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Patricia Balon
Historic Preservation Commission
Dept. of City Development
809 North Broadway - 1st Floor
Milwaukee, WI 53202

Re: COA for Goll Mansion

Dear Ms. Balon:

I have read the letter prepared by attorney Donner in support of NLE's application for a Certificate of Appropriateness. The letter is based on an incorrect reading of the applicable ordinances, strains to find ways to separate NLE's proposed develop from the historic structure's governing ordinances, and makes it clear that NLE has not and will not spend any money to preserve the Goll Mansion unless the City gives it license to build an unfunded 26 story glass tower at some undetermined time in the future.

In addition, NLE has clearly made the financial feasibility of its proposed development a legitimate and relevant consideration for this Commission in determining whether a COA should be issued. Because NLE has tied its application to its financial condition, the HPC's decision making process must include requiring proof from NLE that its proposed development is feasible, will be funded, and the funds will be used for the restoration before the so called "New Building". If the HPC does anything less, it risks granting a COA that will ruin, not restore, the Goll property.

I THE APPLICATION IS BASED ON A FALSE PREMISE THAT THE HPC'S CONSIDERATION IS LIMITED TO THE STRUCTURE, NOT THE SITE.

The Goll Mansion was designated a Historic Structure by Council Resolution 01-1566. NLE would have this Commission believe that means the only consideration in issuing a COA is the building and not the site. The entire application is based on this premise. For example attorney Donner's letter states the following:

1) In paragraph A, NLE argues "As a result of its designation as a 'Historic Structure', the Goll House structure alone is subject to the provisions of historic preservation ordinance 308-81" (page 2).

2) In paragraph B NLE states: “In this case, as directed by the Council, only the Goll House ‘structure’, not its site or district, is at issue. HPC is charged only with evaluating the detrimental impacts of the ‘proposed work’ on the ‘exterior architectural features’ of the Goll House.” (page 2).

3) In paragraph C i NLE argues: “As the Council designated the Goll House structure, not its site or district, as historic, NLE’s New Building is simply not an issue in this COA. (Emphasis in original. page 8).

4) In paragraph D, NLE claims: “Pursuant to Council File 011566, the Preservation Guidelines, listed in Section X of the Historic Designation Study Report for the Goll House, are to be applied to the exterior structure of the Goll House.” (page 9).

5) In paragraph H, NLE argues: “When designating the Goll House as a Historic Structure, the Common Council applies the Guidelines ‘to this structure’. The Guidelines do not apply to the grounds at 1550 N. Prospect Avenue or the New Building.” (page 14).

It is clear that NLE’s intent is to convince the HPC to ignore the impact its “New Building” will have on the Goll House property as a whole. In doing so, NLE invites the HPC to grant a COA in violation of the ordinances that govern the grant. In addition, this approach is a tacit admission by NLE that it cannot satisfy the Historic Preservation Ordinance if the HPC follows the directives of ordinance 308-81 and considers the impact of its proposal on the historic site.

II THE GOLL MANSION IS AN HISTORIC SITE

NLE contends that the only way a site can be “historic” is by express designation of the Common Council. Contrary to NLE’s contention, that is only one method of designation.

Section 803-81 1g defines an “historic site” as follows:

g. “Historic site means the real property:

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

g-2 On which there is no structure, but which itself is of historical significance that has substantial value in tracing the history of aboriginal man, or upon which an historic event has occurred; or

g-3 Has been designated a historic site by the common council.”

When the Common Council designated the Goll Mansion a historic structure, it made a finding that the Goll Mansion structure had historical significance. In so doing, the “real property” on which the historically significant structure is located became a “historic site” under 803-81 g-3. To conclude otherwise requires ignoring the ordinance’s definition of “historic site”.

The need for the g-1 definition of “historic site” is obvious. An essential part of a historic structure is its grounds. If you take the Goll Mansion as an example, by ignoring the real property and focusing entirely on the building, you could theoretically encase the Mansion with a so-called “new building”, never touching the structure, but forever destroying its historical significance.

The reason NLE seeks to preclude the Goll site from the COA determination is obvious. Despite its protestations to the contrary, a 26 story glass tower added to the back of the Goll Mansion does not meet the Rehabilitation Guidelines that bind this Commission. Deputy Commissioner Martha Brown stated that obvious fact on the record at the HPC's informational meeting in August. And, as the Historic Designation Study Report notes:

“Most of the other original mansions in the neighborhood were demolished over the last half-century to make way for mid-and high-rise apartment buildings. Today this grand house, now used for professional offices, is a veritable time capsule of late nineteenth century design and craftsmanship.” (p. 4)

The Mansion and its site combine to make it historically significant. The Report recognizes that the Mansion's historical significance depends, in part, on the fact that it stands out from the surrounding multi family, multi story buildings that populate Prospect Avenue. Placing a 26 story multi family high rise towering over the east side of the Mansion will destroy one of the very reasons the Mansion was granted Historic status.

NLE's application is nothing more than a proposal to add one more “high-rise... building” to Prospect Avenue. NLE's building will destroy the “veritable time capsule” (p. 7) of the mansion site, eliminate it as the “architectural focal point of its neighborhood...” (p. 7) and by dwarfing it with a massive glass tower, ruin its role as “a remarkable reminder of the fact that good design is, indeed, timeless...” (p. 7).

The Goll Mansion must be the center piece to its site to maintain its historical significance. Reducing the Goll Mansion to an entrance to a glass high rise does not maintain the Mansion's historical significance; it converts the Mansion into little more than a Port Cochere. The renderings provided by NLE make the Mansion look like the toe of a boot. NLE knows that and because of it “methinks he does protest too much” that the HPC is limited to analyzing the “structure” and the expense of the “site”.

III DIVORCING THE STRUCTURE FROM THE SITE SETS A DANGEROUS PRECEDENT

NLE's application for a COA should not be viewed in isolation. Just as NLE cites other developments in the City as justification for its proposal, future developers of historic structures will cite this decision as precedent. If the HPC agrees that it is precluded from considering the impact of the so-called “New Building”, not only will it ignore the ordinance, it will open the door to high rise development standing only a few feet from historic structures.

As an example of what could happen if the HPC follows NLE's lead, consider the Wisconsin Conservatory of Music (Charles McIntosh House) 1584 N. Prospect Avenue. This Milwaukee landmark was designated an historic structure by resolution # 85-1520. The structure is privately owned.(It zoned RM-7, the same zoning as the Goll Hosue.) East of the structure is a parking lot and bluff land. If the Conservatory were to sell the property to a private developer, that developer could follow the lead of the Goll House and put a 25 + story high rise condo on one of the best “view lots” in the City without touching the McIntosh House and could do so without ever

seeking a COA. No COA is required, according to NLE, unless the structure is directly affected by contact with the proposed development and then, only at the point of contact between the historic structure and the new building.

The Sanford Kane house is a designated historic structure located at 1841 N. Prospect Avenue. It too, is zoned RM-7. The Kane house has a parking lot on its property. Again, according to NLE, the private owner of the Kane house historic structure could build a multi family dwelling adjacent to the historic structure and never seek a COA from the HPC.

The precedent you will set in ruling on the application of NLE, is a major consideration for this Committee. It should not and cannot “rewrite” the definition of historic site to serve the needs of NLE without setting a precedent that could reverberate throughout the City.

IV NLE’S APPLICATION DOES NOT MEET THE REQUIREMENTS OF SECTION 9 FOR A COA PERMITTING ITS “NEW BUILDING”

NLE insists on labeling its addition to the Goll House as a “New Building”. Again, NLE asks the HPC to ignore the applicable ordinances.

NLE is proposing an “alteration” 2 a, i, and j.

- 1) The proposal calls for an “alteration” with the addition of a 26 story high rise to the rear of the Mansion. The high rise will be attached to the Mansion on the east elevation. The east elevation of the Goll Mansion will not be visible from any vantage point. Only the high rise will be visible. The high rise will effectively become the east elevation. This is an “alteration” because it constitutes a “material change in the external architectural features of any historic structure within a historic site...”
- 2) The proposal calls for an “improvement” because it calls for a “building” which NLE claims is a “physical betterment of real property”.
- 3) The proposal is a “rehabilitation” of the site as it calls for “improving property through...alteration”, while ostensibly “preserving those portions and features of the property which are significant to its historic, architectural and cultural values.”

Before granting a COA for the proposed building, the HPC must determine under sec. 9 b-1 whether the proposed work would “detrimentally change, destroy or adversely affect any exterior architectural feature of the improvement upon which the work is to be done”. Under sec. 9 b-2, the HPC must determine whether the proposal would “adversely affect or not harmonize with the external appearance of other neighboring improvements on such site”.

The ordinance requires the HPC to focus on the harmony of the proposed building with the other improvements “on the site” not the improvements on “neighboring sites”. NLE’s contention that its building would not be out of context with the size, scale and character of the neighborhood, is not only wrong, it conveniently ignores the criteria of site compatibility the HPC must consider under the ordinance.

NLE's proposal must be considered in light of the sec. 9 criteria. The HPC must consider the impact the tower will have as an alteration, improvement and rehabilitation of the historical structure and site and in doing so answer the following questions:

- 1) Does the attachment of a 26 story glass tower to the rear of the Goll Mansion detrimentally change, or adversely affect the east exterior of the Mansion?

Yes it would.

IT WOULD MAKE VIEWING THE EAST SIDE OF THE MANSION IMPOSSIBLE FROM EVERY CONCEIVABLE ANGLE. TO CLAIM THAT DESTROYING THE ABILITY TO SEE THE EAST SIDE OF AN HISTORIC STRUCTURE DOES NOT CHANGE OR ADVERSELY AFFECT THE STRUCTURE IS AKIN TO SAYING THAT PUTTING A HOOD OVER SOMEONE'S HEAD DOES NOT CHANGE THE WAY HE LOOKS!

- 2) Does the attachment of a 26 story glass tower adversely affect or not harmonize with the external appearance of other neighboring improvements on such site?

Yes it would.

THE NEIGHBORING IMPROVEMENT ON THE SITE IS THE MANSION. THE HISTORIC DESIGNATION STUDY REPORT DESCRIBES THE MANSION'S FEATURES AS FOLLOWS:

- a. "designed to resemble an early 17th century English manor house;
- b. "one of the city's finest examples of Jacobean/Elizabethan revival style"
- c. "impressive massing, projecting bays, steeply pitched roofs and half-timbered gables are all medieval in character."
- d. "The splendid engaged limestone colonnade that surrounds the front entry is a fine, Renaissance-style detail..."
- e. "The exterior face brick of the Goll house is laid in a classic Flemish bond pattern..."

The proposed 26 story glass skyscraper does not "resemble a 17th century manor house", contain any elements of "Jacobean/Elizabethan revival style", incorporate any "medieval" styles, propose using any "Renaissance-style detail", or use anything that could be characterized as "classic Flemish". Using attorney Donner's words, the proposed 26 story glass tower would "mock the Goll house's stately presence".

NLE's proposal emphasizes that the tower is compatible with other multi family buildings on the Prospect Avenue. However, that is not the deciding consideration under the ordinance. The HPC is to determine how a 26 story glass tower harmonizes with a 2 1/2 story stone mansion.

V NLE'S PROPOSAL DOES NOT SATISFY THE CRITERIA OF SECTION 10, "GUIDELINES FOR REHABILITATION"

Ordinance 308-81 section 10 a. states:

"Every reasonable effort shall be made to provide a compatible use for a property which requires minimal alteration of the exterior of the building, structure or site and its environment."

This is not a "minimal alteration" as contended by NLE. The proposed high rise is more than 10 times taller than the Goll Mansion. The site will be forever changed from a single use House to a multi family high rise. Indeed, the proposal calls for the one of the "highest high rises" on Prospect Avenue between Ogden and Brady. NLE's proposal is not a minimal alteration of the site; it is a destruction of the site.

However, even if the HPC is inclined to find that the proposal is something it is not, NLE still does not propose a use that is compatible with the property. The Goll Mansion is currently used as office space. It is 2 1/2 stories high. NLE does not propose that it be converted to residential usage. There is nothing compatible about the high rise condo development and the current or proposed use of the Mansion.

Section 10 c. states:

"All buildings, structures, sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier or later appearance shall be discouraged."

NLE cannot demonstrate that its proposed alteration has a historical basis connected to the Goll Mansion or that it is not a "later appearance" that the HPC is directed to discourage.

Section 10 i states:

"Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural or cultural material, and such design is compatible with the size, scale, color, material and character of the property, neighborhood, or environment."

NLE does not argue that the addition is compatible with size, scale, color, material and character of the property. NLE repeatedly states the HPC is to ignore the property. Instead NLE tells the HPC to focus on the structure and the neighborhood. If the HPC rejects this misdirection, follows what the ordinance requires and focuses on the site and the Goll Mansion property as a

whole, then there is nothing about the proposed high rise design that is compatible with the size, scale, color, material and character of that property.

VI NLE'S PROPOSAL CONDITIONS RESTORATION ON THE GRANTING OF ITS ZONING VARIANCE AND THE FINANCIAL SUCCESS OF THE PROPOSED HIGH RISE.

. Attorney Donner states that "To this point, NLE has been the only one willing and able to restore the Goll House and to successfully vision the highest and best use of the site." (page 1). This is a remarkable statement in light of his same paragraph statement that:

"The condition of the Goll House has been deteriorating for the past several years. Under its present office use, the Goll House does not generate sufficient income to fund historic rehabilitation of the structure. An influx of cash is needed to properly restore the Goll House and provide for its continued maintenance." (page 1)

NLE admits that it does not have the financial wherewithal to maintain the Mansion. NLE further admits that it has allowed the Mansion to deteriorate under its ownership. It is difficult to reconcile NLE's claims that on the one hand "it is willing and able to restore" the Mansion with its conduct and claimed lack of funds.

NLE's admission should raise legitimate questions about its motivation in seeking this variance. Did an experienced developer like NLE not know it was buying a historical site? Did NLE not perform its due diligence and obtain the financial statements of the seller to determine if the Mansion would cash flow NLE's obligations? Did NLE assume it could remove the Mansion and develop the property without regard for its historic preservation obligations?

NLE's admissions must also prompt the question; If NLE cannot get funds for current Mansion maintenance, how will it get funds to build a 26 story tower? How can NLE argue that its needs a \$65,000,000.00 project to fund a \$1,000,000.00 restoration project?

NLE's motivations for seeking the COA are important because NLE seeks to support its application with a legally meaningless Memorandum of Understanding with the Milwaukee Preservation Alliance and an implied promise that it will use funds from its development to rehabilitate and maintain the Mansion. If NLE does not get the approval, it clearly implies that it will let the Goll Mansion fall down in disrepair. If NLE does get the approval, NLE makes none of the following promises:

- 1) that it will develop the property as proposed;
- 2) that it will develop the property soon enough to prevent further, irreparable damage to the Goll House (will it be done before the Mansion deteriorates to a point where NLE's unsubstantiated cost estimates increase and NLE decides the cost of restoration becomes "too high"?);
- 3) that the development will create funds available to apply to the Mansion's rehabilitation (does the Mansion come before or after the lender or the developer's profit. When does the developer have a profit? Is profit determined before or after depreciation expenses? If the developer

chooses not to use its funds to apply to the Mansion's rehabilitation what recourse does the city have to enforce the developer's promises?)

4) that it will not sell the rezoned property to another for a profit and never undertake the development or the restoration of the Mansion

5) that any of NLE's promises regarding the Goll restoration will transfer to the condo association that will govern the skyscraper if it sells out?

Regardless of whether NLE ever intended to preserve the Mansion, it now knows it must. However, NLE's admission that it cannot afford to maintain, much less rehabilitate the property, not surprisingly, leads to its proposed solution; develop the property, the reason NLE bought the property in the first place. NLE has conditioned restoration on a successful high rise development. But is NLE's proposal a realistic solution to funding the restoration of the Mansion?

Today's Milwaukee market is saturated with condos. The Register of Deeds filings show that @35% of Kilbourn Towers units are owned either by Kilbourn Tower LLC or principals of the LLC. Records show that Park Lafayette has sold only 83 of 280 units. Where is the market for condos with a price point of \$1 million to \$3 million? The HPC should ask this question and more of NLE before granting a COA in light of NLE's position that it must have the funds from the development to fulfill its promise to rehabilitate the Mansion.

NLE has made its application dependent on a promise that it will create funds to restore and maintain the Goll House. However, NLE has not provided the HPC with any of the following information to demonstrate the feasibility of its restoration project:

- 1) a market study showing the high rise with price points of \$1-\$3 million is feasible;
- 2) a letter of credit guaranteeing the project;
- 3) proof of a financing commitment from an established lender;
- 4) a viable time line for the development;
- 5) a willingness to sign a legally enforceable guarantee that it will fund the restoration, escrow funds or buy a performance bond for restoration work on the Goll property.

When you cut through all the renderings and the writings, NLE is proposing that the HPC grant it a COA that will forever change the character of the Goll House property without promising anything in return. NLE's plans and pictures and Memorandum of Understanding do not require it to do anything to the Goll House property.

Can the HPC perform its obligation to Historic Preservation by granting a COA to an admittedly underfunded developer who will use it to promote an unfeasible development? I do not believe so. Can the HPC fulfill its obligation under Ordinance 308-81 by granting a COA based on crossed fingers and hope? I don't believe so.

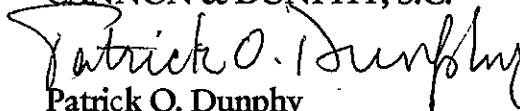
VII COUNTER PROPOSAL

The HPC should deny the application as it currently stands. At a minimum, it should table the pending application. Since NLE is making its restoration of the Goll House property contingent on its condo development, the HPC should require NLE to provide proof that it has financing for the development; market studies demonstrating the feasibility of the proposed project; an enforceable agreement to provide immediate funding for the rehabilitation; actual substantiated cost estimates for the restoration and should require a separate financing commitment to insure those costs will be paid.

Unsubstantiated, unenforceable promises are worth less than the paper they are printed on. Before you consider NLE's request for a COA, you have an obligation to insure that your guidelines and definitions are followed. If you do not do so, in your rush to save the Mansion you will be destroying it.

Very truly yours,

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