83</sup> This type of activity is a product of living in a socio-economically diverse inner-city neighborhood,

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<sup>77</sup> *Id.*

<sup>78</sup> Adam Palmer, the Aldredge House caretaker, specifically denies that this incident had anything to do with an Aldredge House event. Affidavit of Adam Palmer at ¶ 10 (Exhibit 48).

<sup>79</sup> Dallas Police Department Reports Offense Search Results, January 1, 2012 to August 27, 2015 (Exhibit 52). *See also* Affidavit of Virginia Savage McAlester at ¶¶ 48-51 (describing the crimes that have taken place at and near her property, including armed robbery, theft, and a shooting) (Exhibit 6).

<sup>80</sup> *See generally*, Affidavit of Jordan Kaiser (Exhibit 18).

<sup>81</sup> *Id.* at ¶ 7.

<sup>82</sup> Affidavit of Larry Offutt at ¶ 17 (Exhibit 3).

<sup>83</sup> *Id.*

one that Swiss Avenue residents have dealt with for years.<sup>84</sup> In fact, the historic district was created in large part to show what “urban pioneers” could achieve to fight patterns of inner-city deterioration.<sup>85</sup> Given these factors, it is simply insupportable to assert that crimes in the alley are attributable to weddings or other activities at the Aldredge House.

Similarly, Applicant’s claim that the Aldredge House creates a neighborhood fire hazard lacks merit. Applicant claims that the Aldredge House has been non-compliant with City of Dallas Fire Code by arguing that the Aldredge House’s registration certificate is for “High Risk” occupancy, suggesting that this designation reflects an increased danger on the property.<sup>86</sup> Contrary to Applicant’s suggestion, this classification has nothing to do with any public safety risk at the property; the fire code ordinance automatically classifies as “high risk” any “public assembly type occupancies with an occupant load of 50 or more serving food and/or drinks.”<sup>87</sup>

Finally, as part of her claim that the Aldredge House is a risk to public safety, Applicant cites the alleged release of “as many as 100 lighted helium balloons” at a June 20, 2015 wedding. Again, Applicant’s rendition of the event is not correct. Foundation Board member Elizabeth Gunby attended the wedding in question to ensure that the Foundation’s revised event guidelines were being implemented. She describes the send-off that evening as follows:

The guests had helium balloons with lights inside of them tied with long ribbons. You could hear someone giving the instruction to ‘hold on to the balloons, do not release the balloons.’ As the bride and groom walked down the walkway...

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<sup>84</sup> See, e.g., Affidavit of Steve Clicque at ¶ 4 (Exhibit 53), recalling that he purchased the first of six homes in the Swiss Avenue area after a joint local and federal drug enforcement operation seized the property, resulting in the arrests of over 100 people.

<sup>85</sup> Affidavit of Lyn Dunsavage Young at ¶¶ 13-14 (Exhibit 19).

<sup>86</sup> Application at p. 15 .

<sup>87</sup> See Affidavit of RuLan Hebel at ¶ 5 (Exhibit 54) (citing Dallas Fire Code 29437 IFC 2012, Amending Section 202 of the 2012 International Fire Code).

I noticed three balloons released. Two balloons were released by two small children near the front veranda, facing my direction. I did not see who released the third balloon. After the bride and groom drove off, the guests moved back into the house, carrying their lighted, helium balloons with them.<sup>88</sup>

Although the Foundation contests Applicant's version of events, the Foundation nevertheless took drastic measures to address her concern. To eliminate any possible safety hazard, the Foundation changed its rules to prohibit outdoor sendoffs, so that balloons and sparklers cannot present the problems feared by Applicant.<sup>89</sup>

**6. The environmental impacts of the use's operation, including but not limited to the impacts of noise, glare, dust, and odor.**

Applicant claims that the noise level at weddings has been unreasonable. To the contrary, the sounds coming from the Aldredge House are not unusual, and they are no louder than those from other neighbors' homes.<sup>90</sup> Sue Miller, who lives two houses down from the Aldredge House, has never heard a noise from the Aldredge House that negatively impacts her family.<sup>91</sup> Donna Rogers, who lives one house down from the Aldredge House, attests that she has never been disturbed by noise from events at the Aldredge House.<sup>92</sup>

Significantly, recent noise readings by the City of Dallas confirm that the Aldredge House does not present a noise problem for the neighborhood. In response to requests from David Dean, a supporter of the Application, City Code Enforcement officer Jose Ruiz took noise readings and

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<sup>88</sup> Affidavit of Elizabeth Gunby at ¶¶ 5-6 (Exhibit 49).

<sup>89</sup> See Aldredge House Rental Agreement at pp. 4-5; see also Affidavit of Chris Brazzle at ¶ 7 (Exhibit 55) (recognizing that under revised Aldredge House rules, "guests are not allowed to use sparkler, balloons, rice or anything else that could be harmful or dangerous to the guests or neighbors").

<sup>90</sup> *Id.* at ¶¶ 8, 12.

<sup>91</sup> Affidavit of Sue Miller at ¶ 4 (Exhibit 38).

<sup>92</sup> Affidavit of Donna Rogers at ¶ 8 (Exhibit 40).

observed events at the Aldredge House at various times beginning in June 2015.<sup>93</sup> The noise readings confirm that ambient noise coming from Aldredge House over the course of multiple events was well under 60 decibels, the level of a normal human conversation. Further, Mr. Ruiz's readings from a wedding at the Aldredge House on September 12, 2015, note that the Aldredge House event was quiet, but a "loud" party could be heard at another nearby neighbor's home.<sup>94</sup>

Despite its history of noise compliance, the Aldredge House has taken additional recent steps to address Applicant's noise concerns. As suggested above, one of Applicant's primary noise complaints involves the tradition of newlywed send-offs, during which the wedding party cheers on the couple for a two- or three-minute period when they exit the house. The Foundation now prohibits such outdoor sendoffs.<sup>95</sup> In addition, the Foundation has implemented a strict 10:00 p.m. cutoff on event times.<sup>96</sup> Although the noise readings establish no historic noise problem, these rules adjustments further address the alleged concerns.

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<sup>93</sup> See 5500 Noise Readings and related emails (Exhibit 56).

<sup>94</sup> *Id.*; see also Affidavit of Virginia Savage McAlester at ¶ 46 (comparing the September 12, 2015, noise at the Aldredge House to the noise from the nearby neighbor's party) (Exhibit 6).

<sup>95</sup> Aldredge House Rental Agreement, pp. 4-5 (Exhibit 51).

<sup>96</sup> *Id.* at p. 2.



**7. The extent to which public disturbances may be created or perpetuated by continued operation of the use.**

Aside from the noise complaints addressed previously, the only potential public disturbance that Applicant cites is the alleged disruption caused by the sounding of the burglar alarm at the Aldredge House.<sup>97</sup> Applicants do not contend that the Foundation is responsible for the alarm going off, or that the weddings in any way are the cause of the alarms' sounding.

The Foundation employs a caretaker on the property, and one of his responsibilities is to monitor and address the alarm.<sup>98</sup> The Foundation has no reason to believe that its employment of the caretaker is not sufficient to silence any alarm in a timely fashion. In any event, the sounding of the alarm has occurred no more frequently than twice a year over the last six years, which hardly constitutes a public disturbance.

**8. The extent to which traffic or parking problems may be created or perpetuated by continued operation of the use.**

The City requires that the Aldredge House provide off-street parking for 70% of its guests at any event.<sup>99</sup> New house rules permit no more than 150 guests at any event; thus, with two persons per vehicle, the Aldredge House must provide 55 parking spaces. The Foundation purchased and maintains a parking lot on Gaston, which can comfortably park 42 cars.<sup>100</sup> The Aldredge House also provides 20 parking spaces behind the house and three in its circular drive, for a total of 65 spaces. Thus, the Aldredge House is providing more than enough parking to meet the City requirements, without utilizing on-street parking.

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<sup>97</sup> Application at p. 17.

<sup>98</sup> Affidavit of Lori Routh at ¶ 4 (Exhibit 1).

<sup>99</sup> Design Review Task Force (Exhibit 57).

<sup>100</sup> Affidavit of Wendy Hansen at ¶ 4 (Exhibit 50).

Except for allegations that guests have parked too close to a fire hydrant, the parking problems that Applicant complains of stem from parking that is entirely legal, as none of the streets at issue is a no-parking zone.<sup>101</sup> Further, as the affidavits supporting the Response show, other nearby neighbors do not believe that parking at the Aldredge House is a concern.<sup>102</sup>

Initially, neighbors point out that the Foundation's use of a valet service typically makes parking much less of an issue than when events are held at single-family homes. As one neighbor observed, "Other than the Aldredge House, valet parking is very seldom utilized and guests are left to fend for themselves in front of neighbors' homes."<sup>103</sup> Thus, the Foundation's use of a valet service alleviates the street congestion that might otherwise occur. In contrast, nearby neighbors confirm that it is normal to see cars parked on both sides of the street in front of every house for events hosted by single-family owners. One neighbor has observed cars from other neighbors' parties parked in front of her home "for days."<sup>104</sup> Notwithstanding the neighborhood's routine practice of parking in front of other neighbor's houses, the Foundation takes steps to ensure that cars attending Aldredge House events are not parked in front of

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<sup>101</sup> See Affidavit of Elizabeth Gunby at ¶ 12 (Exhibit 49).

<sup>102</sup> See, e.g., Affidavit of Sue Miller at ¶ 6 (Exhibit 38); Affidavit of Donna Rogers at ¶ 13 (Exhibit 40); Affidavit of Virginia Savage McAlester at ¶¶ 44-46 (Exhibit 6); see also Affidavit of Karen Casey at ¶ 6 (Exhibit 58) (stating that "[o]n my many, many walks down Swiss Avenue, I have witnessed the orderly arrival and departure of visitors for weddings and other gatherings, but have never noted any inconvenience for pedestrians or vehicular traffic").

<sup>103</sup> Affidavit of Glenn Offutt at ¶ 5 (Exhibit 9); see also Valet Parking Map, attached as Exhibit A to Affidavit of Wendy Hansen (Exhibit 50).

<sup>104</sup> Affidavit of Donna Rogers at ¶ 13 (Exhibit 40) (stating that "We have had other cars parked in front of our house from other neighbors' parties that were there for days. We knew this parking situation would occasionally occur when we bought our house and thus it was not surprise").

neighboring homes. It provides its valets and members with a color-coded map to discourage any parking in front of neighbors' homes.<sup>105</sup>

Any parking issues over the last few months largely have been due to two discrete, temporary causes. In late spring, the Gaston lot needed resurfacing and had spaces that could not be used.<sup>106</sup> The Foundation spent approximately \$20,000 to resurface and enlarge the lot.<sup>107</sup> With the lot completed in August 2015, the valet is able to fully utilize it.<sup>108</sup> Also in late spring, unusually heavy rains created problems with flooding and mud in the alley behind the Aldredge House.<sup>109</sup> As a result, the alley was blocked off and unavailable for vehicular use, either for vendor setup or for guest parking. When the alley became usable again, vendors and valets resumed use.<sup>110</sup> Now that the temporary problems with the lot and alley have been addressed, parking has returned to normal.

The Foundation's new rules require every event with over 40 people to use a valet service, and those valet services are informed of the parking restrictions.<sup>111</sup> Combined with its ample off-street parking, the Foundation's regular use of valet service ensures that no parking problems are created. Taking its efforts one step further, the Foundation recently requested a visit from a City

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<sup>105</sup> Affidavit of Wendy Hansen at ¶ 6 (Exhibit 50). René Schmidt, owner of a home 200 feet from the Gaston lot, notes that "my neighbors and I have never had any problems with events at the Aldredge House or their parking lot . . . Events that I have witnessed there are well organized with valets parking guests' cars in their [Gaston] parking lot." October 4, 2015, Letter of René Schmidt (Exhibit 59).

<sup>106</sup> Affidavit of Wendy Hansen at ¶ 5 (Exhibit 50).

<sup>107</sup> *Id.*

<sup>108</sup> *Id.*

<sup>109</sup> Affidavit of RuLan Hebel at ¶ 3 (Exhibit 54).

<sup>110</sup> *Id.*

<sup>111</sup> Affidavit of Wendy Hansen at ¶ 6 (Exhibit 50).

of Dallas parking official to confirm that it was in complete compliance with any City parking ordinance. Upon completion of the visit, the official advised the Foundation that she wished that others were as conscientious of their obligations as the Foundation.<sup>112</sup>

**9. Any other factors relevant to the issue of whether continued operation of the use will adversely affect nearby properties.**

The Aldredge House is the only home in the Swiss Avenue Historic District that is recognized as having “landmark significance on a national scale.”<sup>113</sup> Whereas the Swiss Avenue Historic District features many lovely homes, the historic district regulations currently in place set no standards for the preservation of, and afford no protection to, the integrity of the homes’ interiors.<sup>114</sup> The Aldredge House is exceptional in that not only is its exterior a unique example of the French Eclectic architectural style, but its interior has also been carefully maintained with an eye toward preservation.<sup>115</sup> The Foundation has taken meticulous care of the house, executing repair work “to the highest standards of preservation . . . as opposed to undertaking cheaper and less sensitive repairs that most likely would have resulted in a diminishing of its historical significance.”<sup>116</sup> The presence of the historic home, with its original paneling, fireplaces, staircases, and many other original early-twentieth-century interiors, immeasurably enhances the

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<sup>112</sup> See Affidavit of Elizabeth Gunby at ¶ 12 (Exhibit 49); see also Email from Pamè La Ashford to Elizabeth Gunby, August 17, 2015 (Exhibit 60).

<sup>113</sup> Dallas Historic Landmarks Survey, University of Texas at Austin (January 1, 1975) pp. 3, 8 (Exhibit 61).

<sup>114</sup> See generally Sec. 51P-63.114(5) (Exhibit 15) (Ordinance No. 18563 (1985)) (Exhibit 15).

<sup>115</sup> Affidavit of Henry K. Tatum at ¶ 6 (Exhibit 8); Affidavit of Karen Casey at ¶ 5 (Exhibit 58) (“As one of the only homes in the area open to the public and in its original condition, the Aldredge House provides a singular link between historic Dallas to its present and its future”).

<sup>116</sup> October 7, 2015 Letter from Preservation Dallas in support of the Aldredge House’s continued preservation (Exhibit 62).

character of the Swiss Avenue neighborhood; indeed, it is an “irreplaceable jewel” within that neighborhood.<sup>117</sup> If the Aldredge House is forced to become a single-family residence, the home’s protections, along with its preservation of history, will in all likelihood be lost, since a new owner would very likely modernize the home.<sup>118</sup>

If the interiors are lost, the damage to the home (and the neighborhood) will be permanent. Prompted by the institution of these proceedings, Preservation Dallas has placed the Aldredge House on the top of its 2015 “Endangered Historic Places List.” The list warns:

While the house is not threatened with demolition, it is threatened by the removal of its city permission to hold events at the house which allows the public access to one of the most wonderful historic interiors in Dallas and helps the nonprofit generate the funds necessary to maintain this historic gem. If the permission is revoked, the house will most likely have to be sold, closing it to the public and subjecting the highly intact historic interiors to modernization.<sup>119</sup>

The outpouring of public support for the Aldredge House and the Foundation has been remarkable.<sup>120</sup> The Swiss Avenue Historic District neighborhood association voted in August to

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<sup>117</sup> See Affidavit of Beth Bentley at ¶ 4 (Exhibit 63) (remembering that her visit to the Aldredge House “was like taking a step back in time—all of the grandeur has been beautifully maintained by the Dallas County Medical Society Alliance and Foundation. The Aldredge House is an irreplaceable jewel within the Swiss Avenue Historic District and should remain open for public use, as it has been for the last 40 years.” See also Affidavit of Jim Anderson, who was an urban planner for the City of Dallas from 1984 through 2010, and was the City’s first “Historic Preservation Planner,” at ¶ 6 (Exhibit 64) (noting that “the lavish interior remains primarily unchanged. This house may be the only significant home in the district that has not had the interior altered”); October 2, 2015, Letter of Martha Heimberg (Exhibit 65) (lauding the home as a “valued monument to another day”); Affidavit of Roger Carroll at ¶ 10 (Exhibit 35): “The beauty of the Aldredge Home and its surroundings is important to the Swiss Avenue Historic District and Dallas at large. The house demonstrates a way of living that no longer exists. The DCMSA takes good care of the house and the Aldredge House makes me proud to be part of this neighborhood.”

<sup>118</sup> In contrast, the Zoning Case, if granted, would require significant interior preservation.

<sup>119</sup> Preservation Dallas “Endangered Historic Places List 2015” (Exhibit 66).

<sup>120</sup> See, e.g., Affidavits of Robert “Bob” Cox (Exhibit 36), Kathleen Cox (Exhibit 43), Jacqueline F. Winslett (Exhibit 37), Glenn Offutt (Exhibit 9), Larry Offutt (Exhibit 3), Linda Thacker Solomon (Exhibit 16), Sue Miller (Exhibit 38), Karen Casey (Exhibit 58), Evelyn Montgomery, Ph.D. (Exhibit 39), Henry K. Tatum (Exhibit 8), Frank Rinaldi (Exhibit 7), Jim Anderson (Exhibit 64), Steve Clicque (Exhibit 53),

support the Aldredge House in maintaining its current uses.<sup>121</sup> A “Save the Aldredge House” petition on [www.change.org](http://www.change.org), asking the Board of Adjustment to deny the Application, has 2,851 signatures as of the writing of this Response.<sup>122</sup> Members of the public have submitted hundreds of cards and letters in support of the Aldredge House’s continued operation.<sup>123</sup> At a meeting before the Dallas Landmark Commission, more than 100 people attended in support of the Foundation and the Aldredge House’s continuing public use.<sup>124</sup> The original founders of the Swiss Avenue Historic District have submitted an amicus brief in support of the Foundation’s Response.<sup>125</sup> But perhaps the role of the Aldredge House is best summed by neighbor Larry Offutt, who has lived in the Swiss Avenue neighborhood for over 60 years: The Aldredge House

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Beth Bentley (Exhibit 63), Sandra Z. Brothers, MD (Exhibit 5), Roger Carroll (Exhibit 35), Donna Rogers (Exhibit 40), Margaret Lackey Fraker (Exhibit 44), Jordan Kaiser (Exhibit 18), Lyn Dunsavage Young (Exhibit 19), Nancy Shelton (Exhibit 67), Harryette Ehrhardt (Exhibit 2), and Virginia Savage McAlester (Exhibit 6), and the letters of Martha Heimberg (Exhibit 65), Richard Thacker (Exhibit 41), R. Lyn O’Neil (Exhibit 42), Bill “Bulldog” Cunningham (Exhibit 68), Janis Adams (Exhibit 10), Katherine Seale (Exhibit 69), René Schmidt (Exhibit 59), Preservation Dallas and David Preziosi (Exhibit 62), and G. Chandler Vaughn (Exhibit 70).

<sup>121</sup> Affidavit of Virginia Savage McAlester at ¶ 57 (Exhibit 6); Letter of Joanna Hampton, President of Swiss Avenue Historic District Association, September 1, 2015 (Exhibit 13).

<sup>122</sup> Petition on [www.change.org](http://www.change.org) (Exhibit 71).

<sup>123</sup> The Foundation has received letters of support from Preservation Dallas (hoping for a solution that “allows the Aldredge House to remain open to the public for a very long time to come”), a past commissioner of the Dallas Plan Commission (“A historic monument such as this cannot be replaced by a stroke of a pen or the vote of a few . . . This would be a disservice to the entire population of our city”), and the President of adjacent Junius Heights Historic District (“It would be a shame to lose this piece of our collective past for future generations”). Affidavit of Wendy Hansen at ¶ 9 (Exhibit 50); *see also* Letter of Bill “Bulldog” Cunningham (Exhibit 68), Preservation Dallas (Exhibit 62), René Schmidt (Exhibit 59).

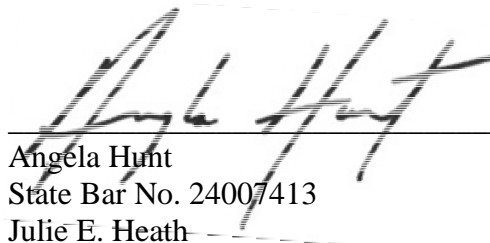
<sup>124</sup> Affidavit of Wendy Hansen at ¶ 8 (Exhibit 50).

<sup>125</sup> Harryette Ehrhardt, Virginia McAlester, and Larry Offutt’s Amicus Brief in Opposition to Barbara McDaniel’s Application to the Board of Adjustment to Set a Compliance Date for the Nonconforming Use at 5500 Swiss Avenue, attached hereto as Exhibit 72 and incorporated and adopted herein by reference.

is an “ambassador to all of Dallas (and the world) as an example of what can be accomplished in the inner-city.”<sup>126</sup>

#### **IV. CONCLUSION**

For the foregoing reasons, Barbara McDaniel’s Application to Set a Compliance Date for the Nonconforming Use at 5500 Swiss Avenue should be denied with prejudice.



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**ATTORNEYS FOR RESPONDENT**

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<sup>126</sup> Affidavit of Larry Offutt at ¶ 20 (Exhibit 6).