

BEFORE THE TENNESSEE HISTORICAL COMMISSION

IN THE MATTER OF:

CITY OF KNOXVILLE,
Petitioner,

**Petition for Waiver to allow the City to
remove and replace the current historical
marker on Market Square**

Case. No 04.48-210840A

FINAL ORDER

This matter came before the Tennessee Historical Commission (“Commission”) upon a Petition for Waiver filed by the City of Knoxville seeking a waiver to allow the City of Knoxville to remove and replace the current historical marker on Market Square with an official state marker. Pursuant to Tenn. Code Ann. § 4-5-307, the Tennessee Historical Commission provided formal notice of a hearing to be held regarding this matter. Accordingly, the Commission held a hearing on June 18, 2021, at 9:00 a.m., in the presence of Administrative Law Judge Michael Begley and in the presence of the Commission members. The Petitioner, City of Knoxville, was present and represented by Douglas Gordon, Assistant City Attorney for the City of Knoxville. After the conduct of the evidentiary hearing, and considering the pleadings filed by the City of Knoxville, public comments concerning the petition, and argument presented by counsel at the conclusion of the evidentiary hearing, the Commission sitting with Judge Begley found as follows:

Findings of Facts

1. Located in the heart of Knoxville’s downtown, bounded by shops, businesses, residences to the east and west and bounded to the north by Wall Avenue and to the south by Union Avenue, is a rectangularly shaped area called Market Square.

2. The real property where Market Square is located is owned by the City of Knoxville, Tennessee, a municipal corporation of the State of Tennessee.

3. Historically, a market house was located on the plaza. The Market House was built in 1854 and expanded in 1897; it was ultimately a three-story, brick masonry building which extended a full city block. The Market House served as a critical element of Knoxville’s agriculture, commerce, and politics through the mid-twentieth century, before it was demolished in 1960. As flight from urban areas increased through the 1960s and 1970s, a group of downtown property and business owners banded together to list the area on the National Register of Historic Places and create a Central Business Improvement District to encourage the area’s revitalization. Decades of dedication and investment have paid off, and Market Square is once again Knoxville’s central gathering place. Today the area is used for farmers markets, festivals, plays, movies, ice skating and gatherings of all types. Market Square was recognized as one of the American Planning Association’s Great Places in America in 2017. During the COVID-19 pandemic, the area served as additional open-air dining for adjacent restaurants.

4. The Petitioner has proposed a new plaque which will state:

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MARKET SQUARE

Market Square originated in 1853 on land donated by civic leaders William Swan and Joseph Mabry. The city of Knoxville built a brick Market House in 1854, replacing it with a three-story complex in 1897. It also held City Hall and police and fire stations. It became a thriving farmers market and commercial hub where visitors found both local produce and exotic

imports. In 1863, Union forces seized the Market House for storing ammunition and housing troops. By the 1880s, many businesses such as butchers, blacksmiths, saloons, and Kern's Bakery surrounded the Market House. In 1900 a journalist called Market Square "the most democratic on Earth" due to the diversity of its daily visitors.

Market Square has drawn many political events and persons, including Booker T. Washington, Knoxville's Temperance Movement, and Ronald Reagan's 1980 presidential campaign. It has also been a musical magnet, hosting Duke Ellington, Roy Acuff, and an early radio and recording studio on Wall Ave. The city demolished the Market House in 1960 for a pedestrian mall. Revitalization efforts led by business owners and the city in the 1990s and early 2000s restored Market Square as a cultural hub in Knoxville.

LOCATION: Market Square, Knoxville (Knox County), Tennessee
GPS:35.965110, -83.9191518

5. Currently, a plaque located on Market Square states "Knoxville's first Market House, opened on Main Avenue between Walnut and Market Streets in 1816 and the second and third on this square in 1854 and 1897, long served for the sale of farm products and as a colorful center of civic life. In 1863-64 the Market contained a Federal powder magazine, to the uneasiness of citizens. The old Market was replaced by the Mall in 1961."

6. The first sentence of the current plaque refers to a separate market house, on a different site, about which little historic background exists. According to one written account, it was a small building that was barely utilized, and open only one day a week. There is no documentation of its exact location. Visitors who may not be familiar with Knoxville's street names could easily confuse the markets. (Neely, Market Square, p.4)

7. The description of "second and third on this square" on the current plaque implies that two separate buildings were constructed. While the 1897 expansion contributed to the design most represented in historic photographs, some elements of the older structures were incorporated into the new building, including a tie-in to the City Hall structure which adjoined the market

complex near present-day Wall Avenue. The architectural history of Market Square is significantly more complex than presented in the sign. (Neely, Market Square, p. 30 & p. 90).

8. The statement on the current plaque of "...the sale of farm products" reduces the significant scope of goods sold in Market Square. It was also a hub for sale of exotic imported spices and dry goods, saloons, medicines, bakeries, confectionaries, boarding houses and residences, butchers, blacksmiths, record stores and concert venues, and movie theaters, along with local government, police, and fire departments. (Sanborn Fire Insurance Maps, 1880 and 1890; Neely, Market Square, p. 63).

9. The statement on the current plaque that "...the Market contained a Federal powder magazine" for, at most, 17 months. Significant events not described on this marker include: William Jennings Bryan's visit in 1896; Booker T. Washington's speech in the Market Hall in 1909; Senator Edward Ward Carmack's speech which led Knoxville to follow the nationwide temperance movement and close all 114 saloons in the City by 1907; Max Arnstein's construction of the tallest building in Knoxville for a department store in 1905; Lizzie Crozier French's demonstrations for women's suffrage, leading to the state's contribution to the 19th Amendment in 1919; a Greek-owned diner which was open 24 hours a day, in the same location, from 1909 to 1998; and many more. (Neely, Market Square, p. 96-112, p. 185).

10. The statement on the current plaque that "The Mall" is no longer used to describe Market Square. The phrase "the mall" was applied in the 1960s in efforts to modernize the area, and align it with suburban shopping centers which were growing in popularity as many residents moved out of Knoxville's central core. (Neely, Market Square, p. 166).

11. Erected in 1961, the current marker predates several major events in Market Square's history, including the demolition of multiple commercial blocks for the TVA Towers in

1976, and the 1990s citizen-led, preservation-focused revitalization that defines Market Square today. An updated marker should also highlight Market Square’s more recent past.

12. The plaque was made to appear like an official plaque of the Tennessee Historical Commission, but it is not.

13. The plaque is not designated as a National Historic Landmark or in the National Register of Historic Places.

14. Market Square was listed on the National Register of Historic Places as the “Market Square Commercial Historic District,” reference number 84001138 on December 20, 1984.

15. The City of Knoxville filed a petition for a waiver with the Tennessee Historical Commission on or about November 16, 2020 that would allow for the removal and replacement of the plaque on Market square in Knoxville.

Conclusions of Law

1. Pursuant to Tenn. Code Ann. § 4-5-307, and the Tennessee Heritage Protection Act of 2016 found at Tenn. Code Ann. § 4-1-412, the Tennessee Historical Commission has provided formal notice of the commencement of a final hearing upon the above-referenced matter regarding the removal and replacement of the plaque currently located on Market Square in Knoxville. A final hearing was held, in accordance with Tenn. Code Ann. § 4-1-412(c), in the presence of Administrative Law Judge Michael Begley and in the presence of the Tennessee Historical Commission on June 18, 2021, at 9:00 a.m.

2. The procedures of this final hearing have been established as provided in Tenn. Code Ann. § 4-1-412 and have been conducted in a manner consistent with the provisions of the Uniform Administrative Procedures Act governing contested cases, when such provisions are not in conflict with Tenn. Code Ann. § 4-1-412.

3. In order for a waiver to be granted by the Historical Commission, the public entity seeking the waiver shall demonstrate by clear and convincing evidence that a material or substantial need for a waiver based on historical or other compelling public interest exists; provided, that if a memorial is designated as a national historic landmark or listed on the national register of historic places, there shall be a presumption in favor of preserving the memorial.

4. At the hearing, the Historical Commission may grant a petition for waiver, in whole or in part, by a two-thirds (2/3) vote of the entire membership of the Commission by roll call vote. The Commission may include reasonable conditions and instructions to ensure that a memorial is preserved and remains publicly accessible to the greatest extent possible.

5. Pursuant to the Rules of the Tennessee Historical Commission found at Chapter 0400-70-01:

- (1) When an entity petitions the Tennessee Historical Commission for a waiver relative to Tennessee heritage protection, the Tennessee Historical Commission shall evaluate the following considerations when rendering a decision:
 - a. Whether the proposed change serves the public interest;
 - b. Whether the proposed change has any commercial overtones;
 - c. Whether the proposed change has a reasonable relationship to the site;
 - d. Whether the proposed change has demonstrated support or opposition from local residents;
 - e. If a change in name or rededication is proposed, whether the change is in conformance with the character of the existing names or dedications in the area;
 - f. If a change in name or rededication is proposed, whether the change is duplicative of other nearby site names or dedications;

- g. Whether the proposed change is offensive or has a derogatory or defamatory implications;
- h. Whether the proposed change detracts from or enhances the commemoration of the conflict, event, entity, figure, or organization previously commemorated;
- i. Whether the proposed change is expected to have a significant positive or negative economic impact;
- j. Whether the proposed change could cause confusion for visitors interested in the site;
- k. Whether the proposed change diminishes or enhances the historic integrity of the site;
- l. Whether the proposed change is relative to a historic site or memorial on the National Register of Historic Places or a national historic landmark; and
- m. If a relocation is proposed, whether the new location is appropriate.

(2) The enumeration of the considerations in paragraph (1) of this rule does not prevent the Tennessee Historical Commission from taking into account of other considerations.

Rule 0400-70-01-.01.

6. Market Square is a place where “historic events” took place as defined by Tenn. Code Ann. § 4-1-412(a)(4).

7. The plaque is a “memorial” as defined by Tenn. Code Ann. § 4-1-412(a)(7)(B).

8. Market Square is “public property” as defined by Tenn. Code Ann. § 4-1-412(a)(8).

9. Based upon the exhibits submitted, the testimony given by Lindsay Crockett, Historic Preservation Planner at Knoxville-Knox County Planning at the hearing and by the factual findings listed above it has been established by clear and convincing evidence that the removal and replacement of the plaque located at Market Square in Knoxville serves the public interest.

These facts satisfy Tennessee Historical Commission rule found at Chapter 0400-70-01.01(1)(a), (c), (d), (h), (k), and (l).

10. Based upon the exhibits submitted, the testimony given by Fiona McAnally, Director of Legislative Affairs, City of Knoxville at the hearing and by the factual findings listed above it has been established by clear and convincing evidence that the removal and replacement of the plaque located at Market Square in Knoxville serves the public interest. These facts satisfy Tennessee Historical Commission rule found at Chapter 0400-70-01.01(1)(a), (c), (h), (k), and (l).

11. Based on the clear and convincing evidence submitted during this hearing that a material or substantial need for a waiver based on historical or other compelling public interest exists, the Tennessee Historical Commission finds that a waiver under the Tennessee Heritage Protection Act of 2016 allowing the removal and replacement of the plaque currently located on Market Square in Knoxville should be approved.

Policy Reasons for this Decision

1. Approving the waiver satisfies both the historic or other compelling public interest requirements of the Tennessee Heritage Protection Act.
2. Approving the waiver for removal and replacement of the plaque will enhance the historic significance of Market Square.
3. Approving the waiver for removal and replacement will reduce confusion as to the historical significance of Market Square.

Order

The Petition for Waiver is hereby GRANTED this 18th day of June, 2021. It shall be effective one hundred twenty (120) calendar days after notice of the Commission's

determination is posted on the web site of the Commission. Tenn. Code Ann. § 4-1-412(c)(8)(B).

TENNESSEE HISTORICAL COMMISSION

By: Derita C Williams
Derita Coleman Williams
Chairperson
Tennessee Historical Commission

Approved as to form and legality:

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Filed in the Administrative Procedures Division, Office of the Secretary of State this 18th day of June 2021.

Stephan Stokel
Administrative Procedures Division

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CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing document was served upon Douglas Gordon, Assistant City Attorney for the City of Knoxville via email to dtgordon@knoxvilletn.gov on this 18th day of June, 2021.


E. Joseph Sanders

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