

CANNON & DUNPHY, S.C.

Attorneys at Law



William M. Cannon
Patrick O. Dunphy
Mark L. Thomsen
Sarah F. Kaas
Edward E. Robinson

595 North Barker Road
P. O. Box 1750
Brookfield, WI 53008-1750
Telephone: (262) 782-2700
Facsimile: (262) 796-5800
www.cannon-dunphy.com

Allan M. Foeckler
Charles D. Schmidt
Robert D. Crivello
Kevin R. Martin
Brett A. Eckstein

September 11, 2008

HAND DELIVERED

Ms. Martha L. Brown
City of Milwaukee
809 North Broadway
Milwaukee, WI 53202-3617

Re: Goll Mansion application for COA

Dear Ms. Brown:

On September 8, 2008, I filed a letter that challenged NLE's attempt to limit its application for a COA for its Goll Mansion property development project. One basis for the challenge is NLE's attempt to limit your jurisdiction to the structure and to ignore the property on which the structure is located. I cited the applicable ordinance definition of "historic site" to point out to the Commission that the real property on which a historic structure sits falls within the Commission's jurisdiction.

It appears that you had the same concerns based on your September 5, 2008 letter to the City Attorney asking for an opinion addressing that issue.

A letter from the City Attorney dated September 9th, concluded that the DCD's jurisdiction is limited to the Goll House structure and that the Commission is required to ignore the real property on which the Goll House is located. This conclusion is untenable.

In reaching his conclusion, the City Attorney ignores the very definition of "historic site". The City Attorney makes no reference to the definition of "historic site". The City Attorney makes no attempt to deal with the directive of the ordinance as to what is a "historic site. The City Attorney offers no explanation as to why the DCD is precluded from following its governing ordinance's definition of "historic site" in passing on NLE's application.

This is a glaring omission by the City Attorney that I must bring to your attention.

The ordinance defines “historic site” to include the real property on which it is located. It specifically states:

g. “Historic site means the real property:

g-1. On which a structure having historical significance is located; or

Section 2 e defines “historic ... significance” to mean:

“The attributes of a district, site or **structure that possess integrity of location**, design, **settings**, materials, workmanship **and association** which consider the following:”

The ordinance definition then lists 9 different criteria to be considered in determining whether a structure has “historical significance”.

In the Historic Designation Study Report, the DCD Staff recommended the Goll House be designated a historic structure because it met 4 of the criteria of “historical significance”. Specifically, the Staff recommendation lists criteria e-4, 5, 6 and 9. (Staff Report p. 10-11). Subsection e-9 states that a structure may be of “historical significance” because of “its unique **location** as a singular physical characteristic which represents an established and visual feature of a neighborhood, community or City of Milwaukee.”

The Goll House’s location is an essential component of its historical significance. The House cannot be divorced from the property on which it is located. If you moved the Goll House from Prospect Avenue to 4th and Juneau, it would no longer be (as the Study Report described) “one of the grand structures associated with the Prospect Avenue Residential district which was called the “Gold Coast”...” The Study Report recognizes that the Goll House is historically significant, not just because of its architecture and its architects, but because of what it is, where it is and the Prospect Avenue history it embodies.

The very reason a structure is designated as historic is because it has “historical significance”. The City’s position requires this Department to ignore the definition of “historic site” and to find that the Goll House has no historical significance. That is the only way that this Department can avoid applying the definition of “historic site” to the Goll House. That is a truly absurd result.

Unless the City Attorney and the Department are willing to take the position that a historic structure is not “a structure having historical significance”, then the real property on which the Goll House is located must be considered in passing on NLE’s application.

There are laws that govern the Department’s operation and jurisdiction. The Department is not at liberty to ignore those laws regardless of what the City Attorney may say. A review that ignores the historic site on which the historic structure is located follows a perilous path for the Goll House and for all future applications to develop the land on which historic structures are located.

I urge you to read the ordinance. The answer to your question of September 5 is in sec. 2. g-1.

Very truly yours,

CANNON & DUNPHY, S.C.

Patrick O. Dunphy

Direct Dial: (262) 796-3701

Direct Fax: (262) 796-3711

pdunphy@cannon-dunphy.com

/jb

cc: Grant F. Langlely