



Clark County Historic Preservation Commission

DECISION OF THE CLARK COUNTY HISTORIC PRESERVATION COMMISSION

TO: Jefferson Davis Park, Owner and Interested Parties

FROM: Robert Hinds, Chair
Clark County Historic Preservation Commission

DATE: November 1, 2017

FILE: **HST 2017-00004 Jefferson Davis Highway Marker:** Removal from Clark County Heritage Register
Pursuant to CCC 40.250.030.

NOTICE TO PARTIES OF RECORD

CASE No. HST 2017-00004, Jefferson Davis Highway Marker review of removal from Clark County Heritage Register – Jefferson Davis Park, Owner

The attached decision of the Clark County Historic Preservation Commission will become final and conclusive unless a written appeal therefrom is filed with the Clark County Superior Court Vancouver, Washington, no later than 5:00 p.m. on **Nov. 15, 2017 (14 calendar days** after written notice of the decision is mailed). Review will be by Certiorari pursuant to RCW 7.16.030 *et seq.*

All appeals must be written and must contain the case number designated by the County and the name of the applicant; the name and signature of each petitioner for the appeal and a statement showing that each petitioner is entitled to file the appeal as an interested party, the specific aspect(s) of the decision being appealed, the reasons why each aspect is in error as a matter of fact or law, and the evidence relied on to prove the error.

The case file is available for review at 1300 Franklin Street, Vancouver, WA between 8:00 am and 5:00 PM M-F. Contact **Jacqui Kamp, (360) 397-2280, ext. 4913.**
Emailed and/or mailed on: **Nov. 1, 2017**

EXHIBIT I

PARTIES OF RECORD

Oct. 3, 2017 Public Hearing

Jefferson Davis Park, Owner
C/O Jay D. Willis
23215 NE 72nd Ave., Battle Ground, WA 98604

OTHER INTERESTED PARTIES

See attached sign in sheet

BEFORE THE HISTORIC PRESERVATION COMMISSION OF CLARK COUNTY, WASHINGTON

HST 2017-00004 – Jefferson Davis Highway Marker 24024 NW Maplecrest Dr., Ridgefield, Washington Review of removal from Clark County Heritage Register

Regarding a review by the Clark County Historic Preservation Commission on the consideration of the removal of the Jefferson Davis Highway Marker from the Clark County Heritage Register, located at 24024 NW Maplecrest Dr., Ridgefield, Washington. (Assessor Parcel #215362000)

I. SUMMARY

1. The Jefferson Davis National Highway Marker, currently located at 24024 NW Maplecrest Rd (Parcel No. 215362000) was nominated by the United Daughters of the Confederacy and listed on the Clark County Heritage Register by the Clark County Historic Preservation Commission in 2002. At that time, it was located at the Clark County Historical Museum on Main Street in Vancouver, WA.

In 2007, the marker was moved from the museum grounds to its current location on private property fronting the southbound lanes of Interstate 5 near Ridgefield. The relocation of the marker required review by the Clark County Historic Preservation Commission. On Dec. 11, 2007, the commission voted to keep the marker on the register and approve the Certificate of Appropriateness.

In the wake of violence after an Aug. 12 rally in Charlottesville, Virginia, Clark County received several comments and questions about the Jefferson Davis Highway Marker listed on the Clark County Historic Register. The comments include requests that the marker be removed from the website and heritage register. Since the Clark County Heritage Register is maintained by the Clark County Historic Preservation Commission, those comments were forwarded on to them and were discussed at their monthly meeting on Tues., Sept. 5. At the Sept. 5 meeting, the commission voted to schedule a public hearing to consider removing the Jefferson Davis Highway Marker from the register.

2. The property has a Comprehensive Plan/ Zoning Designation of Industrial/BP (Urban Holding-20 Overlay), and is within the Clark County jurisdiction.
3. On October 3, 2017, at a duly advertised public hearing, the Clark County Historic Preservation Commission voted (6-0) to remove the Jefferson Davis Highway Marker from the Clark County Heritage Register.

II. HEARING AND RECORD

- 1) The Clark County Historic Preservation Commission received testimony at the public hearing on this matter on October 3, 2017. A record of that testimony is included herein as Exhibit I

(Parties of Record) and Exhibit II (Recorded Proceedings). These exhibits are filed at the Clark County Department of Community Planning, 1300 Franklin St., Vancouver, WA.

- 2) At the hearing, Jacqui Kamp, County Planner III, provided the Clark County Department of Community Planning Staff Report to the Historic Preservation Commission dated Sept. 20, 2017. The staff report, pictures of the site, previous case files, the nomination, information about the Jefferson Davis Highway from the Federal Highway Administration and comments received are attached as exhibits. (Exhibit III)
 - a. Kamp corrected the information in the staff report regarding the flags that are flying at the site. There are three flags, one confederate flag, a first national confederate flag and a Bonny Blue flag.
 - b. Kamp also provided the information from Clark County Code 40.250.030(F)(4)(b), "In the event that any property is no longer deemed appropriate for designation to the Clark County Heritage Register, the commission may initiate removal from such designation by the same procedure as provided for in establishing the designation.
 - c. Kamp provided information on appeals of HPC decision to be forwarded to the Clark County Hearings Examiner per Clark County Code 2.51. (Please note that this is incorrect as appeals are to Superior Court – see page 1 of this document)
- 3) Commissioner Robert Hinds, Chair, asked Chris Cook, Deputy Prosecuting Attorney to review the criteria required for the commission's review of this case.
 - a) Cook stated the criteria: Any building, structure, site, object or district may be designated for inclusion in the CCHR if it is significantly associated with the history, architecture, archaeology, engineering or cultural heritage of the community; if it has integrity of location, design, setting, materials, workmanship, feeling and association; is at least fifty (50) years old, or is of lesser age and has exceptional importance. The property(ies) must meet the above as well as fall into at least one (1) of the additional categories. The decision must be based on the criteria and the findings will be based on the criteria.
 - b) Cook explained if while reviewing the criteria it may be difficult to make a yes or no determination and that it can be helpful to look at the purpose statement in 40.250.030(A). It can't be substituted for the criteria, but it can help with understanding the criteria.
 - c) Cook explained that the marker is an object, not a property. The Jefferson Davis Park is the name of the park. It is not a public park; it is not maintained by the county or supported by the county except that it is listed on the register.
 - d) The commission must make the decision based on the criteria.
 - e) Commissioner Rob Heaney clarified that the commission is to review the nomination on its merit and that they may find error with a previous commission's decision.
 - f) Commissioner Mark Pelletier stated that there is a question floating in the community that the status of the marker on the register could provide funding options. Cook explained that this is an object, not real property. If there were real property taxes associated with it that would be different. It is not real property, therefore cannot have any tax abatement associated with it.
- 4) Questions for staff:

- a) Commissioner Hinds asked Kamp questions regarding the 2002 nomination. Kamp explained that there was nothing more in the file that showed an amended nomination. Normal procedure is to have the nomination form signed when approved and that was not found either.
 - b) Commissioner Alex Gall asked if we had the text written out from the plaque at the marker that provides information about the United Daughters of the Confederacy. Kamp stated that all we had was the photograph. The plaque was part of the condition of approval for the 2007 Certificate of Appropriateness for the relocation of the marker.
- 5) The Chair invited the public to provide testimony.
 - 6) The Clark County Historic Preservation Commission voted (6-0), to remove the Jefferson Davis Highway Marker from the Clark County Heritage Register.

III. TESTIMONY

- 1) Thirty-two people testified during the public testimony. The audio recording of the testimony is available on file at Clark County Community Planning.
- 2) After public comment, the hearing was closed to move on to deliberations.
- 3) Kamp informed the Chair that the text of the plaque about the United Daughters of the Confederacy, which was requested by Commissioner Gall, was provided to her. Kamp read it aloud and it is provided in Exhibit IV.

IV. DISCUSSION

These are summary, not verbatim minutes. The audio recording of the discussion is available on file at Clark County Community Planning.

- 1. Commissioner Hinds, much of the commentary we heard from the public is regarding Jefferson Davis himself and his contributions. It is clear by the documentation provided by staff that the highway marker's significance was not with the life of Jefferson Davis and was listed due to its association with the United Daughters of the Confederacy. I'm not sure how much deliberation we need to put into about Jefferson Davis and his life. There is certainly a mixed history there. I personally have the mind that history is there to learn from. I think of the famous quote from George Santayana, "Those who do not remember the past are condemned to repeat it". That is part of historic preservation and the role it serves as we have a record of history, be it good or bad. I don't think the Jefferson Davis is relevant to this discussion.
- 2. Commissioner Gall, I think that has been established in the original nomination decision stated. That discussion has already been had and that Jefferson Davis wasn't part of the significance. I don't think the UDC had a chapter in Clark County. If they did, I couldn't find anything. I think it was the Seattle chapter that spearheaded it. The reason Vancouver was chosen was because it was the southern terminus of Highway 99. Vancouver or Clark County wasn't chosen for a particular affinity for Jefferson Davis or the UDC. I don't know that criteria of being significantly associated with the history, archaeology and so forth applies.
- 3. Commissioner Denniston, I think that when we look at the original nomination, it is profoundly flawed. That one statement of the actions of the UDC is very insufficient. What is missing is what we can find that there might be significance of this marker in terms of national history. This marker is part of a whole system of monuments that are rooted in the lost cause

ideology that looked to replace the history of the civil war and the mythology that it was about states' rights when almost every declaration of segregation said that it was about slavery. Jefferson Davis was a part of that mythmaking when he wrote his rise and fall of the confederate government; he planted a lot of seeds of that mythology. The success of that was profound, that we could have a movie like Gone with the Wind in this country celebrating the people and the culture that was on the losing end of the civil war. This system of monuments was used as an element of racism and established white supremacy in our country. If we look at the peak building period of these monuments, it coincides with rise of segregation laws, Jim Crow, the re-establishment of the KKK. When the United Daughters of the Confederacy were advocating for these markers to be raised, they had their own publication called the Southern magazine. They were giving a full throated defense of the KKK and their defense of the Anglo-Saxon white man against the black man. The significance of this marker is in this larger national narrative of why this marker bothers them is on the same basis for its significance. A lot has been talked about its integrity of location, but if we follow our ordinance, our ordinance foresees that historical objects get moved. Under F (1) (g), resource removed from its original location. We have this thing in our ordinance that says that things that are moved can be historic. I think there is a strong argument for its historic significance of this object, but not the historic significance that many have spoken out for its retention would embrace. Going beyond that, there might be some that say, I don't care about the significance, I don't want Clark County to be associated with it. I think that not following our ordinance is what got us in this situation. We had a nomination that didn't establish its significance, yet we listed it anyway. With the certificate of appropriateness that was submitted for relocating it, the discussion was not about the marker's actual historic significance. The city of Vancouver, the Clark County Historic Museum wanted to disassociate themselves from this marker, and is why it is located where it is. If it was at a museum, it could be a sign giving historical context. Instead it's sitting on private land with confederate flags flying over it. I think that if we look at our ordinance there is an implicit obligation of this commission to educate the community to preserve the history of the community. All these parts, as negative as they are, are part of that.

4. Commissioner Hinds, we received some commentary from Ms. Williams who said she was confused with the nomination. I was confused too. The documentation was insufficient; the main basis for its listing was with the UDC. There was a lack of references, footnotes, documentation in general to support what was in the nomination. It was admittedly well written. This has been the challenge we have. I've looked at some things that get on the register that don't meet as high of threshold of scrutiny. Today, we have encountered that we needed that, we needed that nomination to be vetted more fully, be it listed or not. We heard from Holley Chamberlain, who spoke tonight, that the nomination needed more information on May Avery Wilkins and that more information on why Clark County was chosen as the location, which was another question that came to mind and wasn't adequately established in the nomination itself. A lot of details are lacking. If it was coming before us today, I would have expected to see it sent back for further work before I voted for approval of its listing.
5. Commissioner Heaney, also, we have our four criteria and seven integrities. The original nomination application had no findings on its association and setting or workmanship. Association and setting was mentioned in the certificate of appropriateness. Staff came out and said it was ineligible because of its location criteria. There was a counter for that, but setting is more than just location and it wasn't addressed much in the certificate. At the time, the marker was set in a field, but now there is a great deal of additional physical context around it which speaks to setting. If we would consider it now, with all the info we have, the setting, location, association together are all pointing to a complete break of its original historical context.
6. Commissioner Pelletier, everything I could say has been said. I speculated in my mind as to what was going through the minds of the commission back in the day when they were

considering this. I'm at a loss to explain it except that it was as awkward then as it is now. They did a bit of a shell game that they came to the decision they made enabled them to make a more sensitive issue out of this. Regardless whether I'm right or wrong on my speculation, that isn't the criteria and in terms of the various comments on integrity, I believe everything that concerns me has been expressed.

7. Commissioner Gall, asked Chris Cook, is this actually on the register if the supporting documents were not provided. Cook, it is my understanding that it is on the register. It is a vote by the commission in favor of the certificate of appropriateness to keep it on the list. I would say it is there.
8. Commissioner Hinds asked Kamp to read the statement by Commissioner Manley, who could not be here tonight: "The 2002 nomination promoted the 1930's era efforts of the Daughters of the Confederacy as a woman's group struggling against a misogynistic society. Though a true story, in hindsight it was questionable justification for heritage register status for this object. The HPC has turned down several applications that relied on similarly secondary, associative but well intentioned syntheses during my tenure on this commission. I disagree with the 2002 nomination. I find that, especially given developments at its current location, the monument doesn't have "...integrity of location, design... feeling and association..." necessary for inclusion on the register. Whether in its current setting or not, I find that the monument does not serve to help us understand history "...by illuminating the local, statewide, or nationwide impact of the events or persons associated with the property." I find the monument does not have "...exceptional value in representing or illustrating an important theme in the history of..." the local area, state, or nation. The monument is not directly tied to our history. Instead it exists solely in reference to other events or persons or historic themes – like a footnote in a book, or the caption below a photo, or an interpretive plaque. On all counts it falls short of meeting CCHR criteria."
9. Commissioner Hinds, we've been advised to go through each of the criteria for listing. I will read them and take any comments as we go through.
10. Commissioner Fox asked if we need it as part of the motion.
11. Kamp stated that whoever makes the motion needs to state what criteria are used for the decision.
12. Commissioner Fox, that is an interesting point, because we are not making a decision tonight that the marker couldn't be back again when moved to another place.
13. Commissioner Gall, or if more information is provided to give it more context.
14. Commissioner Fox, our register is a living thing within our community as groups bring things forward as we get histories of buildings, and information on those that built it or lived in it or gravestones. A lot of these sites have a detailed history so that we can discuss and decide. Whatever we decide tonight, like you said, it could come back 2 years or 10 years from now.
15. Commissioner Pelletier, the owners could still re-apply 10 years from now.
16. Commissioner Hinds, reading the minutes from 2002, Marjorie Reeves, the applicant stated that it was important to list the monument on the heritage register to preserve it and the monument was moved and now sits on private property and is preserved.
17. Cook, it will be necessary to write findings and I would suggest after we finish this evening, you ask staff to prepare findings that you will adopt and based on the code at your next meeting. Although you will make the decision tonight, you should have documented findings to support it. You need to simply have the basis for your decision. In order to inform the public and the staff as to why you are making a decision that you are making, it would make sense that you either vote to retain the marker on the heritage list because it meets all the criteria or that you explain your view of the criteria that it doesn't meet. It doesn't need to be long and drawn out as you have discussed your views and we have heard from the public on

the criteria. If you could say what it is you think it doesn't meet, then it would be possible to put together some findings that address that criteria.

18. Commissioner Denniston, I know that with building codes if there is a conflict between provisions of the code, the more specific code prevails. We have one criteria that talks about integrity of location and setting. Then we have a more specific criteria that says if an object has been moved. There is an apparent conflict between the two.
19. Commissioner Gall, I don't think that is the criteria. The criteria is that it is significantly associated with the history, architecture, archaeology, engineering, heritage of the community, that two, it has integrity of location, design, setting, workmanship and association and three, that it is 50 years old. Those are the critieria.
20. Cook, in addition to those three criteria, the listing must meet the following criteria and one of those says, g, which was not one that it was a possible findings in favor in 2002 or 2007. It says, is a historic building or cultural resource. First, is it a historic building? Second, is it a cultural resource? Removed from its original location but which is significant for architectural value, or association with a historic person or event, or prehistory. In order to bring the exception to the locational criteria provision in play, you need to determine that it meets all those things in (1) (g).
21. Commissioner Gall, it is my understanding that if we don't find that it meets the criteria of being significantly associated with the history of the community, then we don't need to even go to the additional eleven criteria.
22. Cook, that is correct. It must meet all of the top three and then one of the additional criteria.
23. Commissioner Gall, I don't think it is significantly associated with this community. Its placement was random because we are the southern terminus of the highway. The UDC was not here in Clark County and doesn't speak to our history as a county. I feel it has lost its feeling of location and setting and association. It is supposed to be a fairly nondescript highway marker and is now festooned with confederate flags and signage. It has undermined its integrity, its original intent as a highway marker.
24. Commissioner Denniston, or its original intent as a confederacy marker.
25. Commissioner Gall, I'm going off the nomination that is stated.
26. Commissioner Denniston, we have public testimony. If we are only limited to what the nomination says, we will be limited with the ability of who provided the information.
27. Commissioner Hinds, we are limited to the Clark County code.
28. Commissioner Gall, we are limited to what is in the record. We are not asking for more information.
29. Commissioner Fox, we had quite a lot of testimony submitted to the record before hand and have had the opportunity for all of us do our own research. We bring a lot more to this decision than just who showed up. We have a lot to weigh with the first three criteria. The first criteria it does meet is that it is at least 50 years. You can't weaken an argument on b and c when you talk about the history of this region. We don't have an architectural argument to make. The marker is not done by a master in its craft, so that we can argue that the marker itself is a feature that people would visit because it is an amazing thing to see, like a bridge or an important building. So, b is not met and c is not met. I would go into the realm of d as it falls into one of the categories selected, but we don't need to go there and just because tonight it doesn't meet the criteria, it doesn't mean that if the owners want to submit a nomination with more information, they can do so, just as any member of our community can.
30. Commissioner Denniston, I do have serious concerns with just stopping at location, because then every resource on our register that has been moved would need to be taken off the register.
31. Commissioner Gall, we are not stopping at just location, for a property to have integrity, location is one, there is an out for that which g provides, if something has exceptional merit, architectural merit, it could be retained on a register. We are not saying that simply because

it was moved it is no longer eligible. That is perhaps a contributing reason, but other things have undermined its historical integrity. The biggest issue is that I don't see the historic tie to our community. We nominate things to the register to remember our history in this community. This plaque doesn't really fit to represent a certain history of Clark County. The players behind it are not rooted in Clark County. The location was chosen because of our point on the north side of a river. It doesn't speak to our community or from our community. That is the biggest issue with the criteria.

32. Commissioner Denniston, criteria (a) could be national history.
33. Commissioner Gall, if they wanted to do a multiple property listing of all the markers across the USA, it might be eligible for the National Register. But having one marker in Clark County on the Clark County register, it just doesn't meet our own criteria to significance to Clark County.
34. Commissioner Pelletier, I agree. My sense is that a point comes where we cross roads with points of history. To identify those as justification is a stretch. I want to honor the fact that there are those people that will differ from our conclusion, and realize they may be able to site some instance where Jefferson Davis had a third cousin on his mother's side that passed through Clark County at some point, but I think they are minor relatively thinking.
35. Commissioner Denniston, the presence of all these people here tonight speaks to its significance and it is not minor. It is not a small interaction. If the connection of this marker to these national events was not this strong, they wouldn't have shown up. We're in a catch 22 argument for why people have found this marker offensive or hurtful or why it makes it people feel unwelcome. . Anti-reconstructionism probably did more to effect race relations in this country except slavery and is significant. Our community was chosen, we didn't choose it, but we were chosen and let it be put here.
36. Commissioner Hinds, most of the commentary that we have heard is about Jefferson Davis and the role he played in the confederacy, the civil war and his connection to slavery. The original findings is that this marker's significance was not connected to the life of Jefferson Davis, which can be polarizing and has brought out a lot of strong feelings on both sides, but I'm not sure that is at issue. The UDC itself is as polarizing, I'm not sure. In the 2002 nomination, it argues that the marker's significance falls into three areas below from 40.250.030(F)(a), is associated with events that made a significant contribution to the broad patterns of national, state or local history, I think that is questionable based on the documentation. In 2002, they thought there was insufficient evidence to support that and asked for more information; (d) exemplifies or reflects special elements of the county's history. I think that the comments that Alex is making are appropriate. It is hard to make a solid connection with the United Daughters of the Confederacy and Clark County specifically as an epicenter of their activity and what they were trying to do. No documentation as to why Clark County is important and its location here; (e) is associated with the lives of persons significant in national, state or local history if it is not Jefferson Davis than it would be May Avery Wilkins of the UDC, but even then there was insufficient documentation to support that and more information was requested to add information and that request was never met. It is hard for me to say today that this nomination holds up based on the criteria.
37. Commissioner Denniston, if this nomination came before the commission today, I would say it would need to go back for more information. Now the public record is more expansive. We've had people testify to the significance of the UDC. We had a former commission member speak about them during his public comments.
38. Commissioner Fox, he also testified that they were out of Seattle and not Clark County.

39. Commissioner Denniston, I'm saying the connection is national, and is not directly associated with the local community and does not meet (d). I think it meets (a) and (g) which is the basis for it.
40. Commissioner Gall, if it doesn't meet (d) than it doesn't meet the first criteria of being significantly associated with the history, architecture, archaeology, cultural heritage of the community and the community is the county. To me the buck stops there.
41. Commissioner Denniston, I think this marker is historically significant for the reasons that I gave. But, Alex has convinced me that it doesn't meet the criteria of our ordinance. I'm rather disappointed in our commission's history and not following our ordinance with the nomination and then the certificate of appropriateness. I hate to see our history with this marker not follow our ordinance. That is what we have to work under.

IV. FINDINGS and MOTION

The CCHPC deliberated on Oct. 3, 2017 and made the following motion and findings:

Summary of Findings:

COMPLIANCE WITH APPLICABLE CRITERIA in CCC 40.250.030 F.1. Criteria for Determining Eligibility for Designation in the Register.

Any building, structure, site, or object, may be designated for inclusion in the Clark County Heritage Register if it:

Criteria Met?	
1) is significantly associated with the history, architecture, archaeology, engineering, or cultural heritage of the community;	No
2) if it has integrity;	No
3) is at least fifty years old, or is of lesser age and has exceptional importance;	Yes
4) if it falls in at least one of the following categories.	N/A*

*The Commission agreed that if criteria number 1 is not met, then the criteria number 4 does not need to be considered.

Motion:

1. Commissioner Sean Denniston made a motion that the marker be de-listed because it has not adequately shown to meet the criteria of our ordinance from the terms because it is not significantly associated with our history, architecture, archaeology, engineering or cultural heritage of our community. Commissioner Mark Pelletier seconded the motion. Commissioner Alex Gall amended the motion to include that the marker has lost its historic integrity of location, setting, feeling and association. Commissioner Rob Heaney seconded the amended motion. Commissioner Sean Denniston accepted it as a friendly amendment. Commissioner Robert Hinds restated the motion to delist the marker from the Clark County Heritage Register, which was seconded and amended and the amendment seconded. The vote was 6-0. The motion was carried.

Hinds – Aye, Fox-Aye, Heaney – Aye, Denniston, Aye, Gall-Aye, Pelletier, Aye

V. DECISION/CERTIFICATE OF APPROVAL

2. The Clark County Historic Preservation Commission de-listed the Jefferson Davis Highway Marker from the Clark County Heritage Register.

List of Exhibits (new or amended exhibits are **bolded)**

- I. **Parties of Record**
- II. **Audio**
- III. Staff Report dated Sept. 20, 2017 and exhibits
 - a. Current photos of site
 - b. Aug. 26, 2002 Clark County Heritage Register Staff Report, Nomination
 - c. Aug. 26, 2002 Meeting minutes and audio
 - d. July 2, 2002 State of Washington Office of Archaeology and Historic Preservation letter
 - e. 2007 Certificate of Appropriateness Staff Report, Application and Decision of HPC
 - f. U.S. Dept. of Transportation – Federal Highway Administration – Jefferson Davis Memorial Highway by Richard F. Weingroff
 - g. Public comments received
- IV. **Written comments and information received at hearing**