



Legislation Details (With Text)

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Title: Memorializing City Council action taken July 9, 2014 granting the appeal of the Department of Public Works of a decision of the Heritage Preservation Commission denying a sidewalk construction project on property including the east side of that property commonly known as 1173 Davern Street.

Sponsors: Kathy Lantry

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Attachments:

Date	Ver.	Action By	Action	Result
9/29/2014	1	Mayor's Office	Signed	
9/24/2014	1	City Council	Adopted	Pass

Memorializing City Council action taken July 9, 2014 granting the appeal of the Department of Public Works of a decision of the Heritage Preservation Commission denying a sidewalk construction project on property including the east side of that property commonly known as 1173 Davern Street.

WHEREAS, on or about March 3, 2014 the Department of Public Works ("PW") made application to the Heritage Preservation Commission ("HPC"), in HPC File No. 14-023, to undertake a sidewalk construction project (the "Project") which included the east side of that property commonly known as 1173 Davern Street; and

WHEREAS, 1173 Davern is also known as the William and Catherine Davern Farmhouse (the "Farmhouse") which is described in the HPC file as a "historically and architecturally significant" house having been listed on the National Registrar of Historic Places in 1983 and designated as a Saint Paul Heritage Preservation site in 1985; and

WHEREAS, PW's application to the HPC described the Project as constructing a 5-foot wide sidewalk along the west side of Davern where, presently, there is no sidewalk. Further, at the site of the Farmhouse, the proposed sidewalk was described as be located along the site's easterly-side "at the curb and street edge;" and

WHEREAS, on May 22, 2014 having provided notice to affected property owners including the owners of the Farmhouse, the HPC duly conducted a public hearing on the Project where all interested parties were given an opportunity to be heard; and

WHEREAS, at the close of the public hearing and based upon all the testimony and records, including an HPC Staff Report dated May 15, 2014 in which HPC staff recommended that the Project be approved, the HPC, on a 3-2 vote, denied PW's application based upon the following reasons set forth in the HPC's modifications to the findings in the said Staff Report which are incorporated herein by reference:

"1. The William & Catherine Davern Farmhouse was designated a Saint Paul Heritage Preservation Site

by the City Council in 1985 and was listed on the National Register of Historic Places in 1983. A Period of Significance (POS) was not defined in the National Register nomination. For the purposes of this review, staff has determined the POS is from 1862 when construction commenced to 1929 when two bays were added onto the house which is still the configuration and size present today.

2. In order to determine whether the public sidewalk will have a negative impact to the architectural and historical significance of the site and building, an understanding of the changes that took place over the POS that have acquired significance in their own right is warranted, as well as any changes outside the POS that have or have not had a negative impact. The original farm site of 160 acres (Snelling, Montreal, Fairview, St. Paul Avenues) had grown to 290 acres by 1880. A late 19th Century image shows the farmhouse in the background and a large open field for farming. Early accounts say there were few trees, making the river valley visible from Davern Hill. There was a dirt road that extended south to West Seventh Street. In 1887, the road was extended north of the farmhouse and became a city street named Davern Street. The street wasn't paved until the early 1950's.

In 1917, the house was sold to Harvey B. Fuller, Jr. he had the front porch removed, dozens of apple trees to the south of the house removed, but the remains of the old barn were still extant.

In 1928, Clifton C. Dailey of Drake Marble Company bought the house and they expanded the house with two bays in 1929. Other interior improvements were made and a clay tennis court was installed west of the house where the Davern's pig pen had been. After 1938, new owners, the Headley's, hooked up to city water, cleared the south of tangled raspberry patches and removed the clay tennis court.

There is not a lot of documentation about the site conditions at the front lawn along Davern Street, except that the location and alignment of the road had remained the same since the Davern's farmed the land. The improvement made as a city street provided paving, curbs, lights and storm water management. A new city sidewalk would allow for a safe pedestrian route if separated from the street.

3. A significant and character-defining feature of the properties' site is its typography (sited on the hill) and the fact that a large and open piece of land was preserved around the house that also included the foundation of the barn and early retaining walls. While much of the farm land was sold and developed, mainly beginning in the 1940's, it is fortunate that this large lot was not further divided for redevelopment. That would have likely negatively impacted the site's integrity of setting as defined by the National Park Service. A new city sidewalk, while replacing some green space, is at grade and will impact the site's integrity of setting.

4. The proposal to construct a public sidewalk at the eastern perimeter within the boundaries of the William and Catherine Davern Farmhouse Site will adversely affect the Program for the Preservation and architectural control (Leg. Code §73.06(e))."

WHEREAS, the HPC's decision to deny PW's Project application was subsequently conveyed to PW in a Letter of Denial dated May 23, 2014 and addressed specifically to the attention of PW's Allan Czaia ; and

WHEREAS, on or about June 5, 2014 and pursuant to Legislative Code § 73.06(h), Mr. Czaia, on behalf of PW, filed an appeal from the HPC's decision alleging various errors in the HPC's decision and requested a public hearing before the City Council for the purpose of considering the HPC's decision; and

WHEREAS, on July 9, 2014 the City Council duly conducted a public hearing on PW's appeal where all interested parties were given an opportunity to be heard and, upon the close of the public hearing and based upon all the testimony presented at the hearing, including the application, the report of staff, and all the

records on file in this matter, the Council does;

HEREBY RESOLVE, that the HPC's May 22, 2014 decision denying PW's application, based upon the modified reasons set forth above as duly adopted by the HPC and transmitted to PW in the HPC's May 23, 2014 Letter of Denial was in error and, accordingly, is hereby reversed based upon the following findings:

1. The Council finds that the May 15, 2014 HPC Staff Report which specifically had found that the Project would not detract from the architectural integrity, historic character or setting of either the Farmhouse or the Farmhouse grounds and would not adversely affect the "Program for the Preservation and Architectural Control" for the Farmhouse and therefore recommended approval of the Project provided the it abided by five conditions specified in the said Report's Staff Recommendations, were reasonable and factually based and the Council hereby adopts the same in support of its decision to grant the appeal and incorporates them herein by reference.
2. The Council therefore finds that the HPC erred in its adoption of the modified Findings used as a basis to deny the Project as there is no basis to conclude that the findings and recommendation set forth in the said Staff Report were unreasonable or not factually based.

AND, BE IT FURTHER RESOLVED that the five conditions imposed on the Project, as recommended in the said Staff Report are hereby imposed on the Project as follows:

1. Every effort shall be made to avoid the need for a retaining wall within the boundaries of the historic site. If a retaining wall cannot be avoided HPC staff and Public Works staff shall consult on appropriate materials and detailing.
2. Every effort shall be made to lessen curves and angles (often to void tress or existing infrastructure) in the alignment of the sidewalk.
3. Final construction level drawings shall be submitted to HPC staff to verify consistency with the HPC reviewed and conditionally reviewed plans.
4. Any revisions to the approved plans shall be submitted to HPC staff for review.
5. A copy stamped HPC approved shall be on site for the duration of the construction project and provided to the selected contractor."

AND, BE IT FURTHER RESOLVED, for the reasons set forth above that PW's appeal from the HPC's May 22, 2014, decision is hereby granted subject to the conditions specified above; and be it

FINALLY RESOLVED, that the council secretary shall immediately mail a copy of this Resolution to the Department of Public Works, the Heritage Preservation Commission, the Zoning Administrator, the Planning Administrator and the Building Official.