



WISCONSIN  
HISTORICAL  
SOCIETY

# Historic Preservation and Public Works in Wisconsin



# Historic Preservation and Public Works

- Wisconsin has a rich and unique past

People have been living here for the last 12,000 years and evidence of their activities are all around us

- Preserving and protecting this history is not just a nice thing to do it is legally mandated:
  - ❖ Federal Historic Preservation Act of 1966 (Section 106)
  - ❖ Wisconsin State Statute 44.40 (Historic Preservation Law)
  - ❖ Wisconsin State Statute 157.70 (Burial Site Preservation Law)
  - ❖ Wisconsin State Statutes 44.42 & 66.1111 (Municipal responsibilities) and Local Historic Preservation Ordinances



Conflict between preservation and infrastructure/development does occur.

It is possible to build and still protect, but it requires extra effort.



# What is a Historic Site or Feature?

- It can be a building
- It can be precontact
- It can be a landscape or area where something significant happened





Not all sites are created equal.

A few chert flakes found in a corn field are not as significant as a precontact village site

An old house that has been renovated, resided, added on to, etc. is not the same as an original, preserved unique building or feature

A Historic Preservation consultant or specialist can provide you with assistance on determining what is significant

# What do the laws mandate?

Federal: (Section 106): requires that federal agencies consider the effects on historic properties for any undertaking in which the agency provides funds, permits, licenses, or which crosses federal property.

State: (§ 44.40): requires that any state agency, state funded, or state permitted project consider the impact on a listed property

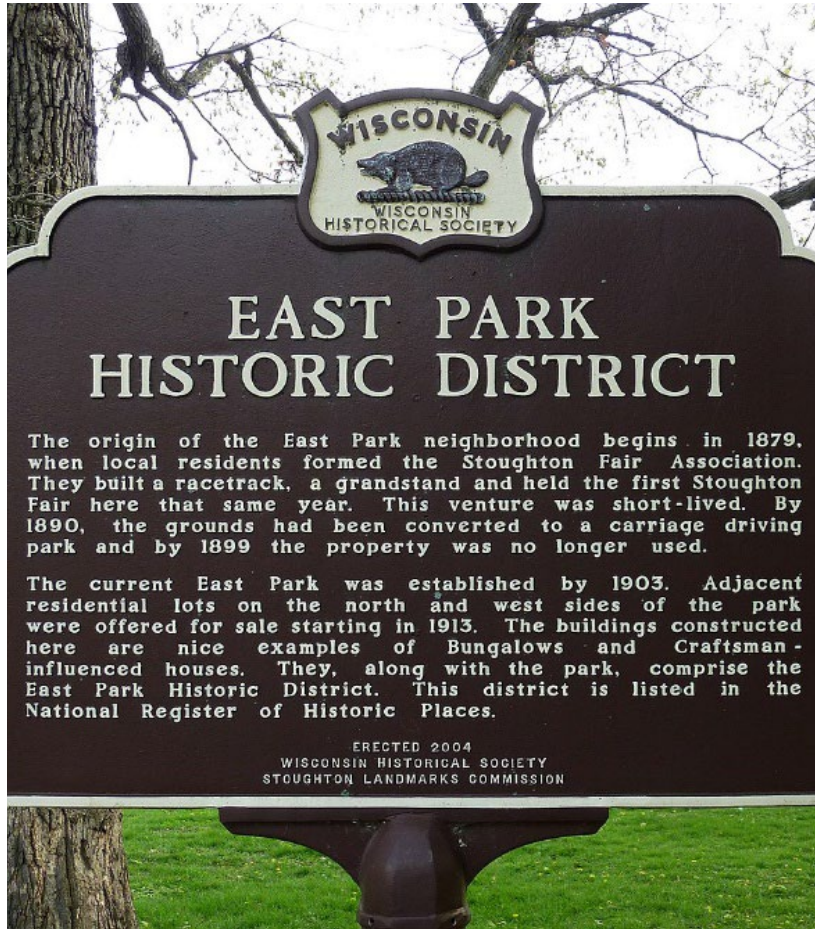
Political subdivisions (municipalities) & school boards (§§ 44.42 & 66.1111): funded projects shall consider the impact on a listed property

Burial Law (§157.70): identify and protect burial sites from disturbance

Local ordinances: vary in what they protect and allow



# Listed Properties



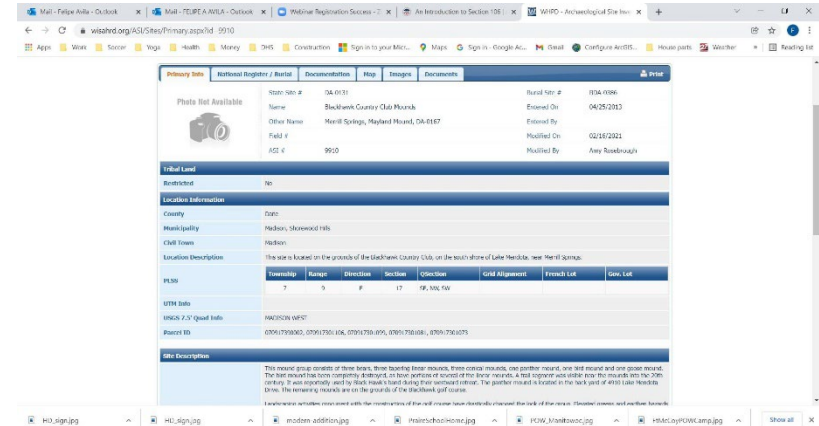
The Wisconsin Historical Society, State Historic Preservation Office (SHPO) maintains a list of known archaeological sites, burial sites, and historic buildings/features. The SHPO also maintains a list of National Register Districts and National Historic Landmarks in Wisconsin.

These are known as:

- Archaeological Site Index (ASI) which includes burial sites and cemeteries
- Architecture and History Index (AHI)
- National Register Districts

# How do I see listed properties or features?

- The SHPO office keeps a database that is available for historic preservation professionals, planners, and designers. The information is considered sensitive and restricted from the public.
- The Wisconsin Historic Preservation Database (WHPD) is an online tool available for short term or annual subscription. A free viewer is available in the Society Headquarters building in Madison.



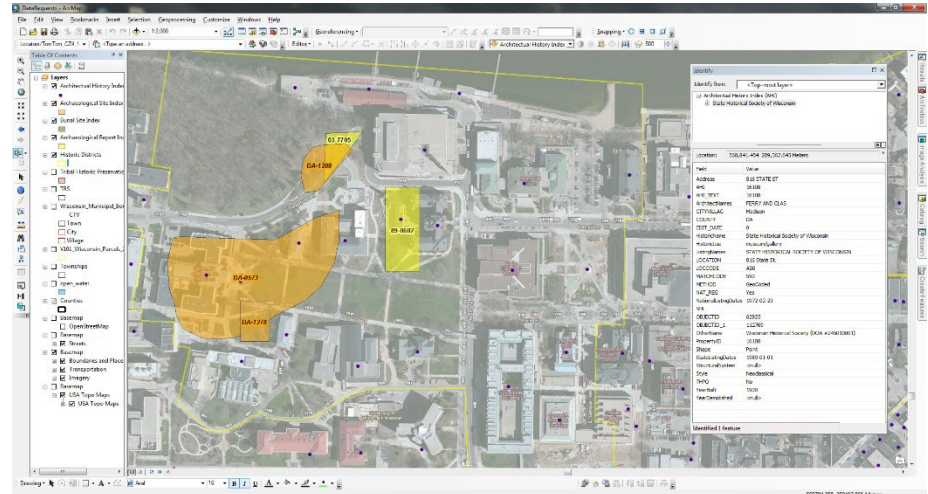
<https://www.wisconsinhistory.org/Records/Article/CS4091>



# Like maps? We have GIS data too

- Shapefiles of archaeology, buildings, burials, National Register Districts and previously surveyed areas.
- Public agencies have data costs reduced by 50%. One time data sets or subscriptions are available
- *Why do you charge for data and access?*

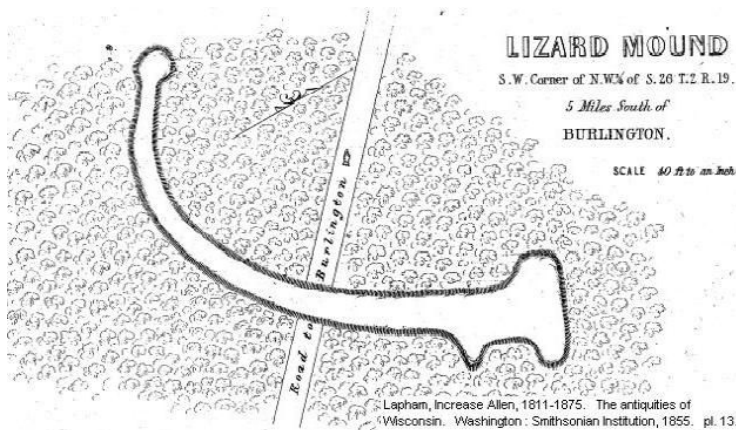
Unlike other state agencies we can't charge for compliance reviews. To fund the program, we charge cost recovery fees for the data.



<https://www.wisconsinhistory.org/Records/Article/CS4091>

# When does Historic Preservation law come into play?

It depends on the funding source, permits, the project itself, and the impact of the project on the surrounding area and any know historic sites.



Where did the money for the project come from?

Federal (Includes grants)

State (Includes grants)

Municipal (Includes TIF projects)

*Yes, Historic Preservation needs to be considered*

Privately funded/Permitting agency

*Possibly, depends on the site and the project*

*Any burial site, marked or unmarked (precontact), is protected and can not be intentionally disturbed*

# What to do when there is a potential impact

- *Short answer: a little research and some paperwork.*
- You'll need to determine if the project will directly impact the historical site (does the road go through it, will the building be torn down, does it change the character of the site)
- You'll need to determine if the site is “significant”. That is, it meets the criteria for eligibility to the National Register of Historic Places or listing on the State Register. If you are unsure or can not make this determination, a historic preservation consultant can help.



# What to do when there is a potential impact cont.

- If there is an impact on a significant site or the project could impact a burial site, then the project will need to be reviewed by the SHPO.



<https://www.wisconsinhistory.org/Records/Article/CS3986>

To start the review process, fill out the form, provide documentation (plans, photos, maps) and submit it to: [compliance@wisconsinhistory.org](mailto:compliance@wisconsinhistory.org) All documents and attachments need to be PDF's. Once the project is accepted the SHPO has 30 days to review, so plan accordingly.

The submittal to SHPO is the federal or state agency's responsibility for §106 & 44.40, unless that responsibility has been delegated (usually in writing). Burial disturbances §157.70 are submitted by the group managing the work.



The reviewer will respond with suggestions to avoid or mitigate impact on the site and requirements (if needed) for monitoring or project specific needs.

Potential conflicts will not halt a project but both parties will need to work together to make it happen

# South Milwaukee Lift Station

In 2020, the city of South Milwaukee was looking to replace a failing lift station. The lift station sat within the Oak Creek Parkway National Historic District and was listed as a contributing feature. Originally built in 1935, numerous modifications to the structure and machinery had taken place in the last 80 years.

The building had lead paint issues, the brick was degrading from sewer gas and there was an addition to the building in the 1990's

The city proposed to tear down the old building and replace it with a new building, wet well, and machinery.

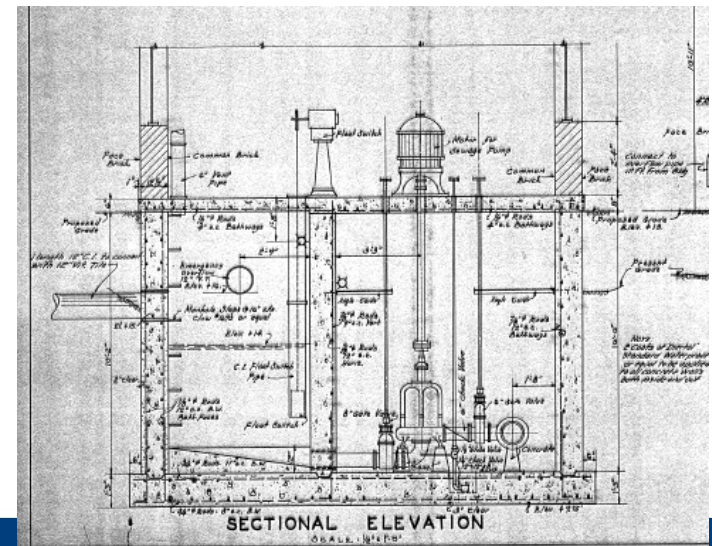


# South Milwaukee Lift Station, cont.

Why it was reviewed: Funding, an EPA grant, administered and permitted by the DNR, and awarded to a city, Federal §106. In addition, the proposed plans would have an adverse effect on a building listed in the National Register of Historic Places, Federal §106.

Health and safety issues will supersede historic preservation considerations. In the reviewer's opinion, the public health and environmental impact of leaving the existing structure in place overwrote the historical value of the building.

In addition, the machinery within the lift was not original and there was a fairly obvious addition that lessened the historic value of the building.



# South Milwaukee Lift Station, cont.

## Memorandum of Agreement

BETWEEN

THE CITY OF SOUTH MILWAUKEE

AND

THE WISCONSIN STATE HISTORIC PRESERVATION OFFICE

Prepared Pursuant to Wisconsin State Statute 44.40

Regarding  
WHS #20-0450  
South Milwaukee Ravine Lift Station  
Utility Improvement  
City of South Milwaukee

**WHEREAS**, the City of South Milwaukee (City); owns and operates the Ravine Lift Station (Station); and

**WHEREAS**, the Station is located within and considered a contributing feature of the Oak Creek Parkway National Historic District (District); and

**WHEREAS**, the City has determined the pumping station and electrical equipment with the Station have reached the end of their design lives and are at risk for operational failure; and

**WHEREAS**, the City has determined that it is not feasible to reuse or rehabilitate the existing structure due to lack of space, significant interior degradation due to exposure to hydrogen sulfide, and presence of lead paint; and

**WHEREAS**, the City has proposed to demolish the existing structure, and construct a new lift station, wet well and structure in the same location (Project); and

**WHEREAS**, the Project will demolish all extant buildings and replace all pumping and electrical equipment associated with the Ravine Lift Station, a property on the National Register of Historic Places; and

Result: a Memorandum of Agreement (MOA) was signed by the City and the Historical Society. The MOA let the city proceed with demolition and replacement, with stipulations that the new building had the same look and roughly the same size as the original building. Photo documentation of the old building, before demolition and scanning of the original building plans were also provided to the Historical Society.

The agreement allowed construction to proceed and a record of this depression era public works project to be created.





# Prospect Ave. Rebuild, Grand Chute

In 2020 the Town of Grand Chute was looking to do a complete rebuild (including utilities) of Prospect Avenue. The road was adjacent to St. Mary's Cemetery, which was established in 1865.

What started out as a rural dirt road has expanded into an urban 66' ROW and encroached on the cemetery. To the point that there are now headstones in the ROW.

The new storm inlets, and curb and gutter will take up additional space and there may be conflict with the burials

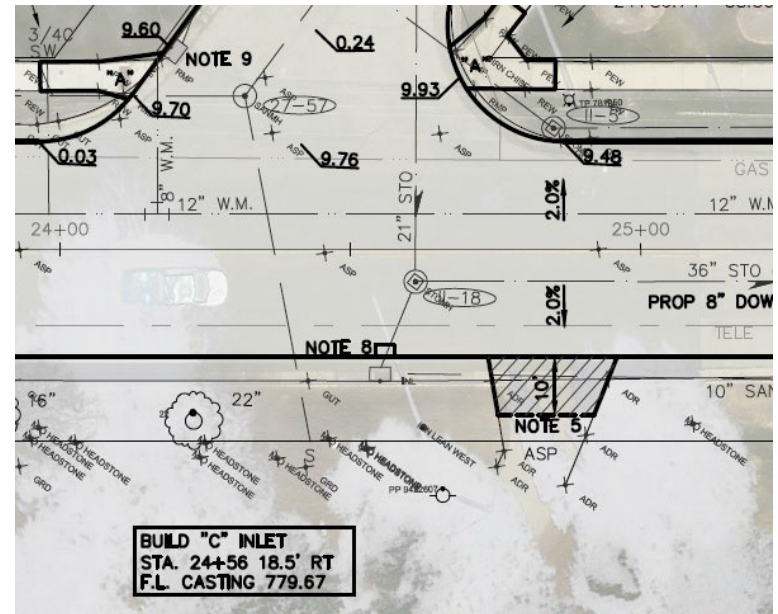


# Prospect Ave. Rebuild, Grand Chute cont.

Why it was reviewed: Funding, by a local government, WI § 44.42. Potential impact on a known burial site, WI § 157.70

The sexton for the cemetery was “pretty sure” there were no additional burials beyond what was in the ROW. The parish who ran the cemetery was willing to allow the work to take place for the common good.

The SHPO worked out an agreement between the parish, and the town for a way to move the project forward



# Prospect Ave. Rebuild, Grand Chute cont.

The agreement required an archaeological survey to take place in the ROW before construction and monitoring during construction. A burial contract to move, analyze and rebury any remains that may be found during construction was created and ready to execute if needed.

During the survey, several concrete blocks were found. They were at first thought to be burial foot stones. They turned out to be footings for a wrought iron fence that was removed years ago. No evidence of grave shafts or remains were found during the controlled stripping or monitoring.

The Town working with the parish and an archaeological consultant allowed the work to proceed. There was additional cost and work involved, but in the end the cemetery was protected and the road was rebuilt with the new infrastructure

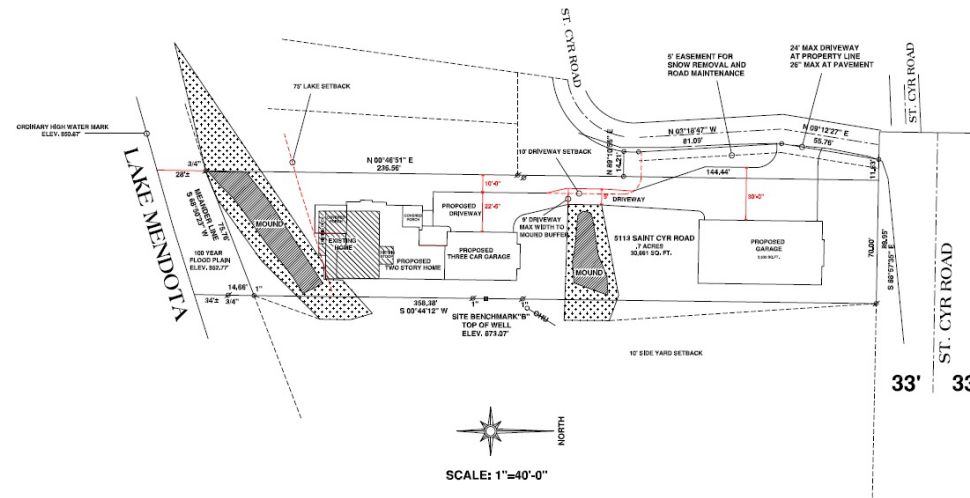


# St. Cyr Rd. Home demolition and rebuild

In 2021, an individual bought a dilapidated home and parcel along Lake Mendota. There were several effigy mounds on the property. The new owner cleaned up the parcel and was looking to tear down the old home and build a new one. In addition, some shoreline stabilization work was needed

The old house was built into part of one of the mounds, to access the shoreline you need to go over the mound.

We needed to find a way to tear down and rebuild the home, and get to the shoreline with out causing additional damage to the mounds.



# St. Cyr Rd. Home demolition and rebuild cont.

Why it was reviewed: Impact on a known and cataloged burial site §157.70

Without the shoreline stabilization one of the mounds could start eroding into the lake. Removing the house which was built before the current laws were written will help to bring the property into compliance. Building the proposed driveway, garage, etc. will require specific placement and staging/movement patterns to avoid causing damage to the mounds.

We needed to create clear guidelines for the contractors and builders and have a plan in place in case any human remains were found



# St. Cyr Rd. Home demolition and rebuild cont.

Because it was a cataloged burial site, we had to notify the Registry of Interested Parties about the proposed work. The comments we received had suggestions on protecting the mounds and notification to the Ho-Chunk Nation but allowed the project to move forward.

The SHPO, builder and contractor created a plan to protect the existing mounds, to remove the old structure and where to place the driveway and outbuildings.

By keeping communications open with the Tribes, the landowner and builders we were able to complete the project.



# Lead pipe and other utility projects

Grants for lead pipe replacement programs have started coming in and will likely increase with the federal infrastructure bill. Ongoing maintenance and repairs can have an impact as well.

While historic preservation costs are covered under grant funding, everyone would rather see the money spent on construction rather than monitoring.

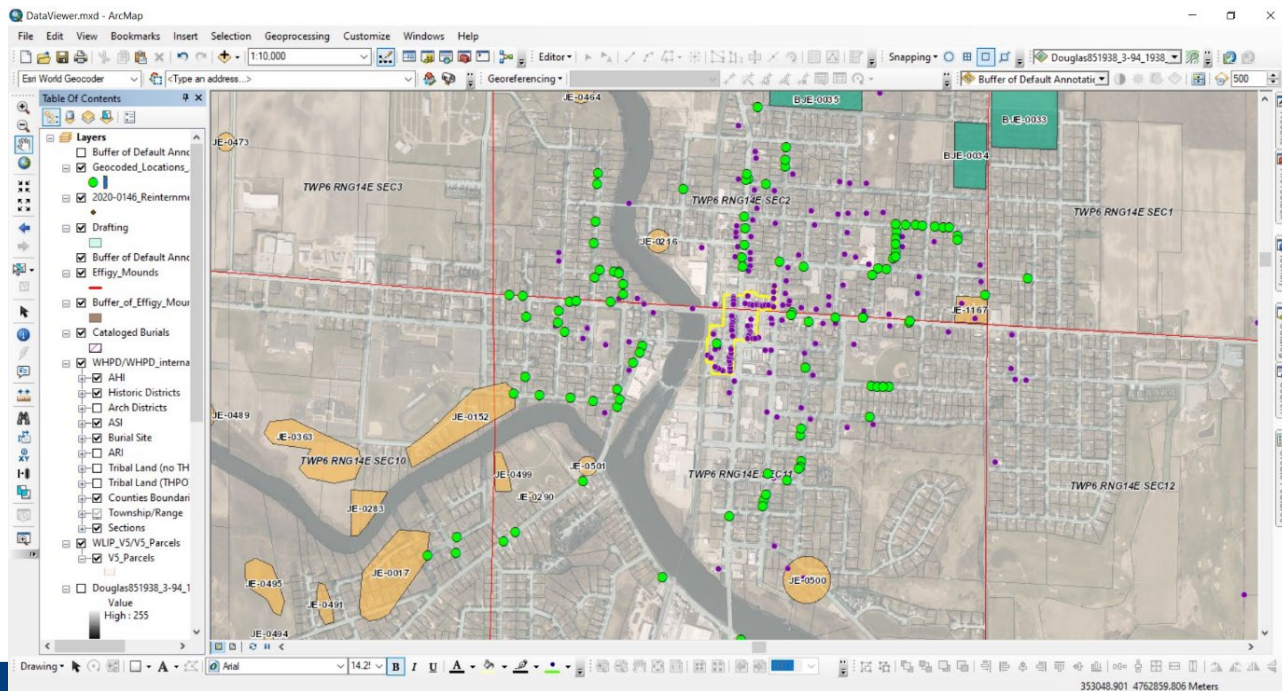
Being organized and knowing where you are working will save you time and money



# Lead pipe and other utility projects cont.

Why they are reviewed: Funding, federal (§106) and state grants (§ 44.40).  
Potential impact on National Register sites, or know burial sites (§157.70)

The City of Jefferson was undertaking a lead pipe replacement project. We need to find the properties that are within archaeological sites or National Register districts. This can be done very easily with GIS





# Lead pipe and other utility projects cont.

The analysis shows that most of the lead services have no conflicts. These replacements can be done without a monitor and are ready to go.

A few of the replacements are in a National Register district. The SHPO office took a closer look and determined that since there was no change to the exterior of these homes the work will have no impact and they are good to go.

Two areas conflict with known archaeological sites with a burial component. One a burial mound, the other is a cemetery that was “moved”.

The headstones were moved but not the bodies and the area was built out. Remains were found while doing a basement repair in 2002. Monitoring for these two sites by an archaeologist qualified to work with human remains will be required.

Doing the analysis ahead of time lets you hire a monitor for the two sites that need them instead of having a monitor out there for the entire project when they are not needed.



# Lead pipe and other utility projects cont.

Undergrounding of an electrical line to a house in Waupaca County

A house was built on a recorded archaeological site, with a burial component before the burial preservation laws were enacted.

Because of a potential impact to a site with known human remains a Request to Disturb burial permit was filled out and approved with the requirement of an archaeological monitor.



# Lead pipe and other utility replacements cont.



The area is obviously disturbed by previous construction but within the excavated trench a feature is exposed.

A small worked piece of copper is found within the feature

While not human remains, it does show that archaeological features will survive even in built out areas



# What happens if you find bones?

**DON'T PANIC!**

It happens more then you think.

- 1) Are they human or animal? If you are not sure, then
  - 2) Call the local police/sheriff
- 3) If working in a known burial site or if you got a permit from the SHPO office Contact the Historical Society

# Cutler Park Mounds

In April 2020 City workers uncovered human remains while digging the footings for a new sign.

The area where the work was taking place was outside of the site boundaries of a known Native American burial site, Cutler Park Mounds in the city of Waukesha.



The work was not in the archaeological site, so there was no permit requirement or review by the SHPO office.

The city was aware of the potential for human remains in the area and a consultant (UW-Milwaukee) was brought in manage the inadvertent discovery.

Because of the mounds nearby and the estimated age of the remains they were most likely Native American.



The SHPO office notified the Native American Tribes, and the Tribes guidance was followed for protecting and respecting the remains, while exposed.

NOTICE OF LOCATION OF  
CATALOGUED BURIAL SITE

4630197

REGISTER OF DEEDS  
WAUKESHA COUNTY, WI  
RECORDED ON

RECEIVED  
NOV 10 2021

November 02, 2021 03:48 PM  
James R Behrend  
Register of Deeds

1 PG  
TOTAL FEE: \$30.00  
TRANS FEE: \$0.00

Book Page -



BY: .....

DOCUMENT # BWHS-21-08-003  
SITE #/BURIAL # WK-0224/BWK-0222  
SITE NAME Cutler Mounds (Cutler Park Burials)  
OWNERS NAME City of Waukesha  
OWNERS ADDRESS 321 Wisconsin Avenue  
Waukesha, Wisconsin 53186

WHEREAS, the legislature intends by 1985 Wisconsin Act 316 to assure that all human Burials be accorded equal treatment and respect for human dignity without reference to ethnic origins, cultural backgrounds or religious affiliations; and WHEREAS, Wis. Stats. § 157.70(2)(a) provides that the Director of the Wisconsin Historical Society shall identify and record in a catalog, burial sites in this state, together with sufficient contiguous land necessary to protect the burial site from disturbance, and WHEREAS, § 7011(13), Wis. Stats provides a property tax exemption for land containing a burial site, which is entered in the state catalog of burial sites and that this makes the property tax treatment of burial sites consistent with the property tax treatment of cemeteries; and WHEREAS, § 157.70(5)(b), Wis. Stats. provides that no person may intentionally cause or permit the disturbance of a catalogued burial site without a permit from the Director of the Wisconsin Historical Society. Now therefore be it known that the following described lands contain a catalogued burial site and are subject to the protection and provisions of 1985 Wisconsin Act 316.

RETURN TO:  
Amy Rosebrough  
Burial Sites Preservation  
Wisconsin Historical Society  
816 State Street  
Madison, Wisconsin 53706-1482  
Parcel Identification Numbers  
WAKC1308452

*Cal*

Cutler Mounds – Cutler Park Burials

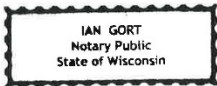
This burial site is located in the NE ¼ of the NW ¼ of the SE ¼ of Section 3, Township 6 North, Range 19 East, City of Waukesha, Waukesha County, Wisconsin.

The catalogued area is more specifically described as follows: Commencing at the Southeast quarter section corner of Section 3, Town 6, Range 19 East, Section 3 NE, SE Waukesha County, Wisconsin. Easting 2,442,785.74 Northing 373,271.48 NAD 1983\_2011 State Plane WI South, US Feet. A brass cap found in the centerline of the road near 717 North East Avenue in the City of Waukesha. SEWRPC tie sheet number 06190220. Thence South 180 degrees, for 200 feet, then West 270 degrees, for 1377 feet, then South 180 d, for 32 feet to the Northeast corner of parcel WAKC1308452, 321 Wisconsin Avenue, Waukesha WI. Thence South/Southwest 226.8442 degrees, for 27.25 feet, to the Point of Beginning (POB).

From the Point of Beginning and proceeding counter clockwise, thence North/Northwest 285.4 degrees for 7.3 feet, thence South/Southwest 244.3 degrees for 6.5 feet, thence South/Southwest 201.5 degrees for 12.1 feet, thence South/Southeast 147.3 degrees for 8.6 feet, thence South/Southeast 131.8 degrees for 5.5 feet, thence South/Southeast 106.8 degrees for 7.1 feet, thence North/Northeast 63.8 degrees 7.9 feet, thence North/Northeast 28.2 for 10.1 feet, thence North/Northwest 333.4 degrees for 8.5 feet, thence North/Northwest 309.6 degrees for 8.2 feet and returning to the Point of Beginning.

THIS INSTRUMENT DRAFTED BY  
*Amy Rosebrough*  
Amy L. Rosebrough

dated this 30<sup>th</sup> day of August, 2021  
Signature of *Daina J. Perkius*  
Daina J. Perkius  
State Historic Preservation Officer  
Wisconsin Historical Society



ACKNOWLEDGMENT STATE OF WISCONSIN, DANE COUNTY  
Personally came before me this 30<sup>th</sup> day of August, 2021  
to me known to be the person(s) who executed the  
foregoing instrument and acknowledge the same.

Signature of *Ian Gort*  
Ian Gort  
My Commission Expires on July 30, 2023

The City of Waukesha, WITRIC, and the Forest County Potawatomi agreed to abandon the work, leave the remains in place and reinter the remains that were exposed.

Per §157.70 cataloging the area where the other remains and the reinternment took place is required.



Obviously, this is not an ideal situation, but there are processes in place to mitigate accidental discoveries in a timely matter.

It will likely cost you some time, a few hours if it is a matter of determining if the bones are human or not. Potentially a few days if they turn out to be human remains and redesign/mitigation/work arounds needs to occur.

However, we will work with you to come up with a solution to keep a project going in a timely manner while attempting to minimize the disruption and cost.





# Questions?



# Web links:

## **Guidance**

Wisconsin compliance process: <https://www.wisconsinhistory.org/Records/Article/CS15284>

Burials: <https://www.wisconsinhistory.org/Records/Article/CS15239>

Federal: <https://www.achp.gov/protecting-historic-properties/section-106-process/introduction-section-106>

Local: <https://www.wisconsinhistory.org/Records/Article/CS94>

## **SHPO Forms**

Compliance: <https://www.wisconsinhistory.org/Records/Article/CS3986>

Burials: <https://www.wisconsinhistory.org/pdfs/cms/HPR-Request-to-Disturb-Sep-2020.pdf>

## **WHPD**

Data & GIS access: <https://www.wisconsinhistory.org/Records/Article/CS4091>

## **Consultants**

Wisconsin qualified consultants: <https://wisconsinhistory.org/Records/Article/CS2835>

## **Laws**

Federal §106: <https://www.achp.gov/sites/default/files/2018-06/nhpa.pdf>

State §44.40: <https://docs.legis.wisconsin.gov/statutes/statutes/44/ii/40>

State (Burial) §157.70: <https://docs.legis.wisconsin.gov/statutes/statutes/157/iii/70>



# Tell Us What You Think!

**Please visit:** <http://wihist.org/tellus2>

**Enter Event ID: 8775**

Felipe Avila  
GIS Coordinator and Compliance Officer  
State Historic Preservation Office

Wisconsin Historical Society  
816 State Street, Madison, WI 53706  
608 264-6013  
[felipe.avila@wisconsinhistory.org](mailto:felipe.avila@wisconsinhistory.org)





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# Thank you!

To learn more visit  
[wisconsinhistory.org](http://wisconsinhistory.org)

