



Project Name/Address: 1 Speedway, Forest Hill Cemetery, Confederate Rest
Application Type: Alteration to landmark site – removal of marker and plaque
Legistar File ID # [52415](#)
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Background Information

Parcel Location/Information: The landmark site is located at 1 Speedway Road in an area of Forest Hill Cemetery known as Confederate Rest.

Relevant Ordinance Sections:

41.09 ALTERING OR DEMOLISHING LANDMARKS. No person may do any of the following without a certificate of appropriateness issued under Subchapter F:

- (1) Add a new structure to a landmark or landmark site.
- (2) Materially alter a landmark or the exterior of a landmark.
- (3) Demolish or relocate a landmark or any part of a landmark.
- (4) Install a sign on the exterior of a landmark or on a landmark site.
- (5) Divide any lot comprising all or part of a landmark site, or voluntarily grant any easement on that lot if doing so may impair the preservation, maintenance, exterior appearance or historic character of the landmark or landmark site.

41.18 STANDARDS FOR GRANTING A CERTIFICATE OF APPROPRIATENESS. A certificate of appropriateness shall be granted only if the proposed project complies with this chapter, including all of the following standards that apply.

- (1) New construction or exterior alteration. The Landmarks Commission shall approve a certificate of appropriateness for exterior alteration or construction only if:
 - (a) In the case of exterior alteration to a designated landmark, the proposed work would meet the Secretary of the Interior’s Standards for Rehabilitation.
 - (b) In the case of exterior alteration or construction of a structure on a landmark site, the proposed work would meet the Secretary of the Interior’s Standards for Rehabilitation.
 - (c) NA
 - (d) In the case of any exterior alteration or construction for which a certificate of appropriateness is required, the proposed work will not frustrate the public interest expressed in this ordinance for protecting, promoting, conserving, and using the City’s historic resources.
- (2) Demolition or Removal. In determining whether to approve a certificate of appropriateness for any demolition or removal of any landmark or structure within a historic district, the Landmarks Commission shall consider all of the following, and may give decisive weight to any or all of the following:
 - (a) Whether the structure is of such architectural or historic significance that its demolition or removal would be detrimental to the public interest and contrary to the general welfare of the people of the City and the State.
 - (b) Whether a landmark’s designation has been rescinded.

- (c) Whether the structure, although not itself a landmark structure, contributes to the distinctive architectural or historic character of the historic district as a whole and therefore should be preserved for the benefit of the people of the City and the State.
- (d) Whether demolition or removal of the subject property would be contrary to the policy and purpose of this ordinance and/or to the objectives of the historic preservation plan for the applicable historic district as duly adopted by the Common Council.
- (e) Whether the structure is of such old and unusual or uncommon design, method of construction, or material that it could not be reproduced or be reproduced only with great difficulty and/or expense.
- (f) Whether retention of the structure would promote the general welfare of the people of the City and the State by encouraging study of American history, architecture and design or by developing an understanding of American culture and heritage.
- (g) The condition of the property, provided that any deterioration of the property which is self-created or which is the result of a failure to maintain the property as required by this chapter cannot qualify as a basis for the issuance of a certificate of appropriateness for demolition or removal.
- (h) Whether any new structure proposed to be constructed or change in use proposed to be made is compatible with the historic resources of the historic district in which the subject property is located, or if outside a historic district, compatible with the mass and scale of buildings within two hundred (200) feet of the boundary of the landmark site.

Prior to approving a certificate of appropriateness for demolition, the Landmarks Commission may require the applicant to provide documentation of the structure. Documentation shall be in the form required by the Commission.

Secretary of the Interior's Standards for Rehabilitation

1. A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.
2. The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.
3. Each property will be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.
4. Changes to a property that have acquired historic significance in their own right will be retained and preserved.
5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.
6. Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.
7. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.
8. Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.
9. New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.
10. New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

Analysis and Conclusion

The Landmarks Commission met jointly with the Board of Parks Commissioners, Equal Opportunities Commission, and Landmarks Commission on January 30, 2018 to develop recommendations regarding the treatment of the Confederate monuments at Forest Hill Cemetery. The Landmarks Commission then discussed their recommendations at the meeting of March 19, 2018 and provided the following recommendations to Common Council:

A motion was made by Arnesen and seconded by Andrzejewski to recommend to the Common Council that the Landmarks Commission finds that the small plaque should not have been uninstalled without an application for a Certificate of Appropriateness and that an application should be submitted by the Common Council. Upon the approval of a Certificate of Appropriateness to remove the small plaque, the Commission suggests that the plaque be offered to the WI Veteran's museum and the WI State Historical Society and not to private individuals. The motion passed on a voice vote.

A motion was made by Arnesen and seconded by Hill to recommend to the Common Council that the Landmarks Commission feels that the large marker should be retained in Confederate Rest. The motion passed on a voice vote, with Rummel voting opposed.

A motion was made by Kaliszewski and seconded by McLean to recommend to the Common Council that the Landmarks Commission finds that an interpretive display should be installed, that the Common Council should commission its drafting by a qualified historian, and that the events surrounding the small plaque be included in the display. The Commission further stipulated that the text, appearance, and placement of the display must be reviewed and approved by the relevant bodies prior to installation. The motion passed on a voice vote.

The current proposal requests the removal of the small plaque and the marker from Confederate Rest. Because Forest Hill is a designated landmark site, the Landmarks Commission has the authority through the Historic Preservation Ordinance (Sec. 41.09(3)) to review the removal of the marker and plaque. Any alteration to the site will also be reviewed by the State Historic Preservation Office because the property is also listed on the State and National Registers. The State Historic Preservation Office also reviews compliance with the Burial Law and any ground disturbance on a known archeological site.

The language of 41.09 states, "No person may do any of the following without a certificate of appropriateness issued under Subchapter F" and then notes "Demolish or relocate a landmark or any part of a landmark" (underlining added for emphasis). The removal of the marker and plaque relates to this language so the Subchapter F: Standards for Granting a Certificate of Appropriateness (Sec. 41.18) must be referenced.

41.18(1)(a) instructs the Landmarks Commission to review the alteration request using the Secretary of the Interior's Standards for Rehabilitation. Only the standards that seem applicable to the removal of the small plaque and marker are discussed below.

3. Confederate Rest exists as a physical record of its time, place, and use. It remains unchanged in its appearance since 1909. The change to the space that would occur with the removal of the marker would create a false sense of historical development since the marker was placed before the stone grave markers were installed.
4. The soldiers were buried in Confederate Rest in 1862 and Alice Waterman became involved in the maintenance and beautification of the area in 1868. Ms. Waterman was responsible for planting hedges, erecting headstones, and having numerous perimeter enclosures constructed, likely including the existing stone wall. Ms. Waterman died in 1897 and is buried inside the Confederate Rest area. The large marker was installed in 1906 and the marble headstones were placed in 1909. The

cemetery was designated a landmark site in 1975 and the small plaque was installed in 1980. The stone perimeter wall, the headstone of Alice Waterman, the marker, and the marble headstones have historic significance. The small plaque does not have historic significance.

5. The marker was constructed using methods prevalent in the early 1900s including hand chiseled inscriptions which is an example of craftsmanship that characterizes the gravestones found in a cemetery of the Victorian era.
8. The City of Madison understands that Forest Hill is a designated landmark cemetery that contains Native American mounds and that any disturbance of the site will require that archeological resources be protected and preserved in place. The concrete base of the small plaque is proposed to remain in place. The removal of the marker will require the use of large equipment and some ground disturbance. It is possible that the ground disturbance will be only at the surface and that the area where the marker is currently located would be returned to grass; however, it is very possible that the scope of the ground disturbance would be more involved. Because Confederate Rest is believed to be a mass grave, the conditions beneath the marker are not known and removal of the marker may disturb the ground in a more disruptive way.
9. The removal of an object or feature with historic significance from a landmark site will negatively affect the character of the property.

The Historic Preservation Ordinance defines “Demolish” as “the act or process that removes or destroys in whole or in part a building, structure, or resource.” Because the marker is a part of the historic resource, the Commission shall review the demolition and removal standards. 41.18(2) instructs the Commission to give decisive weight to any or all of the following demolition and removal standards when determining the appropriateness of the demolition or removal:

- (a) The marker is part of the uniqueness of the historical events that lead to the use of this specific place. The landmark site is a historic resource. The relative significance of the large marker at Confederate Rest related to the number of markers in the cemetery is difficult to quantify. The overall inherent character of Forest Hill Cemetery would not be destroyed by the removal of the marker.
- (b) The landmark’s designation has not been rescinded.
- (c) Not applicable
- (d) The removal of the resource is not consistent with the policy and purpose of this ordinance. (e) The marker is of such uncommon design, method of construction, and material that it could be reproduced only with great difficulty and/or expense.
- (f) Please refer to item (a) above.
- (g) The marker is in excellent condition and is not the basis for the request for a certificate of appropriateness for the demolition or removal.
- (h) A new structure is not proposed to be constructed in the existing area of the marker. The area is proposed to be covered in glass and blend with the surrounding grade and landscape treatment.

41.18(1)(d) instructs the Landmarks Commission to determine if the alteration request frustrates the public interest expressed in this ordinance for protecting, promoting, conserving, and using the City’s historic resources. Based on the discussions of all relevant ordinance sections, the request to remove the marker frustrates the public interest expressed in this ordinance for protecting, promoting, conserving, and using the City’s historic resources; however, the retention of the marker may frustrate the public interest related to the symbolism embodied in objects related to the Civil War. This larger public interest determination falls under the authority of the Common Council, not the Landmarks Commission.

Recommendation

The Landmarks Commission shall make determinations related to the standards in the Historic Preservation Ordinance with the understanding that the Common Council has the ability to view the public interest more broadly than the Commission.

Based on the standards in the Historic Preservation Ordinance, staff believes that the standards for granting a Certificate of Appropriateness for the removal of the small plaque are met and recommends that the Landmarks Commission approve the request.

Based on the standards in the Historic Preservation Ordinance, staff believes that the standards for granting a Certificate of Appropriateness for the removal of the marker may not be met and recommends that the Landmarks Commission deny the request.