UNITED STATES OF AMERICA
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

UNITED STATES OF AMERICA
ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF CIVIL RIGHTS

UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
DEPARTMENTAL OFFICE OF CIVIL RIGHTS

FEDERAL HIGHWAY ADMINISTRATION
OFFICE OF CIVIL RIGHTS

FEDERAL TRANSIT ADMINISTRATION
OFFICE OF CIVIL RIGHTS

THE BOYD CARTER MEMORIAL AND METHODIST CEMETERIES and THEIR OCCUPANTS and DESCENDANT COMMUNITY; and RURAL AGRICULTURAL DEFENDERS,

Complainants,

vs. **Docket No.**

THE CITY OF RANSON,

Respondents.

COMPLAINT PURSUANT TO TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

I. COMPLAINANTS

The Complainants are the deceased of the African American Boyd Carter Memorial and Methodist Cemeteries (two undelineated historic African American Cemeteries and the interred population, hereinafter called "the Cemeteries"), the African American Descendant Community as defined in the National Trust for Historic Preservation African American Cultural Heritage Action Fund's rubric, "Engaging Descendant Communities in the Interpretation of Slavery at Museums and Historic Sites"[1]; and Rural Agricultural Defenders (RAD). Jennifer J. King and (b) (6) Privacy, (b) (7)(C) Enforcement Privacy are members of Rural Agricultural Defenders, friends of the Cemeteries.

The Complainants bring forward this complaint pursuant to Title VI of the Civil Rights Act of 1964 on behalf of the dearly departed occupants of the Cemeteries (Exhibit A) and at least 87 additional deceased individuals whose interment site is located in Kearneysville, WV, however exact locations of many interments are currently unknown. The majority of these deceased individuals were trafficked Africans and African Americans. Not all death records are available (only records prior to 1968 are public) but the remaining individuals are most likely African American due to the familial relationships to other decedents buried in the Cemeteries. Due to the absence of systematic archaeological delineation of the Cemeteries, an untold and unknown number of dumped bodies of trafficked/enslaved persons and later informal burials exists in the vicinity of the currently listed boundaries and formal burials on parcels adjacent and contiguous with current known boundaries of the Cemeteries. Due to the historic past land use of the property related to activities of human trafficking on plantations, disparities in zoning and predation through the use of zoning, discussed later in this document; have obfuscated, possibly intentionally, and mired the resolution of the archaeological boundaries of this historic undelineated burial ground in bureaucracy (at the local, state, and federal levels) thereby

[1] "*Engaging Descendant Communities in the Interpretation of Slavery at Museums and Historic Sites*", A Rubric of Best Practices Established by The National Summit on Teaching Slavery, V1.0—9.26.18, National Trust for Historic Preservation African American Cultural Heritage Action Fund, page 3:

"In its most fundamental form, a "descendant community" is a group of people whose ancestors were enslaved at a particular site, but it can transcend that limited definition. A descendant community can include those whose ancestors were enslaved not only at a particular site, but also throughout the surrounding region, reflecting the fact that family ties often crossed plantation boundaries. A descendant community can also welcome those who feel connected to the work the institution is doing, whether or not they know of a genealogical connection."

subjecting the occupants to ongoing discrimination via disparities in historic preservation resulting in a lack of equity in archaeological representation.

This vulnerable, voiceless, minority population has been adversely affected by disparities and inequity in the application of policies and procedures by West Virginia State Agencies and Departments, county and city governments, historically and in the modern era most notably beginning in 2004, continuing to the present day.

The Complainants assert that the African American occupants of the Cemeteries have been regularly discriminated against as a consequence of supposedly routine governmental business. The Complainants assert that no substantial legitimate justification for these disparate impacts can be made; time and time again the interests of the well-funded and well-connected few were prioritized above the dignity and of the human beings interred in the Cemeteries. Furthermore, the Complainants believe that effective alternative practices exist in the form of well-established regulations and scientific protocols in bioarchaeological and cultural resource stewardship which would lessen the potential for discrimination and provide equity in archaeological and historical representation. This complaint will give the Respondent the opportunity to address deficiencies in their policies and procedures that can lead or may have led to discrimination in violation of Title VI of the Civil Rights Act of 1964.

The dead speak for themselves through appropriate and equal representation within the sciences of bioarchaeology, archaeology, anthropology, historic preservation and many other related disciplines. Lack of appropriate cultural property stewardship and barriers to equity in historic preservation often leads to irretrievable loss of important bioarchaeological and archaeological resources for African American communities. Archaeological erasure due to lack of parity in historic preservation leads to skewed scientific data regarding populations of early trafficked Africans and African Americans, not to mention the loss of irreplaceable genealogical resources for the African diasporic communities in the United States. The dead primarily speak for themselves through their own deposition and existence in archaeological strata, therefore the living must ensure that archaeology and historic preservation is conducted with respect to the interred as well as advocate for the preservation of important bioarchaeological/archaeological information that the interred preserve in perpetuity for their respective Descendant Communities. The living defenders must include the primary Descendant Community, the Afrodescendant

Community, and their approved allies and specialists. In most cases, early trafficked/enslaved African populations were not permitted or had the luxury of maintaining family archives tracing their arrival from other continents. African/African American burial grounds and cemeteries and their carefully preserved and stewarded archaeological strata are a repository of information that cannot be destroyed at the peril of the public health of current African/African American populations. This important resource is under constant predation in the United States and, hence, the subject of this complaint. This is a victims' rights issue historically and in the modern era.

II. RESPONDENT

The Respondent is the City of Ranson (CoR). The CoR is a municipal corporation in Jefferson County, West Virginia.

The Respondent's actions and inactions in regards to the Cemeteries, both directly and indirectly, in the course of government business and preferential corporate treatment have severely and adversely impacted the Cemeteries.

There have been many opportunities within the past 16 years for the CoR to intervene to assist these Cemeteries. To date the CoR has not assisted and in fact, evidence may have been purposely ignored, excluding the Cemeteries and the undelineated burial ground of the interred from typical protection from predation through the instruments of city planning and zoning. It is known that these Cemeteries are African American and the Complaintants believe that intentional discrimination has also occurred.

Regardless if the Respondent is explicitly prohibited from the practice of discrimination in violation of Title VI, but then discrimination occurs due to the practice of established procedures and policies, or due to the lack thereof; the Respondent and their implementation or absence of implementation allowed various construction activities to proceed unchecked. So then it follows that these actions or inactions, as the case may be, have caused irreparable harm to the Cemeteries, its descendants, and loss of African American cultural resources, both archaeological and bioarchaeological, as well as to the overall integrity of an important historic site that has not yet been professionally and methodically evaluated but exists within the realm of inclusion on the National Historic Registry. This harm is obvious in that the archaeological settings and significance of these burial grounds have been directly destroyed, systemically

predated upon and consistently denuded of integrity while remaining under threat of archaeological erasure. The Respondent, who has received federal funding as demonstrated in the sections below, is required to make every effort to abide by all laws of the Title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.] and must have, or hire, under the appropriate memorandum of agreement, archaeological professionals who possess the awareness, skills, and training to respect and protect all aspects of this important African American cultural heritage site.

While it may seem upon first inspection unclear to the Complainants why the CoR has given corporations special treatment over the Cemeteries, upon further review of the problem the reason for the current endangered status of the Cemeteries is complex and, consequently, can only sufficiently be studied through extensive research as it is the topic of many scholarly publications addressing structural and systemic racism, an unfortunate outcome of our imperfect history and ongoing topic of discussions related to our developing national identity. However, it is clear that the Cemeteries and its occupants were left to the mercy of corporations, aided by the action or inaction of local, state and federal governing authorities, resulting in an absence of discrimination in regard to the Cemeteries and with clear intent to continue construction regardless of the consequences to the occupants, the Descendant Community, their allies, and the greater public health and moral welfare.

III. BACKGROUND ON THE TWO CEMETERIES

A. About Boyd Carter Memorial and Methodist Cemeteries

The Cemeteries are located on Granny Smith Lane in Kearneysville, WV and lie within the Middleway District of Jefferson County, West Virginia. The two named Cemeteries exist as two later formalized features within a larger undelineated historic African/African American dumping/burial ground at a known confluence of historically noted plantations. The community where the Cemeteries is located has been historically called Harts Town. Harts Town was a known historic African American community and is well documented in surveys on file with the WV State Historic Preservation Office (WVSHPO). However, Harts Town, even with it's extant historic structures and Cemeteries, has not been the subject of study or evaluation for inclusion in the National Historic Registry nor has this locale received a designation of historical

significance, protection, or preservation. When a trafficked/enslaved population is attempting to survive and assert basic rights to exist as humans, it is rare that such a population has access to the resources necessary to establish and maintain objects, sites, and structures of historic importance. The historic undelineated African/African American burial ground of Harts Town, with its two known formalized historic African American Cemeteries (the subject of this complaint) exists squarely within the African American historic landscape of Harts Town.

The Cemeteries have been referred to as the Boyd Carter Cemetery, Stewart Chapel Methodist Cemetery, African Methodist Episcpoal (A.M.E.) Cemetery, Methodist Cemetery of Kearneysville, and Jefferson Orchards Cemetery. Further deed research has determined there are two cemeteries, side by side: Boyd Carter Memorial and Methodist (WVSHPO trinomial # 46-JF-507).

The Methodist 1902 deed (Deed Book 98, Page 68) called the Cemeteries a "burying ground for colored people". (Exhibit B) Little documentation has been discovered on the Cemeteries and more research is necessary to ascertain exactly why the Cemeteries exist as separately deeded. An updated survey for the Methodist Cemetery was completed in 2019. (Exhibit C) The Boyd Carter Memorial Cemetery boundaries are described in a neighboring property deed (Exhibit D) and are not indicated on official Jefferson County tax maps (Exhibit E). A 2020 survey has been completed (Exhibit F) and work is underway for Jefferson County to recognize Boyd Carter in official cartography.

The Cemeteries have 90 known burials and 87 unconfirmed burials. (Exhibit A), but the likelihood of many more historically dumped bodies and informal burials exists due to the confluence of plantations at this location. The first archivally listed burial in the Cemeteries was in 1904 and the most recent burial was in 1999. Many burials are marked with informal lithic mortuary monuments that have no discernible inscription or a complete absence of inscription. Several United States military war veterans are known to be interred within the two formal cemetery boundaries.[2] Both Cemeteries are listed as public cemeteries, and, as mentioned within

their respective deeds, have their own ingress and egress, or right of public way, to Granny Smith Lane.

The Boyd Carter Memorial Cemetery deed indicates there could be burials along property boundaries: "this conveyance is made subject to such rights of burial as may exist - it being understood that there may be certain bodies buried in the portion of the land herein described near to and along the northeast line of the old Cemeteries and the northwest line of the old cemetery." (Exhibit D - Page 2) Recent land surveys and ground penetrating radar have indeed shown many burials outside of the formalized historic Cemeteries' boundaries. (Exhibit G and H) Note on Boyd Carter's survey (Exhibit F) some of the graves are marked by ground penetrating radar which extend beyond the known Methodist cemetery boundaries. Undelineated historic cemeteries do not exist within the confines of more modern planned sites of interment and do not present a linear appearance such as the rows of gravestones for Veterans interred at Arlington National Cemetery in Virginia, but are, rather, amorphous and in flux due to changes in land use, developments in mortuary practices, geological shifts (erosion), and years of interaction with the living around and within any historic mortuary space. However, delineation and proper stewardship is possible.

1. Ground Penetrating Radar (GPR)

Ground penetrating radar was performed on the south side of the Methodist Cemetery on April 3, 2019, which indicated several potential unmarked graves inches from Granny Smith Lane.[3] (Exhibit G and H) Some of these graves have a depth of only 2.5 feet below ground surface.[4] It is currently undetermined if this lack of topsoil is due to erosion or other intrusions. The integrity of the soils at these Cemeteries is in need of dire professional study and every effort should be made to mitigate any loss of soil and subsequent impact on burials, including any migration of loose road surfaces pursuant to grading activities or vehicular impacts of both

https://drive.google.com/file/d/1rTSoCM2ore0pp0Rgt7UD6BIjkpTCud_e/view?usp=sharing

[4] Ground Penetrating Radar Report - page 4
https://drive.google.com/file/d/1rTSoCM2ore0pp0Rgt7UD6BIjkpTCud_e/view?usp=sharing

light and heavy mechanized vehicles in conjunction with careful scientific assessment and pursuant public comment on any future expansion of adjacent or area road surfaces.

With the help of ground penetrating radar and research, grave plotting is underway (Exhibit I) [5] by volunteers. However, professional studies are warranted and necessary. Volunteers do not always have the specialized training necessary or the proper oversight by professionals, leading to intentional or unintentional impacts on integrity of burials and Historic Registry eligibility. Unsupervised volunteers may also engage in activity that may result in intentional or unintentional desecration of burials. Comprehensive phase I, II, and III archaeological studies are needed to detect burials, protect them from damage or loss, and mitigate adverse effects. As indicated in the GPR report, many burials could be depreciated and lack outlines of typical funerary components such as caskets. Caskets of unknown composition or other funerary components may now exist as a soil and biomass matrix of inestimable scientific and bioarchaeological value. Infiltration of vegetation makes burials harder to detect solely with GPR:

> "We found that the soil allowed for maximum GPR depth penetration of 5' in areas outside of heavy vegetation. Findings ranged from confirmed potential graves to potential voids. As stated in the limitations, due to the age of many of the graves and the unknown caskets that the deceased were buried in, many of these graves could be extremely depreciated over time. Therefore, minimal voids could indicate the presence of remnants and were marked out accordingly." [6]

On August 17, 2020, a second GPR study, in need of further peer and public review, was completed on the east side and south side of the Cemeteries by consultants paid by Rockwool. We do not have access to the report, however, we have obtained photographs from the Methodist cemetery trustees that indicate informal burials were discovered beyond the currently known eastern margins per the August 17, 2020, GPR study. Please note that all graves (marked and unmarked) beyond the Cemeteries' boundaries on the east and south side lay within the CoR District/Rockwool property. (Exhibit J 1-11)

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[5] https://www.google.com/maps/d/u/0/viewer?fbclid=IwAR1WJENg6cJT6a4B-dwJUtGStgd8EEfGRl-ywbaopukS8FrHE1na7w_z6tk&mid=1qnKOs6az5pwhfeLjn3w6nIzzEEcQUZYU&ll=39.37681500000004%2C-77.88196900000001&z=19

[6] Ground Penetrating Radar Report - page 2
https://drive.google.com/file/d/1rTSoCM2ore0pp0Rgt7UD6BIjkpTCud_e/view?usp=sharing

No parties contacted the Boyd Carter Memorial Cemetery heirs or descendant community for collaboration in order to establish a typical memorandum of agreement per our knowledge of the GPR survey activity on August 17, 2020, which seemingly necessitated clear cutting and removal of trees and vegetation (Exhibit J 8 - 9) on the date of August 15, 2020. GPR is difficult to perform in areas where roots, tree trunks, and thick invasive vegetation occurs and is not the only existing nor is it always the most appropriate archaeological methodology used in delineation of historic cemeteries. GPR should be utilized in concert with other methodologies within a definitive scope of work and site plan. Prior to the beginning of the GPR survey, vegetation was summarily chopped and hacked down by unsupervised landscaping personnel. Because formal and informal mortuary markers within the fenceline had become intertwined with vegetation, and due to the haphazard and unsupervised removal of integrated vegetation (a common and known feature of many African American burial grounds and cemeteries) burial markers were disturbed, destroyed, and removed. Damage to the Cemeteries, desecration and loss of burials, destruction of archaeological stratigraphy and any other damage to historic registry eligibility due to this unsupervised landscaping activity has not yet been assessed or determined. Preparation for appropriate archaeological study should never include damage and unmitigated impact to the historicity or archaeological integrity of a site. In the case of any cemetery, any significant work should be conducted with appropriate period for public engagement and submission of comments and per an extensive interaction with an informed Descendant Community for professional education and consultation and allowing also for appropriately-informed decision making activity.

Slave burials can be marked by trees and vegetation (yuccas, rose bushes, etc.) and burials have been identified within these Cemeteries indicating such African American funerary practices. It is not necessary to clear cut all vegetation along the margins or within the currently known boundaries of the Cemeteries. In fact, placement of certain plants and vegetation is noted in scholarly works related to African American funerary practices as commemorative in nature and as a funerary offering in perpetuity.[7] In addition to trees and vegetation being used as

[7] Jamieson, Ross W. "Material Culture and Social Death: African American Burial Practices, Historical Archaeology, 1996, 29(4):39-58.
https://users.clas.ufl.edu/davidson/Historical%20archaeology%20fall%202015/Week%2012%20Mortuary/Jamieson%201995.pdf

markers and offerings, African and African American funerary traditions include a belief that ancestral burials exist not separate from but as part of the complex ecosystem of the Cemetery, so it is incredibly inconsiderate to destroy these plants without liaison activity and oversight by the Descendant Community and their approved allies. Clear cutting vegetation without an overall site preservation plan is an invasive practice that does not include or indicate knowledge of African American burial practices.

In addition to the use of vegetation as a persistent funerary offering and environmental marker of ancestral place, use of bottles and pottery as funerary offerings are also known components of African American burial customs. Bottles can be recent or historic, may be partially or completely deposited in the ground and may be associated with metal objects such as coins and tools.[8] Fieldstones, shells, quartzite and other materials are also known to be funerary in nature when present within or around an African American burial ground. Depositions of funerary offerings on or around burials can indicate repetition of long-standing practices of reverence and veneration of ancestors. These cultural practices should be honored and respected by anyone who is working in the vicinity of the Cemeteries. These burial components become part of the archaeological identity and comprise the collective personality of a cemetery.

The African American Cemeteries that are the subject of this complaint are undeniably both a complex historic site with highly sensitive, archaeological strata and a living cemetery in current use by descendants. Delineation of the Cemeteries has not been completed. Any work performed in this area, including trimming or removal of vegetation, should be conducted with meticulous care and respect. All work should be performed with consultation and involvement of archaeological experts specializing in African American burial sites. The Descendant Community and their approved allies should be consulted and present during any work that may impact vegetation, funerary offerings, and burials. These African American burials exist within the context of the visible natural environment, resulting in a holistic funerary landscape that functions as a living repository of ancestral knowledge and community that is not separate from the living. In fact, any forced separation of African Americans from participating in this

[8] Davidson, James M. "Rituals Captured in Context and Time: Charm Use in North Dallas Freedman's Town (1869-1907), Dallas, Texas .Historical Archaeology , 2004, Vol. 38, No. 2 (2004), pp. 22-54 http://www.jstor.com/stable/25617143

landscape of ancestral interaction and communication should be seen as indicative of a persistent state of structural and systemic racism within any mortuary setting, memorial museum or larger community landscape. African American burial grounds and cemeteries can and should be considered guardians of the communal health of the living diaspora. Any impact on an African American burial ground affects the public health of the living diaspora and should be grounds for serious study and consideration in terms of long term outcome of public policies.

Failing to respect and understand these Cemeteries for their historical and African American cultural significance is, in effect, purposely destroying it. The refusal to become educated, listen to descendants and their supporters, and an insistence on disrespect for these burials and their existence is a continuation of the practice of structural and systemic racism. Cemeteries of any race and culture in the United States do not ever merit abusive machinations and depredations. These Cemeteries are not being respected and handled appropriately. Racism should never be taken lightly and it can come in many forms. Any predation or abusive machinations that would destroy such important cultural mortuary landscapes are, in essence and, legally, in some localities and nations, hate crimes.

2. Unmarked Graves

Through research of death certificates and other archival resources as well as physical site visits, we have identified over 90 confirmed burials in the Cemeteries. (Exhibit A) Death certificate research indicates that an additional 87 burials are listed with Kearneysville, WV as the final place of interment. These individuals do not appear in Cemetery inventories of the other four cemeteries located in Kearneysville (Caucasian cemeteries at the Kearneysville Presbyterian Church, African American cemeteries located at St. Paul's Baptist Church, Hart-Lucas African American cemeteries located adjacent of St. Paul's Baptist Church's cemetery, and African American Methodist Cemetery). A cross-reference check was also conducted against other known African American and non-segregated cemeteries located in Jefferson and Berkeley Counties.

In addition to the additionally noted 87 burials, there is a high degree of concern that many of the historic informal burials and dumped bodies of trafficked/enslaved persons may exist outside of any currently known archival documentation per the knowledge that the

Cemeteries exist at a known juncture of plantations historically, necessitating the insistence upon a thorough and comprehensive delineation with all appropriate archaeological methodologies and at the highest levels of parity and equality attainable within the current historic preservation schema.

3. Undelineated Historic Cemetery Boundaries

As mentioned above, many unmarked graves are outside of the Cemeteries' surveyed boundaries. Ground penetrating radar has detected at least 23 graves beyond these boundaries and lying within the CoR District. No extensive, systematic archaeological studies have been conducted on these Cemeteries and their boundaries remain undelineated.

The WV State Historic Preservation Office (WVSHPO) discriminated against the Cemeteries by giving approval to ERM, Rockwool's consultant, to commence Rockwool construction by incorrectly indicating that the Cemeteries would not be impacted by the construction and "were not in the direct footprint of the project". (Exhibit K) Rockwool's consultants failed to mention graves and informal burials on Rockwool's property and failed to complete basic phase I studies that would most likely indicate that the two formalized Cemeteries exist within a larger undelineated historic burial ground area. The Cemeteries' graves exist within strata that are contiguous with and exist upon Rockwool's property and are thus within the direct footprint and area of construction. The omission of relevant historical data, lack of appropriate systematic archaeological delineation, and lack of oversight have placed the Cemeteries in peril. RAD has submitted a Title VI complaint with the US Department of Interior, Complaint No. PCRNPS-03-20.

Multiple screening and requirements per NEPA, NHPA, AHPA, and ARPA as well as per state and local cultural resource management and burial statutes have not been completed for the Cemeteries. Minimum due diligence, if any, has not been completed regarding the undelineated historic Cemeteries. It is currently unknown if a formal 106 process has been instituted. The complainants do not believe that a formal 106 process exists for these Cemeteries. Absence of a legitimate 106 process is an egregious lapse in historic preservation oversight and fundamental civil rights abuse.

At this time, it is impossible to ascertain the entire footprint of this historic African/African American burial ground aside from the two known more formalized cemetery components that are the subject of this complaint. A Ground Penetrating Radar study conducted by Rockwool on August 17, 2020, revealed graves beyond the Cemeteries boundaries to the east as well as the south. On the east side, note that a large linear area of soil was disturbed during the placement of a gas pipeline meant to service Rockwool, just inches beyond the silt fencing of the currently known formal cemetery eastern boundary, notable in photos taken on August 17, 2020 (Exhibits J 10 - 11). **Video evidence obtained during pipeline construction[9, 10] may indicate** the possible presence of soils consistent with biomass, in spacing and placement consistent with typical grave plots in the linear area excavated during the placement of the pipeline. In this video, dark soil which could be enriched with human remains is observed at regular intervals. No supervisory archaeologists or archaeological field technicians were present during the excavation for or during the placement of this gas pipeline. Additional bioarchaeological and archaeological studies are necessary to determine if burials were impacted by the construction of this pipeline and to mitigate any adverse impact. A scope of work for comprehensive cultural resource management has not been identified by the Complainants.

4. Trafficked Person/Slave Dumping Ground & Later Burial Ground

Historical research shows the Cemeteries and surrounding properties were owned by slave owners, (b) (6) Privacy, (b) (7)(C) Enforcement Privacy The Jefferson Orchards (adjacent to the Cemeteries property) deed (b) (6) Privacy, (b) (7)(C) Enforcement Privacy ownership. (Exhibit L) From 1763 - 1772, (b) (6) Privacy, (b) (7)(C) owned 1,100 acres and 318 acres was used for mostly wheat production and pasturage. The center of this 318 acres is the current location of the Cemeteries today. Historical research indicates the Cemeteries and surrounding properties may have been used firstly as a dumping ground/burying ground for the approximately one hundred years during which (b) (6) Privacy, (b) (7)(C) Enforcement Privacy enslaved trafficked Africans. According to current research and analysis of U.S. Census data available for most of the first half of the 1800's, the (b) (6) Privacy, (b) (7)(C) Enfo

[9] 05/03/2019 video of gas pipeline construction on east side of Cemeteries: https://drive.google.com/file/d/1X9k-P8JMwEmingNBo8zDlUdt7akhJsVa/view?usp=sharing

[10] 05/03/2019 video of gas pipeline construction on east side of Cemeteries: https://drive.google.com/file/d/1arE4Z2lcSA-WS_98fkIz-uVKcfiNw8ma/view?usp=sharing

family enslaved the most trafficked Africans in Jefferson County. Additional research is needed to determine how many people were trafficked through the machinations of these plantations. A 1860 Slave Schedule Census lists some of [redacted] enslaved/trafficked persons. (Exhibit M) Slave holders paid taxes on trafficked persons just as property would be taxed today and in most cases this presents as an archival lack of information and creates a statistical dilemma in terms of enumerating or extrapolating a possible number of dumped bodies and informal burials. Obviously, this historic site merits and requires much more archival research as well as a need to increase awareness of the importance of good stewardship of historic African/African American burial grounds and cemeteries, ethical and moral obligations to the living notwithstanding.

The 1852 S. Howell Brown Map of Jefferson County, WV shows [redacted] land ownership.[11] (Exhibit N) While mapping technologies have greatly improved since 1852, many property boundaries have remained the same. The [redacted] property of today (formerly owned by the [redacted] family) has remained unchanged for over 150 years. We used this property as a point of reference to overlay the current Jefferson County Tax Map with the 1852 map to show [redacted] ownership and the Cemeteries location. (Exhibit O) Also, the West Virginia GeoHistory/Geo-Explorer Project: Jefferson County Land Grants map[12] indicates [redacted] ownership of the Cemeteries and surrounding property in 1763. (Exhibit P) The bioarchaeological information at this African burial ground extends back to the time before U.S. independence and is a literal archaeological record of crimes committed in the early history of this nation. This crime scene, like any crime scene, is deserving of forensic study.

More research is needed, however, as it is possible that, due to the fact that some of the confirmed burials have dates of birth before 1863, these individuals could have been born into slavery as the children of trafficked/enslaved persons.

It is hard to care for the needs of the deceased while one is recovering from a status as an historically trafficked person or people, especially in an inhospitable nation. This is not indicative of disrespect for the dead. Tree roots have become intertwined with graves. Most of

[11] 1852 S. Howell Brown Map of Jefferson County, WV https://www.loc.gov/item/2005625308/

[12] West Virginia GeoHistory / Geo-Explorer Project Jefferson County Land Grants http://wvgeohistory.org/portals/0/ESRIJavascriptMaps/GHLandGrants/viewer/index.html

the trees in the Cemeteries have been there for years and research indicates that slaves buried or were forced to bury their departed in remote areas and non-arable land among trees and underbrush and sometimes used trees as burial markers.[13,14] (EXHIBIT Q and R) Slaves were forced to bury their loved ones in liminal areas deemed of low agricultural utility to their traffickers. The separation of the descendants from their ancestors was also a tactic of traffickers as a brutal tool of dehumanization. The Cemeteries on Granny Smith Road, the subject of this complaint, exhibits such geological features as a deep depression and a rock ridge located in the middle of the property which rendered this land unsuitable for agriculture.

Plantings of yucca, daffodils, and small bushes mark graves.[15,16] (EXHIBIT R, S, and T) As is traditional of many African American burials, individuals were laid to rest in an east-west orientation. Some of the burials are not only near family members but also arranged in extended kinship groups. Additionally, there are tokens and symbolic memorials left on gravesites. It is difficult at this time to determine how many remnants of these offerings, memorials, and grave markers are underneath, deposited in the soil at the Cemeteries. Each such fragment is evidence of the interaction and communication between the living and their ancestors. Comprehensive phase I, II, and III cultural resource studies are necessary to identify resources and define the true archaeological limits of site boundaries within the area of potential adverse impact. No such comprehensive studies are known to have been conducted to date.

Often, African American cemetery and burial ground traditions are misunderstood, or disregarded, and these important heritage sites are labeled as abandoned. The University of Georgia states, "Consequently, these traditions, along with the South's segregated past, has lead

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[13] "Grave Matters: The Preservation of African-American Cemeteries" by the Chicora Foundation, page 4 http://www chicora org/pdfs/Grave%20Matters%20-%20The%20Preservation%20of%20African%20American%20Cemeteries pdf?fbclid=IwAR2RIXr7kH3S-fWPvic6vGEfnZsA1I6VMPU5PcxZi1tkU3lRe6ja5f5a64c

[14] "African American Cemeteries and the Restoration Movement" University of Georgia https://digilab libs uga edu/cemetery/exhibits/show/brooklyn/african-American-cemeteries-an?fbclid=IwAR3eukiEHFl0w6q2F7488J0UbAhvXKTA328V

[15] "Grave Matters: The Preservation of African-American Cemeteries" by the Chicora Foundation, page 5 http://www chicora org/pdfs/Grave%20Matters%20-%20The%20Preservation%20of%20African%20American%20Cemeteries pdf?fbclid=IwAR2RIXr7kH3S-fWPvic6vGEfnZsA1I6VMPU5PcxZi1tkU3lRe6ja5f5a64c

[16] "African American Cemeteries and the Restoration Movement" University of Georgia https://digilab libs uga edu/cemetery/exhibits/show/brooklyn/african-American-cemeteries-an?fbclid=IwAR3eukiEHFl0w6q2F7488J0UbAhvXKTA328V

[sic] to the negative perception of Black cemeteries as being abandoned and unkept."[17] Anderson cemeteries, mentioned in the citation, is located in Henrico County, Glen Allen, Virginia[18] and is included as a regional example of an African/African American burial ground/cemetery.

Many old cemeteries are in danger of being destroyed by encroaching economic development projects; however, it is more common that African American cemeteries are removed and erased from history and their communities.[19] The removal of African American cemeteries and burial grounds has become such a problem that new legislation has been introduced to protect these cemeteries and burial grounds.[20]

The African American Burial Grounds Network Act, also known as HR 1179, was created by Rep. Alma S. Adams (D-NC) and Rep. A. Donald McEachin (D-VA) to preserve and protect African American cemeteries and burial grounds and African American history.[21, 22]

Ignorance of a culture's heritage and traditions is not an excuse for discriminatory actions (or inactions) by government entities. It is the duty of the Respondent to at least respect the variety of cultures and traditions that make the United States a uniquely diverse country. Every effort should be made by the Respondent to prevent discrimination on the basis of gender, race,

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[17] "African American Cemeteries and the Restoration Movement" University of Georgia https://digilab libs uga edu/cemetery/exhibits/show/brooklyn/african-American-cemeteries-an?fbclid=IwAR3eukiEHFl0w6q2F7488J0UbAhvXKTA328V

[18] "Marker unveiled at historic Glen Allen cemetery", by the Henrico Citizen, May 14, 2019 https://www henricocitizen com/articles/marker-unveiled-at-historic-glen-allen-cemetery/

[19] "Gentrification is erasing black cemeteries and, with it, black history" by Christopher Petrella, The Guardian, April 29, 2019, https://www theguardian com/commentisfree/2019/apr/27/gentrification-is-erasing-black-cemeteries-and-with-it-black-history?CMP=share_btn_fb&fbclid=IwAR3MpQ3gVHK0h1BuGPhZ81qkcFD3nyu6OtzYqEcqjYCS2PDlGCOq618V-tk

[20] "New Legislation Seeks To Protect Lost African-American Burial Grounds", by David Anderson, Forbes, Feb 13, 2019, https://www forbes com/sites/davidanderson/2019/02/13/new-legislation-seeks-to-protect-lost-african-American-burial-grounds/?fbclid=IwAR1ZFLlfhyBgFE57zELkkh8iGqTwxFFs7R8BwlMGaQvBs11RpAWeEqhKAfw#362306685dd8

[21] "Lawmakers Introduce African-American Burial Grounds Network Act", By George Kevin Jordan, The Afro, March 9, 2019, https://www afro com/lawmakers-introduce-african-American-burial-grounds-network-act/?fbclid=IwAR3kAbSfnJZRjFyJQVeF4YjqMlme7PORb8AEfy20

[22] The African American Burial Grounds Network Act, HR 1179, https://mceachin house gov/sites/mceachin house gov/files/documents/2019-02-11%20Adams_McEachin%20African%20American%20Burial%20Ground%20Network%20Act_0 pdf

color, disability or national origin. The Respondent, being a federally funded agency, should have the awareness, knowledge, and training to not only recognize African American historical sites, but handle them respectfully and appropriately. It should be unnecessary to state that equal rights apply not only to living African Americans, but also in terms of treatment of the burials of their ancestors. The approach of respect is a true embrace of a more perfect union and should be the minimum for compliance. If any government should so choose to consider the ancestral bioarchaeological resources of any population irrelevant or disposable, then we should consider how the living descendants are being treated by that same government. This essential disrespect is the basis for the persistence of the cultural property crime of African and African American burial ground and cemetery desecration in the United States in conjunction with the perpetual state of historically trafficked victims within an archaeological matrix of monetization.[23] The monetization of the historically trafficked individual even in perpetuity, through the malicious use of zoning, and through suspension within a societal matrix of inequity in historic preservation schema, in tandem with suspect contract/compliance-based archaeological and historic preservation practices parading under the guise of 'compliance' or other such constructs of an historically divided nation can not be tolerated by a civilized society or be it to their internal and infernal detriment.

Under no circumstance should the bioarchaeological resources of any race be subjected to perpetual trafficking and an unending state of enslavement. These interred people should be afforded the same equality in archaeological representation as any other race. Any disparities will be reflected in the fabric of our very nation and the current disparities in the treatment of living descendants. This is the lesson of the importance of ancestors in the community of the living and why we must learn to pay attention to the treatment of the dead, entrusting their care to the appropriate Descendant Community, their approved specialists and allies, and not to the exploitation of the descendants of their traffickers. They deserve this justice. We deserve this chance to heal as a nation.

[23] Black Gold White Coma TRHilburn 10-2020 pdf

5. RAD's Previous Title VI Complaint filed for the Cemeteries and the Interred Population

On September 23, 2019, RAD filed a Title VI Complaint with the United States of America National Park Service, Department of the Interior, Office of Civil Rights; United States of America Environmental Protection Agency, Office of Civil Rights; United States of America Department of Transportation, Departmental Office of Civil Rights; and Federal Highway Administration Office of Civil Rights outlining disparate discriminatory actions committed against the Cemeteries and its interred population by the following Respondents:

- The West Virginia State Historic Preservation Office
- The West Virginia Department of Environmental Protection
- The West Virginia Department of Transportation
- Jefferson County Commission and its sub-agencies: Jefferson County Historic Landmarks Commission, Jefferson County Office of Engineering; and the Jefferson County Clerk

The EPA has opened an investigation, Complaint Nos. 03R-19-R3 and 04R-19-R3. The DOI has opened investigations as well, Complaint Nos. PCRNPS-03-20 & PCRNPS-04-20. The FHWA did not open an investigation and deemed financial jurisdiction was not met, the Complainants disagreed.

IV. RECIPIENT: THE CITY OF RANSON

A. Federal Funding

The City of Ranson (CoR) Federal Funding

Fed. Agency	Start Date	End Date	Award ID	Amount
HUD	Feb 14, 2011	Feb 20, 2014	CCPWV0042-10	$271,500
EPA	Oct 01, 2011	Sep 30, 2015	96307901	$200,000
EPA	Dec 01, 2010	Dec 31, 2012	83490801	$139,960

TIGER GRANTS [24] [25]

Project Name	Ranson-Charles Town Corridor Revitalization
Applicant	City of Ranson, WV
Round	TIGER 2010 Planning
Urban/Rural	Rural
Project Type	Planning
Modal Administration	FTA
Project Description	The Green Corridor Revitalization Initiative will create a plan to: improve the community's main roadway into a Complete Street with green infrastructure; transform a historic public building into a regional Commuter Center; and tie these transportation improvements together with a zoning code that will support vibrant, walkable, and sustainable community development.
Amount	$708,500.00

Project Name	Ranson-Charles Town Green Corridor Revitalization
Applicant	City of Ranson, WV
Round	TIGER 2012
Urban/Rural	Rural
Project Type	Road

[24] https://www.transportation.gov/policy-initiatives/build/awards-2009-2020

[25] https://cms8.dot.gov/sites/dot.gov/files/docs/TIGER%202%20Planning%20GRANTS%20Highlights.pdf

Modal Administration	FHWA
Project Description	TIGER funds will be used in rural Jefferson County to expand the north-south Fairfax Boulevard by 1000 feet to connect the communities of Ranson and Charles Town to new growth areas at the north end of Ranson. The existing portions of Fairfax Boulevard and George Street will be transformed into an innovative, walkable, complete green street anchored by a new Charles Town Commuter Center. The Commuter Center will boost transit ridership via the regional PanTran commuter bus, MARC rail system, and Amtrak.
Amount	$5,000,000.00

In 2011, the CoR received a combined total of $1.4 million in planning grants from the Partnership for Sustainability agencies – DOT, HUD and EPA.

The CoR purportedly used these grant monies to pay consultants, employees, etc. for the creation of a Comprehensive Plan, zoning code ordinance implementation, brownfield cleanups, street construction, and a commuter train center (Northport Station):

> " An EPA Brownfields Area-Wide Planning Grant will help the community prioritize which contaminated sites should be cleaned up first and will help with reuse plans for the area. EPA's Sustainable Communities Building Blocks assistance will help the community to review its development codes to make sure they are not stumbling blocks to smart growth. A TIGER II grant from DOT will help plan for a complete street on the important Fairfax Boulevard/George Street corridor. A HUD Challenge Planning Grant will help Ranson develop a smart building code to make the town more compact and walkable."[26]

The efforts listed above that directly negatively affected the Cemeteries were zoning changes for the proposed commuter train center (Jefferson Orchards' property) and the CoR's Comprehensive Plan. The Complainants argue that the CoR misused these funds to intentionally discriminate against the Cemeteries. These funds aided the CoR in developing zoning and plans that excluded and discriminated against the Cemeteries and the interred population and any undiscovered/undelineated historic burials within the CoR District. Zoning, along with quit claim deeds and predatory lending, has been used historically against living African Americans

[26] "Gov. Glendening to kickoff planning workshop in Ranson, WV" By Tyler Falk · August 31, 2011, https://smartgrowthamerica.org/gov-glendening-to-kickoff-planning-workshop-in-ranson-wv/

to deprive them of real property and land use privileges, therefore, it is not surprising that use of zoning still occurs in a manner that would deprive African Americans of important bioarchaeological resources and cultural properties such as historic cemeteries. In essence, zoning is used to 'redline' historic African/African American burial grounds/cemeteries and as a mechanism of predation upon historic African American burial grounds and cemeteries. This mechanism of hatred is amplified and becomes perpetually harmful to African American public health when African/African American burial grounds/cemeteries have been impacted by past racist use of zoning to leverage their communities out of properties to perpetuate gentrification, thereby perpetuating the brutal actions committed by historic traffickers against the historic victims of trafficking and causing a brutal forced separation of the survivor diasporic community from ancestral burial grounds. Many African American burial grounds and cemeteries have been subjected to absolute erasure above ground, such as the case with Macedonia Baptist Moses Cemetery in Bethesda, Maryland and the long erased African American community once present on River road.[27] Historically, there is a strong coincidence of displacement of living African American communities and subsequent forced dissociation of an African American Descendant Community from their ancestral burial grounds. In the absence of the appropriate stewardship of their Descendant Community, the African/African American burial ground/cemetery then exists as an open target for exploitative zoning violations and continual 'erosion' due to predation of corporate developers and other entities with no interest in the proper stewardship of the bioarchaeological resources of the displaced African American descendant community other than to egregiously 'flip' the property, summarily dispose of any bioarchaeological/archaeological strata, and finalize the erasure with a parking lot or other structure, a rather dysfunctional and insipid *iad uroboros* symbolizing the final solution as the erasure and absolute definitive extraction of the monetary 'investment' of the historic trafficker, the extraction of every last profit from the exploitation of a trafficked people as 'agricultural product' and a final injustice of erasure from the very archaeological record of the trafficked Africans who continue to be monetized as property even in their sacred graves.

[27] Ottery Draft Report Historical Cemetery Assessment of Parcel

In many cases, a feature of the archaeological stratigraphic composition of a desecrated African/African American burial ground/cemetery is a *'stratigraphy of hatred*' evident in so-called 'fill dirt' or 'trash' stratigraphy, i.e. the bulldozed architectural remnants and cultural material of an historically displaced African American community, in many cases summarily destroyed after redlining, bulldozed and then deposited upon an ancestral African/African American burial ground or cemetery earlier in the 20th century, paved over, and then sealed off for future exploitation by predatory developers who will simply state that the strata consists simply of trash and backfill soils and therefore not worthy of proper archaeological mitigation and Descendant Community involvement .[28] We do not wish to see this situation repeated in the cases of the Cemeteries that are the subject of this complaint.

B. Timeliness of Complaint

The CoR's rasicm and intentional discrimination against the Cemeteries and its interred population has been ongoing since at least 2004.

40 CFR § 7.120(b)(2), 49 CFR § 21.11(b) , and 24 CFR § 1.7(b) requires that a complaint alleging discrimination under a program or activity receiving Federal financial assistance must be filed within 180 days after the alleged discriminatory act.

The Complainants argue that June 30, 2020, is the most recent interaction of consequence with CoR regarding the Cemeteries. On June 30, 2020, the CoR enacted spot zoning for Rockwool which did take into account the graves in the District of Ranson, on Rockwool's property, and beyond the boundaries of the Cemeteries.

The 180 day limitations period ends December 27, 2020. This complaint was sent via email and U.S. Priority Mail on December 24, 2020, to respective federal agencies.

C. Discriminatory Acts

1. 2004 CoR Annexation of Jefferson Orchard and Graves

In 2004, the CoR shoestring annexed about 500 acres from the unincorporated village of Kearneysville, West Virginia, in the Jefferson County district of Middleway. The annexed land

[28] The Grim History Hidden Under a Baltimore Parking Lot - Atlas

was owned by Jefferson Orchards and its primary land use was agriculture for the production of apples and other fruits. Included in this annexation were more than 23 marked and unmarked graves (Exhibit U) which the CoR usurped from the African American Boyd Carter Memorial and Methodist Cemeteries. Many informal historic graves are marked solely with large informal flagstones or fieldstones, but even so, to trained professionals in archaeological and historic site preservation, had any been present, it would have been obvious that graves were being impacted and destroyed in the annexation process when survey work was being performed and further studies, conversations, meetings, etc. should have included discussions about any adverse impact of the work upon unmarked or marked graves. As mentioned before, these Cemeteries lacked guardianship and the onus fell upon the CoR to research the Cemeteries, survey for locations of any extant burials/graves in the area beyond the historic undelineated Cemeteries' boundaries, to confer with descendants and the public through the normal model of a memorandum of agreement, and at the very least presented to the public legal notices in a manner and within a scope of timely response in order to indicate and announce that the CoR activity would impact an undelineated historic African/African American burial ground and its two formalized known historic Cemeteries, providing public opportunity to review per the fact that the CoR scope of work was within the environment of human burials and therefore may impact human burials. West Virginia laws exist that prohibit the destruction of graves and govern cemetery processes. The CoR did not adhere to any of these laws. The CoR obfuscated, perhaps intentionally, information available to the public about possible adverse impacts to the Cemetery and further buried these historic burials underneath a miasma of bureaucracy, zoning and industrial 'redlining' as well as making the process less than transparent to the public at large.

These graves were bought and sold as chattel with the land, a possibly modern criminal activity and an opportunity for the morally reprehensible reiteration and perpetuation of an insipid bureaucratic insistence that the historically interred population would remain enslaved within the historic criminal scheme, remaining firmly in the modern era within the sphere of influence and clutches of the historic trans-national human trafficker. In the end, the burials of these survivors, slated through zoning to be redlined, and dissociated from the whole of the Cemeteries and the burial grounds, laundered through absolute final archaeological erasure, rendered inaccessible as a bioarchaeological resource for their descendant communities, and

extracted for the last monetary 'value' of the primary criminal investment of that historic trans-national trafficker of humans whose criminal brutality reaches almost from beyond the grave through an infernal machine of bureaucracy that has no time for the preservation of the burials of historically trafficked souls, only working to promote the final 'extraction' of value, an earthly extension of a hateful and criminal United States history. All of this so, that, in the end, the real property could be laundered of the burials of the interred population and 'flipped' to extort the final proceeds of historic trans-national human trafficking, a wretched grasping at the last illicit gain, the payout of a long arc of criminal activity that spans the entire timeline of our national history, a cold extraction of any value from the burials of these individuals, survivors of trans-national human trafficking, with little regard for their descendants. No, they would not be spared from the clutches of their traffickers even in their eternal resting places. This is a victims' rights issue historically and in the present era.

In other words: no justice, no peace.

2. Ranson Renewed & Federal Grants

In 2011, the City of Ranson and the City of Charles Town were selected by three federal agencies, HUD, DOT, and EPA, to serve as a national model for how small rural cities on the fringe of a major metropolitan area can foster sustainable economic development, transit, and community livability through targeted and strategic planning and infrastructure investments. This project was called "Ranson Renewed". Teams working on the EPA, DOT, and HUD-funded projects, as well as the Comprehensive Plan, spent a week in September 2011 working and holding numerous public meetings and workshops to engage city officials, residents, and the business community in considering ideas and actions to help guide Ranson, Charles Town, and Jefferson County towards a future rich in opportunity for families and businesses. Through the aid of Federal funds, in 2012 the CoR created and adopted its Comprehensive Plan which included the CoR's new implementation of SmartCode zoning ordinances.

Surely, all of this planning should have accounted for the proper stewardship and historic preservation of the Cemeteries. However, inequities in access to and representation in historic preservation schema seem apparent to the Complainants. Surely a truly "Comprehensive Plan"

that seeks to provide equity in prosperity also includes equity of representation in historic preservation and not solely as an abject reiteration of earlier historic criminal activity and a debased machine for the laundering of illicit criminal gains.

3. 2012 Jefferson Orchards Rezoning Request

On March 26, 2012, the CoR approved rezoning for Jefferson Orchards from the original zoning classification of Rural Reserve to Smart Code-New Community. Within the Smart Code-New Community rezone were several transect districts (T1 - T5), a Special District Business (SDB), and a Special District Industrial. (Exhibit V) This rezoning was allegedly approved to accommodate CoR's new plan for Jefferson Orchards: the NorthPort Station and associated mixed-use community which will be discussed in the next section. The 2012 rezoning of Jefferson Orchards would mark the second time the CoR blatantly disregarded and discriminated against the Cemeteries and the African/African American graves they extracted from the Cemeteries.

Complainants argue this rezoning request should not have been approved due to the 23+ graves within the CoR district/Jefferson Orchard's property. Note the rezoning areas containing historic African/African American graves were approved for Special District Industrial (Exhibit W). Per Ranson Zoning Code, Industrial Special District (SDI) was inappropriate zoning for Cemeteries, gravesites, and graves:

> "Chapter 19A - Article 1 - General[29]
> 1.4 Transect Districts
> 1.4.3 The following special districts are designated for uses and configurations that are incompatible with transect districts, but that are consistent with Section 1.2 Intent:
> a. Business Special District (SDB): a primarily single-use district for business, manufacturing, warehousing and light industrial uses.
> b. Industrial Special District (SDI): a primarily single-use district for heavy industry, manufacturing, and large employment complexes."

[29] Ranson, WV SmartCode, Chapter 19A - Article 1 - General, 1.4 Transect Districts https://library.municode.com/wv/ranson/codes/smart_code?nodeId=Article1

Also noted on page 2, "Existing Conditions", of Jefferson Orchards' rezoning request (Exhibit X) information was omitted about the neighboring Cemeteries and the historic African/African American graves lying within the CoR Special District Industrial/Jefferson Orchards property footprint. Even more egregious, the request claims on page 3 (Exhibit Y) that the neighboring property to the west is "residential". Although the Cemeteries are located here and it should not be residential, this is not entirely historically inaccurate. Harts Town was the community that surrounded this large African/African American burial ground and its two formalized Cemeteries that are the subject of this complaint. What specifically makes this zoning egregious is the environmental racism initiated by this classification. The neighboring section to the west is part of Harts Town, an historically African American community. Harts Town still has strong African American ties and is a low-income community. So, the planners and the CoR decided that the designation of a Special District Industrial zone to accommodate heavy industry users (future home for Rockwool) would be more suitably located neighboring a historically Black community and undelineated African/African American Cemeteries rather than situating the heavy industry to the east side of their project which would have neighbored Hazelfield[30], a property on the National Register of Historic Places and, horribly ironically, an historic site built by a slave master/historic human trafficker known as Ann Stephen Dandridge Hunter, who claimed as her property some of the very trafficked persons/slaves buried in the historic African/African American Cemeteries that are the subject of this complaint.

The many marked historic and modern African/African American graves within the Cemeteries and lying within the CoR/SDI zone made it impossible to say this was an oversight. The CoR's denial of graves and SDI zoning approval put this interred population in peril. This 'redlining' is essentially just another iteration of the practice as evidenced in historic preservation although it is no less offensive. This 2012 egregious, discriminatory zoning change gave the future green light for Rockwool construction and the natural gas pipeline to serve Rockwool, causing irreparable harm to the Cemeteries, its interred population, trees and vegetation belonging to the Cemeteries, impacted and possibly erased summarily historic burials both formal and informal, caused unknown damage to the historical, bioarchaeological and

[30] https://en.wikipedia.org/wiki/Hazelfield

archaeological integrity of the overall site and the formally delineated historic African/Afrrican American Cemeteries within a larger cultural horizon of extant architectural and topographic features known as the historic African American community of Harts Town. It is probable that there is an unknown adverse impact to the larger undelineated, unexplored surrounding dumping ground/burial ground at this site of an historic confluence of plantations which likely holds many more interred outside of the current known interred. Please refer to RAD's Title VI complaint with the EPA (Complaint Nos. 03R-19-R3 and 04R-19-R3) and DOI (Complaint Nos. PCRNPS-03-20 & PCRNPS-04-20) for details relating to the Cemeteries' destruction of historic African/African American graves from above mentioned intrusive and destructive construction activities that resulted in unmitigated damage to an untold number of historic African/African American formal and informal burials.

Complainants assert the CoR's actions were intentional discrimination and a form of exclusionary zoning. These historic African/African American graves were literally excluded from the zoning and the Complainants firmly assert that the CoR believed the Cemeteries and their graves were not worthy of mentioning nor saving from any future development because *it was a poor Black cemetery that no one cared about nor would miss*. They remained, in death, simply property of the nation-state that had once trafficked them historically.

4. Northport Station

In 2011, the concept for the Northport Station was created and the future home for this project would be Jefferson Orchards. The Northport Station project would relocate the current MARC train station from Duffields, create a multi-modal facility, and a mixed use neighborhood.

The Hagerstown/Eastern Panhandle Metropolitan Planning Organization (HEPMPO), conducted a study entitled "Cities of Ranson and Charles Town Transportation Development Fee Study" for this and several proposed projects:

> "This study was developed with the Cities of Ranson and Charles Town, West Virginia Department of Transportation and the Hagerstown/Eastern Panhandle MPO. The transportation development fee study included estimating a "build-out" growth scenario, analyzing roadway congestion needs, identifying potential transportation projects to

address those needs, allocating project costs to new development, and estimating the fee structure for different land use types."[31]

In 2015, again the HEPMPO partnered with the CoR for another, more robust study entitled "Northport Station Feasibility Study".[32] The HEPMPO reportedly paid an estimate of $108,000 to consulting firm, Michael Baker International, for this study.[33] The Complainants are confident much more Federal funding was used on the Northport Station project as this project was a huge, multi-agency endeavor. In addition, a task force was created to:

> "Working with multiple private, state and local partners and landowners (the Northport Task Force), the Hagerstown/Eastern MPO and its consultants developed and presented this study to the City of Ranson. Northport Station is the proposed center-piece of a future smart growth transit-oriented development that will also replace the obsolete Duffields Stop on the MARC commuter rail system. This study performed site selection analysis on the Jefferson Orchards property, performed preliminary environmental screening, determined station design layouts and costs, ridership and traffic impacts and provided an implementation plan."[34]

The CoR used federal funds from the $1.4 million in planning grants from the Partnership for Sustainability agencies – DOT, HUD and EPA to assist with the creation of their 2012 Comprehensive Plan and zoning ordinances. Jefferson Orchards and the Northport Station project benefited from these zoning changes to the detriment of the undelineated Cemeteries and an untold number of graves. (Exhibit Z):

> "Ranson's planning efforts provide a vision focusing on Sustainable Communities and Complete Streets to revitalize the effects of manufacturing closures and vacant industrial sites. The Ranson and Charles Town communities are serving as a national model for small rural cities on the fringe of a major metropolitan area by fostering sustainable economic development, transit and community livability through their

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[31] The HEPMPO study, "Cities of Ranson and Charles Town Transportation Development Fee Study" https://c666713d-dd04-4e6d-b967-64f6e43533a8.filesusr.com/ugd/116f69_466536d4b0d5430cbffdb24010776ab1.pdf

[32] The HEPMPO, "Northport Station Feasibility Study" https://c666713d-dd04-4e6d-b967-64f6e43533a8.filesusr.com/ugd/116f69_89ac8e49d7dc47ff9c7b97a084ced4e1.pdf

[33] The Journal, "Northport Station feasibility study nears its completion", May 20, 2015 https://drive.google.com/file/d/1rDTLBZJka4mi4plfy_elr3qgzpJsUApv/view?usp=sharing

[34] HEPMPO description for Northport Station Study: https://www.hepmpo.net/studies

planning efforts and infrastructure investments. **Working closely with federal and state agencies, Ranson has leveraged significant grant and local funding to create a new vision and plan for smart growth. This includes Ranson's use of a HUD Sustainable Communities Challenge Grant, a U.S. EPA Brownfields Area-Wide Planning Grant and other resources to create the Ranson Comprehensive Land Use Plan, a Ranson "Smart Code," and a site use plan for the Jefferson Orchards property as described in this report.**" (emphasis added)

CoR's Resolution #2015-22 details the usage of federal funds and Jefferson Orchards' new zoning (Exhibit AA):

"WHEREAS, within the 2012 Ranson Comprehensive Plan, the Jefferson Orchards property is highlighted as one of the major development projects within the region and was selected by the Ranson City Council and Ranson Planning Commission as a property to demonstrate "SmartCode" regulations to promote traditional-neighborhood, mixed-use, and green focused development. The approved plan allows for a Village, Town Center or Transit Oriented Development. Within the Comprehensive Plan, the proposed relocation of the Duffields MARC Stop to Jefferson Orchards is supported;"

A "green focused development" this land would never be. The CoR's misuse of federal funds to change the zoning to Industrial Special District zoning for Jefferson Orchards was discriminatory in allowing heavy industrial activities to occur next to the Cemeteries where, undoubtedly, the footprint of these two historic African/African American Cemeteries extends in the soil horizons beyond its undelineated and obscured borders, creating a scenario of environmental racism and archaeological erasure. This zoning change would be beneficial and attractive to the heavy industrial Danish company, Rockwool, which would later choose the majority of this land including the area known to be a certain location of African/African American burials/graves, for their factory in 2017. (Exhibit BB)

"Under the adopted "Ranson Smart Code" land development ordinance, the Jefferson Orchards site has obtained full zoning and site plan entitlements from the City of Ranson to include commercial, residential and industrial mixed uses. The Transit Oriented Development (TOD) plan provides a smart growth vision for the property focused around a new MARC commuter station."

While the Northport Station Feasibility Study admits to not fulfilling criteria for National Environmental Policy Act (NEPA), it did highlight possible areas of concern and claims the report provided Environmental Due Diligence screening (Exhibit CC):

> "An Environmental Due Diligence screening was completed for the parcel being considered for acquisition and development. The Environmental Due Diligence Document does not fulfill requirements under the National Environmental Policy Act (NEPA) but rather is intended to highlight environmental subject areas most likely to require detailed study as project planning progresses. If and when the project does progress, the appropriate coordination must occur with the WV Division of Highways (DOH), the WV State Rail Authority (WV SRA), the Federal Highway Administration (FHWA), the Federal Railroad Administration (FRA), and other agencies as indicated throughout the Environmental Due Diligence Document. A summary of the Due Diligence findings is provided in Table 3 and the full report is attached as Appendix B."

Note in Table 3, Appendix B (Exhibit DD) this is the 1st mention and admission of the Cemetery from the CoR/Jefferson Orchards' activities that Complainants have found on the record. Also note, the study recommends "Additional Coordination or Analyses Warranted".

Appendix B of this study admits to the fact that marked graves are known to exist within the subject parcel and that any future improvements to Granny Smith Lane will impact the burial ground (Exhibit EE):

> "**There are at least two dozen marked graves located within the subject parcel, north of Granny Smith Lane and west of the intersection with 1st Street.** The graves are scattered through an area that is partially maintained lawn and partially forested (Figure 2). A complete survey of the memorial stones was not completed, but observed dates ranged from 1901 to 1990. **The burial ground is significantly beyond the limits for the proposed multimodal transportation facility but may be impacted by any future improvements to Granny Smith Lane or by any transit-oriented development proposed separately from the multimodal transportation facility**." (emphasis added)

The Complainants are forced to ask how anyone could step foot on this sacred ground, see headstones and graves lying within CoR district, and read admissions that these historic African/African American burials are located within the subject parcel and NOT take additional measures for historic preservation and archaeological analyses. This study provided the CoR with unequivocal evidence, in writing, of the Cemeteries' existence, of marked graves within the

CoR district, and recommended some avenues for future proper handling procedures. The CoR never heeded any of this study's advice. The CoR continued to brush the Cemeteries and graves lying within their District under the rug. This CoR gross malfeasance would be detrimental to the Cemeteries and its modern and historic African/African American graves when Rockwool began negotiations with CoR and other involved entities before their initial disturbance of soils in November 2017.

5. CoR Spot Zoning for Rockwool

At the beginning of 2017 Rockwool, a Danish mineral wool insulation factory, came to Jefferson County and chose Jefferson Orchards (and the area of an undelineated African/African American burial ground with two known formalized Cemeteries) as the location for their factory. Under non-disclosure agreements and the code name "Project Shuttle", negotiations began and West Virginia state/local deals were struck and red carpets rolled out… all without meaningful public participation.

Rockwool's purchase of the Jefferson Orchards parcel was larger than the originally zoned Special District Industrial. A rezoning to incorporate all of Rockwool's land (including both modern and historic African/African American graves) would be necessary. Rockwool would also become the new owners of the more than 23 graves which extended beyond the undelineated historic African/African American Cemeteries' boundaries.

On September 5, 2017, the CoR again rezoned the additional land which were transect districts to Special District Industrial to accommodate Rockwool. (Exhibit FF) Less than one month earlier (July 18, 2017) the CoR City Council voted to change their regulations and requirements for Smart Code - Special District Industrial and Special District Business substantially removing many of the limitations on buildings, use, maintenance, and changing building height requirements to allow for Rockwool's 21 story twin smokestacks (Exhibit GG). These changes were critical to allow for heavy industry and to accommodate Rockwool.

Installations such as Rockwool would not have been possible without the substantial changes the CoR accommodated for and Jefferson Orchards was the shill for the rezoning application. The negotiations for purchase of Jefferson Orchard's property by Rockwool were already well underway and were finalized on October 20, 2017. In addition, the CoR was

making many negotiations with Rockwool already by the time the rezoning was approved and by the CoR Planning Commission's own admission, began negotiations with Rockwool in January 2017. [35] The CoR entered into a Payment in Lieu of Taxes (PILOT) Agreement (CoR Resolution #2017-033)[36] and Memorandum of Understanding (CoR Resolution #2017-032)[37] with Rockwool on July 18, 2017. In their PILOT Agreement parties agreed:

> "Contingences. This Agreement is made expressly contingent upon the occurrence of the following conditions precedent ("Project Contingencies"), the failure of any of which will entitle Company to unilaterally terminate this Agreement without any penalty or obligation:
>
> a. Site Acquisition: Company shall close on the West Virginia Site within 120 days of fully executing this MOU ("Site Closing") and upon terms and conditions acceptable to Company, including, but not limited to, Company being able to obtain acceptable representations, warranties, covenants, indemnities, and title for the West Virginia Site and contingent upon the completion of the subdivision and rezoning of the parcel by the Company, seller, or designated third party;
>
> c. Zoning and Land Use: Company, seller, or designated third party, shall obtain and secure all lot changes, zoning changes, permits, including air permits, and/or any other land use approvals necessary to use and operate the Facility at the West Virginia Site in accordance with its intended plans."

The CoR made it very easy for Rockwool as it was granting all rezoning requests even at the detriment of the Cemeteries. Under the PILOT agreement, the Jefferson County Development Authority will hold Rockwool's land and appurtenances for 10 years, including the Cemeteries' usurped graves.

To change the zoning of Jefferson Orchards, a Class II legal notice was required to be published twice before the hearing and second reading of the ordinance that would change the zoning. However, in their haste to accommodate Rockwool, the CoR only published a single

[35] 7-10-2017 CoR Planning Commission Meeting audio recording: https://drive.google.com/file/d/1isHTxOtkHgv2HGksuYIkgHAjgfNk6kQS/view?usp=sharing

[36] Payment in Lieu of Taxes (PILOT) Agreement (CoR Resolution #2017-033), 2017-07-18 City Council - Public Agenda-1056: https://drive.google.com/file/d/1f2fCbvVX8CDXc2n55LaXR1L5vzOKMtUi/view?usp=sharing

[37] Memorandum of Understanding (CoR Resolution #2017-032), 2017-07-18 City Council - Public Agenda-1056: https://drive.google.com/file/d/1f2fCbvVX8CDXc2n55LaXR1L5vzOKMtUi/view?usp=sharing

legal notice in the Spirit of Jefferson on July 6, 2017 (Exhibit HH). In the CoR's haste to accommodate Rockwool and, combined with the publication of only one legal notice, this made public participation extremely difficult if not impossible for many stakeholders.

The CoR's spot zoning for Rockwool, once again, did not take into consideration historic informal or formal African/African American burials/graves lying within the footprint of what was now the CoR's district. The CoR once again discriminated against the Cemeteries and its graves, this time for a foreign, polluting corporation who also would deny any existence of an historic undelineated African/African American cemetery and its human burials within the boundaries of their property in due diligence reports. Please refer to RAD's Title VI complaint with the EPA (Complaint Nos. 03R-19-R3 and 04R-19-R3) and DOI (Complaint Nos. PCRNPS-03-20 & PCRNPS-04-20) for the omission of graves/burials on Rockwool's property in Rockwool and state/local due diligence reports.

All of Rockwool's plat application and zoning should be revoked due to gross negligence excluding the presence of historic African/African informal and formal burials/graves on their property which has led to, but may include more than the current enumeration, elements of harm to the historic register eligibility of the Cemeteries, provided opportunity for unmitigated damage to irreplaceable and important cultural patrimony of African Americans including bioarchaeological and archaeological resources, and allowed the destruction of unmarked and marked informal and formal historic and possibly more modern African/African American graves. According to the CoR code for final site plan application[38]:

> "Article 5 Subdivision & Zoning - 5.1.11 Final site plan application:
> b. **The site plan shall show the following information**:
> ii. Site Conditions
> All existing pertinent features, either natural or **man-made**, that may influence the design of the site, such as watercourses, tree groves, specimen trees of greater than 2' caliper (excluding those within tree groves to remain), swamps, known sink holes, floodplain, jurisdictional wetlands per Army Corps of Engineers, outstanding natural topographic features, items on the National Register of Historic Places, **grave sites**, existing buildings, sewers, water mains, culverts, overhead utility lines, fire hydrants, and location of underground

[38] Article 5 Subdivision & Zoning - 5.1.11
https://library.municode.com/wv/ranson/codes/smart_code?nodeId=Article5

utilities within the tract." (emphasis added)

As required by the CoR Code, a plan was never submitted by Rockwool to the CoR of Rockwool's intentions for the mitigation of damage or avoidance of historic or modern African/African American burials/ graves on its property[39]:

> "Chapter 16 - PLANNING AND DEVELOPMENT
> ARTICLE II. - SUBDIVISIONS, DIVISION 7. - DESIGN STANDARDS
> Sec. 16-92. - Lots and lot size.
> General requirements.
> (11) **The applicant shall describe, in text and drawing, how cemeteries, historic landmarks, gravesites, and historic structures will be treated, preserved, and/or accommodated within the design of the development.**" (emphasis added)

Discrimination and environmental racism against the Cemeteries and its graves occurred again in 2017 just like in the 2012 rezoning of Jefferson Orchards to Special District Industrial. Again, Cemeteries, graves, and gravesites are not allowed in Special District Industrial zones per the CoR code[40].

Usage of Special District Industrial spot zoning specifically for Rockwool discriminated against the Cemeteries by not including the Cemeteries and its graves lying within their district into consideration. Industrial zoning is not proper zoning for the Cemeteries. This gross, intentional discrimination and negligence led to irreparable harm to the Cemeteries and placed any and all known and unknown formal and informal modern and historic African/African American burials/graves within the area of the two historic undelineated Cemeteries and within the larger context of an undelineated historic dumping ground/burial ground in peril.

[39] CoR Code Chapter 16 - PLANNING AND DEVELOPMENT, ARTICLE II. - SUBDIVISIONS DIVISION 7. - DESIGN STANDARDS, Sec. 16-92. - Lots and lot size. General requirements. (11) https://library.municode.com/wv/ranson/codes/code_of_ordinances?nodeId=PTIITHCO_CH16PLDE_ARTIISU_DIV7DEST_S16-92LOLOSI

[40] Ranson, WV SmartCode, Chapter 19A - Article 1 - General, 1.4 Transect Districts https://library.municode.com/wv/ranson/codes/smart_code?nodeId=Article1

6. CoR's 2020 Public Notices for Proposed Ordinance #2017-302

In 2019, in response to a lawsuit brought by a citizens group, Circuit Court Judge Hammer found that the ordinance changing the zoning was improperly noticed and in doing so reset the zoning to "Smart Code – New Community".

In addition to not properly advertising the legal notice, the CoR is required by West Virginia state code §8A-7-5[41] to hold two public hearings, one during the day and one during the evening:

> §8A-7-5. Enactment of zoning ordinance.
> (a) After the study and the report, and before the governing body enacts the proposed zoning ordinance, the governing body shall hold at least two public hearings and give public notice. At least one public hearing shall be held during the day and at least one public hearing shall be held during the evening.

The CoR had two public hearings in the evening on August 15, 2017 at 7:00 PM and September 5, 2017 at 7:00 PM, however, no public hearings were held during the day.

To appease the court and as legally required, the CoR properly advertised the Class II legal notices for Proposed Ordinance #2017-302 in May and June 2020 and had public hearings on June 16 and June 23, 2020. The CoR used the exact same 2017 resolution language (Exhibit II) which is fundamentally and technically incorrect because the owners are no longer Jefferson Orchards, but are now Rockwool. The CoR did not change the language because it would without a doubt be evidentiary for a case of noncompliant spot zoning usage to accommodate Rockwool.

Ranson's public notice for this Proposed Ordinance #2017-302 was lacking pertinent information to allow for meaningful public participation. (Exhibit JJ) In this notice, the public was directed to Ranson's website for instructions on how to submit public comments. The only way for the public to submit comments was to first visit Ranson's website, then submit comments through email. Ranson should have included a way to submit comments by mail, listed an address or location to which comments could be mailed in hard copy format, and included that information in the legal notice publication. Not everyone chooses to use or has

[41] West Virginia state code §8A-7-5: http://www.wvlegislature.gov/WVCODE/code.cfm?chap=08a&art=7

access to email and the internet. No deadline was listed in the public notice for public comment submission.

We witnessed, first hand, Ranson's inability to observe timely receipt of public comments per their significant email issues and inability to respond to submissions, including RAD's submitted comments. On June 22, 2020, a day before the hearing, an additional 4,000 pages were added to the already 1,697 page Hearing Agenda Packet. It is highly questionable that the CoR Council could review over 4,000 pages of public comments in less than a day before the hearing on June 23, 2020. The public questioned if their comments were even received and on the record for the Council to review. RAD's comment was completely omitted from the hearing agenda packet.

7. Denial of RAD Public Participation for Proposed Ordinance #2017-302 Hearing

On June 16, 2020, RAD submitted a written public comment by email (Exhibit KK) for the record. RAD is confident the CoR received their email as per a response from Ranson City Council Member, Amanda Stroud, who replied with a thank you for our comments (Exhibit LL). However, RAD's public comment was never added into the Hearing Agenda Packet for public record and to date, it is still not on the record. On June 21, 2020, RAD contacted CoR to make it known that RAD's comment was not included in CoR's agenda packet. (Exhibit MM) On June 22, 2020, CoR Clerk, Ms. Pfaltzgraff, apologized for the omission and stated that RAD's submission would be included. (Exhibit NN) RAD's comments have never been added or included in the public record to date.

In addition, due to CoR's technical difficulties in properly handling the remote public hearing via Zoom, many speakers, including RAD, were unable to deliver their oral public comments. Through a letter posted on CoR's website (and not a legal advertisement), the public hearing and final vote was moved to June 30, 2020. (Exhibit OO) Again, RAD was excluded from oral comments. The CoR only allowed a handful of speakers to speak and most were Rockwool allies. The CoR approved Proposed Ordinance #2017-302 in this June 30, 2020, hearing. The CoR based their approval on the notion that the zoning did not contradict or conflict with their Comprehensive Plan. The Complainants argue the CoR's Comprehensive Plan and all zoning for Jefferson Orchards and Rockwool has resulted in discrimination against

the Cemeteries because there is no architecture of compliance to cultural resource management requirements in these plans and zoning to protect the African American Cemeteries and the interred population within their district and that the Cemeteries, gravesites, and graves should not be zoned Industrial Special District by CoR code. Furthermore, to take advantage of a national public health crisis (the SARS-CoV-2 pandemic of 2020) to selectively block the public from participating in the preservation and stewardship of undelineated historic African/African American Cemeteries is obviously a subject that is most relevant per the national discourse on racism and provides additional evidence of the direct and disparate impact of a public emergency on the living African American populace aside from the obvious disparities in access to medical care. Who can be worried about historic preservation when their entire community is slammed by a pandemic? And, if they were able to respond, the Descendant Community, the Afrodescendant Community and their allies were simply not given adequate opportunity. Surely, this opportunistic use of a national public health emergency against the stakeholders of an undelineated historic African/African American cemetery is to be seen as an untenable and despicable action or, at the minimum, grossly negligent conduct.

RAD was totally shut out of the hearing and public participation process and therefore was not allowed to discuss the Cemeteries and the concerns regarding adverse impact that CoR's zoning would cause further damage to the Cemeteries and irreplaceable African American cultural patrimony and irreplaceable bioarchaeological/archaeological resources.

The Complaints assert that the CoR did not have all the facts regarding the Cemeteries nor were they interested to hear the issues, and intentionally excluded comments involving the Cemeteries, not that there is currently any confidence that RAD's comments would have swayed the CoR's opinion as the CoR seemed highly motivated in its commitment to appeasing Rockwool at any cost and has consistently denied the existence of these two undelineated historic Afircan/Afircan American Cemeteries and their important graves within their district for 16 years.

8. The CoR's Misuse of Federal Funds to aid Rockwool

In an email obtained through a Freedom of Information Act dated May 14, 2018, from then CoR City Manager, Andy Blake, to Jefferson Orchards owner, Mark Ralston; Mr. Blake described how Federal funds were used to benefit Rockwool (Exhibit PP):

> "2. Planning – As you know, in 2012, Jefferson Orchards was selected for a complete rezoning and land development plan **free of charge** to the landowner through a federal and local HUD Challenge Planning Grant. The site was envisioned and planned as a transit oriented development with about a 1/3 zoned special district industrial. This is the **zoning that Rockwool took advantage of** and probably consisted of about $100,000 in **free planning** that **resulted in a completely vested and approved plan** by the **Planning Commission and Council**." (emphasis added)

The Complainants argue that the Federal funds (taxpayers' money) was used to rezone a large portion of Jefferson Orchards to Special District Industrial in 2012, laid a foundation for Rockwool's factory, enticed Rockwool to that property, and saved Rockwool time and money at taxpayers' expense all to the detriment of the Cemeteries and its interred population. The CoR sealed the deal, and with it the fate of two undelineated historic African/African American Cemeteries, with the 2017 rezoning of the remaining 70 acres from transect districts to Special District Industrial to accommodate Rockwool.

D. Authority

1. Department of Transportation (DOT), Federal Highway Administration (FHWA), Federal Transit Administration (FTA)

The purpose 49 CFR § 21 is to effectuate the provisions of Title VI of the Civil Rights Act of 1964 to the end that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program, activity, or subcontract receiving Federal financial assistance from the Department of Transportation.

The Complainants argue the CoR has discriminated against the African/African American Cemeteries and its undelinated graves within its district based on race and has denied their existence, excluded these Cemeteries, its interred population, and their Descendant

Community from its city planning, public participation, and zoning for the Jefferson Orchards/Rockwool property. The CoR has used federal funds to aid in these discriminatory activities to provide preferential treatment to corporations and in doing so has led to irreparable harm to the Cemeteries, its interred population, and its undelineated graves. Specifically, the CoR has violated 49 CFR § 21.5, (b)(1)(i-vii):

"49 CFR § 21.5 - Discrimination prohibited.

(a) General. No person in the United States shall, on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under, any program to which this part applies.

(b) Specific discriminatory actions prohibited:

(1) A recipient to which this part applies may not, directly or through contractual or other arrangements, on the grounds of race, color, or national origin.

(i) Deny a person any service, financial aid, or other benefit provided under the program;

(ii) Provide any service, financial aid, or other benefit to a person which is different, or is provided in a different manner, from that provided to others under the program;

(iii) Subject a person to segregation or separate treatment in any matter related to his receipt of any service, financial aid, or other benefit under the program;

(iv) Restrict a person in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under the program;

(v) Treat a person differently from others in determining whether he satisfies any admission, enrollment, quota, eligibility, membership, or other requirement or condition which persons must meet in order to be provided any service, financial aid, or other benefit provided under the program;

(vi) Deny a person an opportunity to participate in the program through the provision of services or otherwise or afford him an opportunity to do so which is different from that afforded others under the program; or

(vii) Deny a person the opportunity to participate as a member of a planning, advisory, or similar body which is an integral part of the program."

Since there are two DOT Operating Administrations who have jurisdiction regarding this complaint, the Complainants request under DOT 1000.12B the Departmental Office of Civil Rights (DOCR) to coordinate and provide consultation with their Operating Administrations to

ensure all requirements of 49 CFR Part 21 and 28 CFR § 42 for the processing and handling of this complaint:

> 8. COORDINATION
> a. In some instances, more than one OA may have jurisdiction over an applicant, recipient, or program. The OAs, in consultation with DOCR, shall coordinate and jointly determine their enforcement and compliance efforts to the maximum extent possible to reduce duplication, promote consistency, and build programmatic relationships.
> b. When concurrent obligations exist between applicants and/or recipients subject to Title VI, OAs are encouraged to develop practices that promote cooperation in pursuing enforcement and compliance efforts.

2. HUD Authority

The purpose 24 CFR Part 1 is to effectuate the provisions of Title VI of the Civil Rights Act of 1964 to the end that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program, activity, or subcontracts receiving Federal financial assistance from the Department of Housing and Urban Development.

The Complainants argue the CoR has discriminated against the African/African American Cemeteries and its undelinated graves within its district based on race and has denied their existence, excluded these Cemeteries, its interred population, and their Descendant Community from its city planning, public participation, and zoning for the Jefferson Orchards/Rockwool property. The CoR has used federal funds to aid in these discriminatory activities to provide preferential treatment to corporations and in doing so has led to irreparable harm to the Cemeteries, its interred population, and its undelineated graves. Specifically, the CoR has violated 24 CFR § 1.4, (b)(1)(i-vii):

> "24 CFR § 1.4 - Discrimination prohibited.
> (a) General. No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity to which this part 1 applies.
> (b) Specific discriminatory actions prohibited.

(1) A recipient under any program or activity to which this part 1 applies may not, directly or through contractual or other arrangements, on the ground of race, color, or national origin:

(i) Deny a person any housing, accommodations, facilities, services, financial aid, or other benefits provided under the program or activity;

(ii) Provide any housing, accommodations, facilities, services, financial aid, or other benefits to a person which are different, or are provided in a different manner, from those provided to others under the program or activity;

(iii) Subject a person to segregation or separate treatment in any matter related to his receipt of housing, accommodations, facilities, services, financial aid, or other benefits under the program or activity;

(iv) Restrict a person in any way in access to such housing, accommodations, facilities, services, financial aid, or other benefits, or in the enjoyment of any advantage or privilege enjoyed by others in connection with such housing, accommodations, facilities, services, financial aid, or other benefits under the program or activity;

(v) Treat a person differently from others in determining whether he satisfies any occupancy, admission, enrollment, eligibility, membership, or other requirement or condition which persons must meet in order to be provided any housing, accommodations, facilities, services, financial aid, or other benefits provided under the program or activity;

(vi) Deny a person opportunity to participate in the program or activity through the provision of services or otherwise, or afford him an opportunity to do so which is different from that afforded others under the program or activity (including the opportunity to participate in the program or activity as an employee but only to the extent set forth in paragraph (c) of this section).

(vii) Deny a person the opportunity to participate as a member of a planning or advisory body which is an integral part of the program."

3. EPA Authority

The purpose 40 CFR Part 7 is to effectuate the provisions of the Title VI of the Civil Rights Act of 1964 to the end that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be

otherwise subjected to discrimination under any program, activity, or subcontracts receiving Federal financial assistance from the Environmental Protection Agency.

The Complainants argue the CoR has discriminated against the African/African American Cemeteries and its undelinated graves within its district based on race and has denied their existence, excluded these Cemeteries, its interred population, and their Descendant Community from its city planning, public participation, and zoning for the Jefferson Orchards/Rockwool property. The CoR has used federal funds to aid in these discriminatory activities to provide preferential treatment to corporations and in doing so has led to irreparable harm to the Cemeteries, its interred population, and its undelineated graves. Specifically, the CoR has violated 40 CFR § 7.35 (a)(1-5), (b), (c):

> "40 CFR § 7.35 - Specific prohibitions.
>
> (a) As to any program or activity receiving EPA assistance, a recipient shall not directly or through contractual, licensing, or other arrangements on the basis of race, color, national origin or, if applicable, sex:
>
> (1) Deny a person any service, aid or other benefit of the program or activity;
>
> (2) Provide a person any service, aid or other benefit that is different, or is provided differently from that provided to others under the program or activity;
>
> (3) Restrict a person in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, aid, or benefit provided by the program or activity;
>
> (4) Subject a person to segregation in any manner or separate treatment in any way related to receiving services or benefits under the program or activity;
>
> (5) Deny a person or any group of persons the opportunity to participate as members of any planning or advisory body which is an integral part of the program or activity, such as a local sanitation board or sewer authority;
>
> (b) A recipient shall not use criteria or methods of administering its program or activity which have the effect of subjecting individuals to discrimination because of their race, color, national origin, or sex, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program or activity with respect to individuals of a particular race, color, national origin, or sex.
>
> (c) A recipient shall not choose a site or location of a facility that has the purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination under any program or activity to which this part applies on the grounds

of race, color, or national origin or sex; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of this subpart."

E. Request

Based upon the foregoing, Complainants request that the EPA, HUD, DOT, FTA, and FHWA accept this complaint and conduct an investigation to determine whether the CoR violated Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d to 2000d-7, in their use of federal funds to discriminate against the interred population in the Cemeteries and any uncounted interred population beyond its undelineated borders with the CoR's 2012, 2017, and 2020 rezoning of Jefferson Orchards/Rockwool property.

If a violation is found and the CoR is unable to demonstrate a substantial, legitimate justification for its action and to voluntarily implement a less discriminatory alternative that is practicable, Complainants further petition the federal agencies to initiate proceedings to deny, annul, suspend, or terminate federal financial assistance to the CoR.

The Complainants request that the CoR enforce the halting of all construction activities on the Rockwool property until completion of a comprehensive and exhaustive archaeological survey including:

An independent public commission: to include members from the primary Descendant Community, the larger Afrodescendant diasporic Community, two representatives from RAD, including commission-approved specialists in bioarchaeology, archaeology, African /African American studies, African American history, African American genealogy and other relevant disciplines as deemed appropriate by the Commission, to be conducted by a consultant/contractor selected by the Commission to definitely delineate the boundaries of this important undelineated African/African American burial ground at the expense of the CoR and to save this important bioarchaeological, archaeological and other cultural property resources in perpetuity for the future children and descendants of this important African American community and their public allies.

Phase I-III archaeological surveys: including planning, mitigation including salaries, as well as the typical costs associated with exhumation, staffing, conservation, repatriation and other related and relevant costs such as the development of archaeological and historic

preservation education for the Descendant Community, educational outreach to the public regarding the important history of the site, inclusion of commission-researched and approved universities and colleges in an archaeological field school and training program for the Descendant Community, their allies and public supporters, as well as professional assessments for an overall historic preservation plan for other cultural/historical aspects of the greater area known as the historic African American community of Harts Town with a goal to develop a memorial and museum-based tourist approach to preservation and conservation of this important historic African American community as a heritage site worthy of visiting in keeping with the concept of equity and parity in historic preservation and archaeological representation in the overall local developmental progress,

Rezoning: The Complainants also request that the CoR rezone the neighboring property containing a currently unknown and undetermined number of interred population (Rockwool property) to an appropriate zoning as the Special District Industrial designation is not appropriate for Cemeteries, gravesites, and graves pursuant to review by and conclusions of the independent public commission regarding completed phase I, II and III archaeological surveys publicly funded by CoR as described in the text above.

We believe that, by including this insistence on equity in historic preservation within the overall scope of the development project, a positive outcome for all parties involved can be achieved. The notion of prosperity does not have to exclude the greater good of the nation. We will not idly stand by while important African American cultural property is summarily dismissed, knowing that erasure of the bioarchaeology of African Americans is imminent, and to be expected to accept that environmental racism is par for the course.

Evil prospers when good women do nothing.

V. CONCLUSION

The CoR discriminated against the Cemeteries and the interred population in 2004 when they made no attempts to utilize proper legal channels/processes for annexation and instead blatantly stole and archaeologically erased historic African/African American informal and formal burials/graves and their occupants from the Cemeteries. In 2012, 2015, 2017, and 2020, the CoR continued their discrimination against the Cemeteries and the interred population

through the application of zoning discrimination and spot zoning for Rockwool. For over 16 years, the CoR has discriminated against the Cemeteries.

The CoR's hasty, negligent mishandling of public notices, public comments, and public hearings for the 2017 and 2020 rezoning hearings did not allow for meaningful public participation and made public participation extremely difficult and barely, if at all, possible. The Complainants argue this was by discriminatory and by design, especially noting the purposeful omission of RAD's public comment for the record regarding the Cemeteries.

These two formalized African/African American Cemeteries are situated within what is undeniably a larger historic undelineated African/African American Burial Ground, a final resting place for victims and survivors of human trafficking and their extended families and descendants. In no good and wholesome version of the United States is it possible to discriminate against this important historic site without causing immediate damage to the living Descendant Community members and the larger group of U.S. Citizens descended from the African diaspora. This is and will remain a victims' rights issue, both historically and until such time as we as a nation see fit to do right by these communities, their descendants, and their cultural heritage. While history records a brutal description of the lives of individuals interred at this important African/African American Burial Ground, the power to do our American best exists in the here and now. We can do the right thing. We must recognize the importance of these African/African American Burial Grounds and champion their preservation for the benefit of our nation's very soul.

VI. SUMMATION

This is a classic case of structural and systemic racism via zoning and environmental racism. The CoR failed to identify a disproportionate, vulnerable, minority population (the descendants of the Cemeteries and the interred population) within their federally funded project, causing irreparable harm to this population. The CoR has practiced environmental racism by changing the zoning for the graves to Industrial Special District to accommodate a corporation. This action will expose this vulnerable, minority population to considerable amounts of pollution (over 155 tons annually) that will fall down on these defenseless African American graves and the interred population. This is environmental racism in its most cowardly form.

Since the CoR failed to identify a disportionate, minority population with its federally funded monies, the CoR failed to offer alternative resolutions. Since 2018, the Complainants and other citizens have brought the issues of the Cemetery to the CoR, Jefferson County Commission, and other WV government agencies. No parties will arbitrate the Cemetery issues. The Cemeteries and their Descendant Community are part of a marginalized, disenfranchised population. They can not afford the luxury of court costs, attorney fees, etc. to defend their rights and undeniable claim to this important site of African American cultural patrimony, an historic site with inestimable value as a repository of bioarchaeological/archaeological resources and cultural property.

Many opportunities for proper mitigation, public involvement, and appropriate management have been presented since CoR's original 2004 usurpation of graves. Many consultants, contractors, planners, CoR city officials, and others have surely set foot on the Cemeteries' sacred ground, viewed the marked graves, and walked over many unmarked graves of the interred population. If the CoR, et al. claims they had no idea about the Cemeteries, it's undelineated boundaries, the many unmarked graves within their district, as well as the desecration and the usurpation of graves; then surely the CoR, et. al has failed to do one iota of due diligence per their Comprehensive Plan, zoning, and any projects and grants regarding Jefferson Orchards, Northport Station, and Rockwool. All of CoR's plans, zoning, etc. excluded the Cemeteries and did not account for the graves they desecrated, erased, and destroyed. This negligence has caused a disparate impact on the Cemeteries and the interred population, predicated a loss of irretrievable African American cultural property, and discriminated against the Descendant Community.

The Complainants argue that for over 16 years the CoR knew about the Cemeteries and the graves of the interred population which they usurped, yet had no intention of correcting their wrongs through application of proper historic preservation protocols and mitigation, and, possibly, intended on eliminating through absolute archaeological erasure any graves of the interred population extant within the areas of undelineated boundaries. Since the Cemeteries lacked official guardians, the onus of boundaries and graves fell on the CoR. It is unclear why the CoR did not seek out trustees, descendants, or advertise legal notices regarding the graves of the interred population that they denied, desecrated and destroyed.

VII. COMPLAINANTS' SIGNATURES

Signature: _____ Date: 12-24-2020

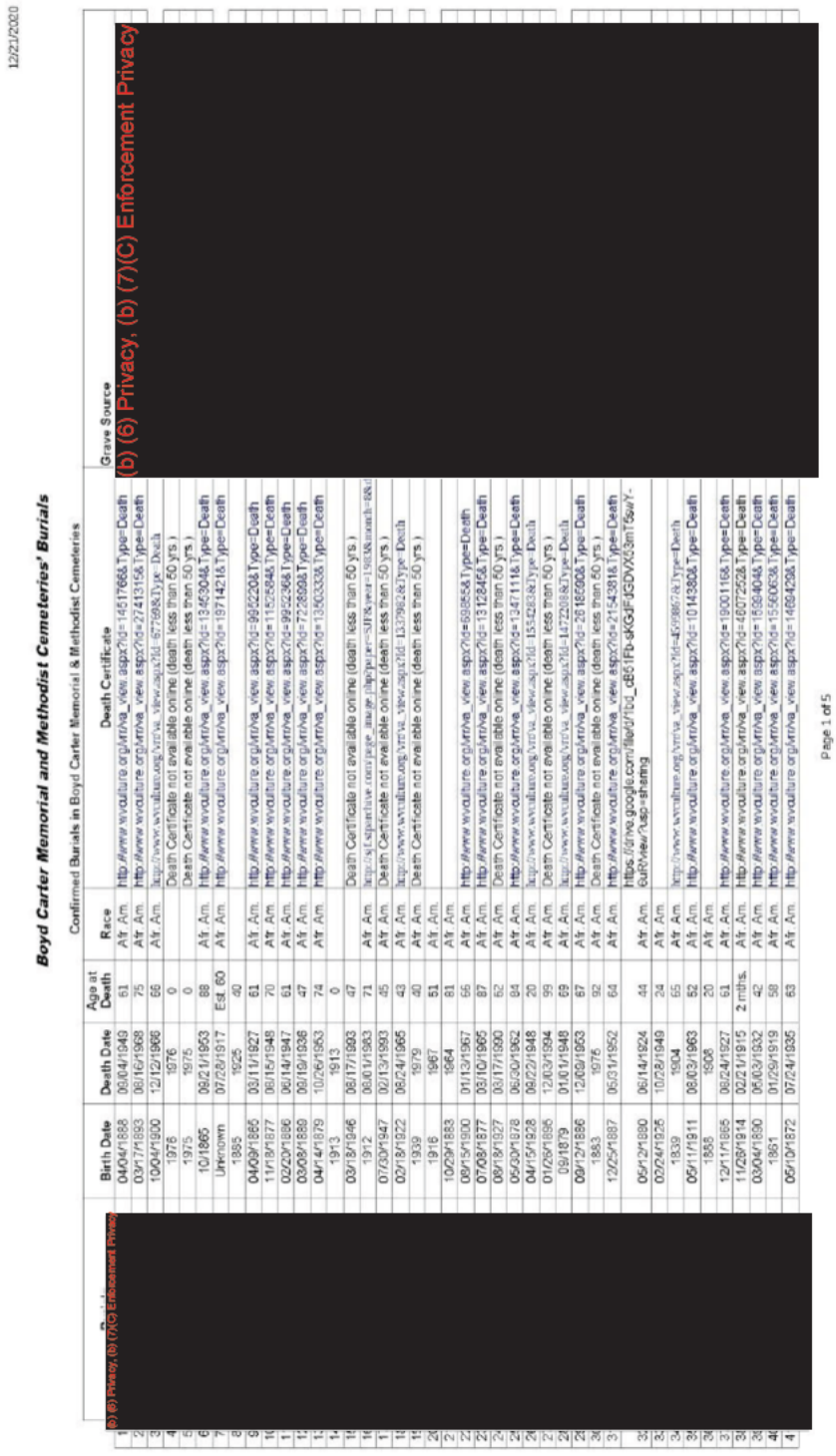
Jennifer King, Chair
Rural Agricultural Defenders
PO Box 445
Kearneysville, WV 25430
304-283-0032

Signature: [redacted] Date: 12-24-20

[redacted]
Rural Agricultural Defenders
PO Box 445
Kearneysville, WV 25430
[redacted]

VIII. EXHIBITS - ATTACHED

EXHIBIT A - BOYD CARTER MEMORIAL & METHODIST CEMETERY BURIALS, PAGE 1



12/21/2020

Boyd Carter Memorial and Methodist Cemeteries' Burials

Confirmed Burials in Boyd Carter Memorial & Methodist Cemeteries

	Burial	Birth Date	Death Date	Age at Death	Race	Death Certificate	Grave Source
1	(b) (6) Privacy, (b) (7)(C) Enforcement Privacy	04/04/1888	06/04/1949	61	Afr Am	http://www.wvculture.org/vrr/va_view.aspx?id=145176&Type=Death	(b) (6) Privacy, (b) (7)(C) Enforcement Privacy
2		03/17/1893	06/16/1968	75	Afr Am	http://www.wvculture.org/vrr/va_view.aspx?id=274151&Type=Death	
3		10/04/1900	12/12/1966	66	Afr Am	http://www.wvculture.org/vrr/va_view.aspx?id=67798&Type=Death	
4		1976	1976	0		Death Certificate not available online (death less than 50 yrs.)	
5		1975	1975	0		Death Certificate not available online (death less than 50 yrs.)	
6		10/1865	06/21/1953	88	Afr Am	http://www.wvculture.org/vrr/va_view.aspx?id=134530&Type=Death	
7		Unknown	07/28/1917	Est. 60	Afr Am	http://www.wvculture.org/vrr/va_view.aspx?id=197142&Type=Death	
8		1865	1925	60			
9		04/09/1865	03/11/1927	61	Afr Am	http://www.wvculture.org/vrr/va_view.aspx?id=99222&Type=Death	
10		11/18/1877	06/15/1948	70	Afr Am	http://www.wvculture.org/vrr/va_view.aspx?id=115258&Type=Death	
11		02/20/1886	06/14/1947	61	Afr Am	http://www.wvculture.org/vrr/va_view.aspx?id=99223&Type=Death	
12		03/08/1880	06/19/1936	47	Afr Am	http://www.wvculture.org/vrr/va_view.aspx?id=72809&Type=Death	
13		04/14/1879	10/26/1953	74	Afr Am	http://www.wvculture.org/vrr/va_view.aspx?id=136033&Type=Death	
14		1913	1913	0			
15		03/18/1946	06/17/1993	47		Death Certificate not available online (death less than 50 yrs.)	
16		1912	06/01/1983	71	Afr Am	https://squarelive.com/page_image.php?guid=SRKwea-19838&branch=&d	
17		07/30/1947	06/13/1993	45	Afr Am	Death Certificate not available online (death less than 50 yrs.)	
18		02/18/1922	06/24/1965	43	Afr Am	http://www.wvculture.org/vrr/va_view.aspx?id=133962&Type=Death	
19		1939	1979	40	Afr Am	Death Certificate not available online (death less than 50 yrs.)	
20		1916	1967	51	Afr Am		
21		10/29/1883	1964	81	Afr Am		
22		09/15/1900	01/13/1967	66	Afr Am	http://www.wvculture.org/vrr/va_view.aspx?id=69865&Type=Death	
23		07/08/1877	03/10/1965	87	Afr Am	http://www.wvculture.org/vrr/va_view.aspx?id=131284&Type=Death	
24		08/18/1927	03/17/1990	62	Afr Am	Death Certificate not available online (death less than 50 yrs.)	
25		05/30/1878	06/30/1962	84	Afr Am	http://www.wvculture.org/vrr/va_view.aspx?id=134711&Type=Death	
26		04/15/1928	08/22/1948	20	Afr Am	http://www.wvculture.org/vrr/va_view.aspx?id=153428&Type=Death	
27		01/29/1895	12/03/1994	99	Afr Am	Death Certificate not available online (death less than 50 yrs.)	
28		09/1879	01/01/1948	69	Afr Am	http://www.wvculture.org/vrr/va_view.aspx?id=147220&Type=Death	
29		09/12/1886	12/09/1953	67	Afr Am	http://www.wvculture.org/vrr/va_view.aspx?id=261859&Type=Death	
30		1883	1975	92	Afr Am	Death Certificate not available online (death less than 50 yrs.)	
31		12/25/1887	06/01/1952	64	Afr Am	http://www.wvculture.org/vrr/va_view.aspx?id=215428&Type=Death	
32		05/12/1880	06/14/1924	44	Afr Am	https://drive.google.com/file/d/1bb_cB6tFb-aKGdFJG0VX63mT6sw/view?usp=sharing	
33		02/24/1925	10/28/1949	24	Afr Am		
34		1839	1904	65	Afr Am	http://www.wvculture.org/vrr/va_view.aspx?id=459867&Type=Death	
35		05/11/1911	08/03/1963	52	Afr Am	http://www.wvculture.org/vrr/va_view.aspx?id=101438&Type=Death	
36		1858	1908	20	Afr Am		
37		12/11/1865	06/24/1927	61	Afr Am	http://www.wvculture.org/vrr/va_view.aspx?id=190011&Type=Death	
38		11/28/1914	02/21/1915	2 mths.	Afr Am	http://www.wvculture.org/vrr/va_view.aspx?id=48072&Type=Death	
39		03/04/1890	06/03/1932	42	Afr Am	http://www.wvculture.org/vrr/va_view.aspx?id=158940&Type=Death	
40		1861	01/29/1919	58	Afr Am	http://www.wvculture.org/vrr/va_view.aspx?id=155606&Type=Death	
41		05/10/1872	07/24/1935	63	Afr Am	http://www.wvculture.org/vrr/va_view.aspx?id=146942&Type=Death	

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EXHIBIT A - BOYD CARTER MEMORIAL & METHODIST CEMETERY BURIALS, PAGE 2

12/21/2020

(b) (6) Privacy, (b) (7)(C) Enforcement Privacy

	(b) (6) Privacy, (b) (7)(C) Enforcement Pr					
42	1885	03/07/1957	72	Afr. Am.	Afr. Am.	http://www.wvculture.org/vrr/va_view.aspx?id=120086&Type=Death
43	04/14/1864	10/15/1905	51	Afr. Am.		
44	09/03/1957	09/03/1957	1.5 hrs.	Afr. Am.		http://www.wvculture.org/vrr/va_view.aspx?id=120888&Type=Death
45	08/31/1922	10/16/1948	26	Afr. Am.		https://drive.google.com/file/d/1lF4GBkVMTFxfNJc66gjL_G7A-HOaJdX/view?
46	02/25/1910	09/24/1961	33	Afr. Am.		http://www.wvculture.org/vrr/va_view.aspx?id=44915&Type=Death
47	1874	1874	0	Afr. Am.		Death Certificate not available online (death less than 50 yrs.)
48	10/24/1910	03/19/1981	70	Afr. Am.		Death Certificate not available online (death less than 50 yrs.)
49	1924	1975	51	Afr. Am.		Death Certificate not available online (death less than 50 yrs.)
50	06/15/1947	09/18/1957	10	Afr. Am.		http://www.wvculture.org/vrr/va_view.aspx?id=120888&Type=Death
51	1903	1974	71	Afr. Am.		Death Certificate not available online (death less than 50 yrs.)
52	1871	11/09/1957	86	Afr. Am.		http://www.wvculture.org/vrr/va_view.aspx?id=121108&Type=Death
53	07/06/1888	06/28/1952	63	Afr. Am.		http://www.wvculture.org/vrr/va_view.aspx?id=145028&Type=Death
54	10/17/1927	10/18/1927	1 day	Afr. Am.		https://www.wvculture.org/vrr/va_view.aspx?id=191243&Type=Death
55	03/10/1879	10/06/1968	89	Afr. Am.		http://www.wvculture.org/vrr/va_view.aspx?id=138831&Type=Death
56	08/30/1915	11/02/1949	34	Afr. Am.		http://www.wvculture.org/vrr/va_view.aspx?id=127939&Type=Death
57	02/17/1922	03/23/1974	52	Afr. Am.		Death Certificate not available online (death less than 50 yrs.)
58	02/04/1945	08/25/1966	21	Afr. Am.		http://www.wvculture.org/vrr/va_view.aspx?id=78794&Type=Death
59	1964	1964	10	Afr. Am.		
60	1879	1935	56	Afr. Am.		http://www.wvculture.org/vrr/va_view.aspx?id=71940&Type=Death
61	1918	1999	81	Afr. Am.		Death Certificate not available online (death less than 50 yrs.)
62	1911	1977	66	Afr. Am.		Death Certificate not available online (death less than 50 yrs.)
63	1898	1974	76			Death Certificate not available online (death less than 50 yrs.)
64	1950	1967	17	Afr. Am.		http://sjf.sbsarchive.com/page_image.php?paper=SJF&year=1967&month
65	1923	1973	50	Afr. Am.		https://www.familysearch.org/ark:/61903/1:1:VV65-Y4L1
66	03/07/1922	10/18/1971	49	Afr. Am.		Death Certificate not available online (death less than 50 yrs.)
67	1895	1971	76	Afr. Am.		Death Certificate not available online (death less than 50 yrs.)
68	11/14/1927	09/04/1966	28	Afr. Am.		
69	1999	1999	90	Afr. Am.		Death Certificate not available online (death less than 50 yrs.)
70	06/22/1888	03/09/1954	65	Afr. Am.		http://www.wvculture.org/vrr/va_view.aspx?id=73883&Type=Death
71	03/25/1893	05/25/1905	52			
72	1886	1911	45			
73						
74	1904	1956	52	Afr. Am.		
75	1905	1959	54	Afr. Am.		https://www.wvculture.org/vrr/va_view.aspx?id=51641&Type=Death
76	12/18/1891	05/16/1959	67	Afr. Am.		http://www.wvculture.org/vrr/va_view.aspx?id=101181&Type=Death
						https://drive.google.com/file/d/
77	04/01/1906	06/21/1948	43	Afr. Am.		1P5UURKFUQcDPcY5gZF-5gpkKXSpNt8/view?usp=sharing
78	1870	07/29/1947	77	Afr. Am.		http://www.wvculture.org/vrr/va_view.aspx?id=145777&Type=Death
79	08/24/1906	01/03/1964	57	Afr. Am.		http://www.wvculture.org/vrr/va_view.aspx?id=136303&Type=Death
80	1896	1947	51	Afr. Am.		
81	1878	01/12/1959	53	Afr. Am.		http://www.wvculture.org/vrr/va_view.aspx?id=102975&Type=Death
82	Unknown	03/29/1962		Afr. Am.		https://www.wvculture.org/vrr/va_view.aspx?id=76042&Type=Death
83	1901	1957	56			
84	08/23/1880	03/25/1963	72	Afr. Am.		http://www.wvculture.org/vrr/va_view.aspx?id=138766&Type=Death
85	11/25/1904	01/25/1970	65	Afr. Am.		Death Certificate not available online (death less than 50 yrs.)
86	01/18/1907	01/27/1961	54	Afr. Am.		http://www.wvculture.org/vrr/va_view.aspx?id=160155&Type=Death
87	03/22/1888	01/17/1966	67	Afr. Am.		http://www.wvculture.org/vrr/va_view.aspx?id=26771&Type=Death

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EXHIBIT A - BOYD CARTER MEMORIAL & METHODIST CEMETERY BURIALS, PAGE 3

12/21/2020

88	(b) (6) Privacy, (b) (7)(C) Enforcem	09/01/1890	1988	98	Afr Am.	Death Certificate not available online (death less than 50 yrs.)	(b) (6) Privacy, (b) (7)(C) Enforcement Privacy
89		1869	1957	88	Afr Am.	https://drive.google.com/file/d/1gdlhdsp-anOp9OHDSZPewTjNLZ7bB8XX/view?usp=sharing	
90		04/20/1863	06/06/1953	70	Afr Am.	http://www.wvculture.org/Archive_view.aspx?id=13412218.Type=Death	

Possible Burials in Boyd Carter Memorial & Methodist Cemeteries (Indication from Death Certificate)

	Burials	Birth Date	Death Date	Age at Death	Race	Death Certificate / Source
1	(b) (6) Privacy, (b) (7)(C) Enforcement Privacy	1860	08/2447	87	Afr Am.	(b) (6) Privacy, (b) (7)(C) Enforcement Privacy
2		04/10/1916	06/19/1932	16	Afr Am.	
3		08/24/1928	08/27/1928	3 days	Afr Am.	
4		07/01/1915	06/06/1932	17	Afr Am.	
5		06/20/1874	01/27/1951	76	Afr Am.	
6		02/13/1933	06/19/1938	5	Afr Am.	
7		1860	06/08/1928	78	Afr Am.	
8		06/21/1933	05/01/1934	11 mths	Afr Am.	
9		11/18/1858	12/20/1935	77	Afr Am.	
10		03/18/1886	07/24/1939	53	Afr Am.	
11		03/03/1898	06/10/1931	33	Afr Am.	
12		1852	01/11/1922	70	Afr Am.	
13		02/01/1985	02/01/1985	1 day	Afr Am.	
14		07/29/1926	01/15/1928	2	Afr Am.	
15		05/30/1878	06/30/1962	84	Afr Am.	
16		08/31/1921	06/11/1941	20	Afr Am.	
17		11/13/1874	06/11/1946	71	Afr Am.	
18		12/25/1911	10/15/1930	18	Afr Am.	
19		03/04/1859	11/29/1969	70	Afr Am.	
20		1854	06/12/1928	74	Afr Am.	
21		11/17/1907	10/08/1928	20	Afr Am.	
22		1848	11/25/1923	75	Afr Am.	
23		02/04/1942	03/01/1942	26 days	Afr Am.	
24		1883	03/18/1942	59	Afr Am.	
25		08/01/1879	07/11/1934	54	Afr Am.	
26		10/06/1921	01/22/1923	1	Afr Am.	
27		07/31/1860	04/20/1928	67	Afr Am.	
28		08/28/1862	10/27/1936	74	Afr Am.	
29		05/19/1853	04/09/1931	77	Afr Am.	
30		06/03/1938	08/30/1938	2 mths	Afr Am.	
31		02/06/1892	09/15/1950	58	Afr Am.	
32		1924	12/31/1980	36	Afr Am.	
33		09/17/1877	06/24/1926	48	Afr Am.	
34		12/25/1862	03/27/1960	67	Afr Am.	
35		07/15/1941	07/25/1941	10 days	Afr Am.	
36		05/26/1920	11/18/1922	2	Afr Am.	
37		1868	06/25/1925	20	Afr Am.	
		11/02/1863	06/28/1964	70	Afr Am.	

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EXHIBIT A - BOYD CARTER MEMORIAL & METHODIST CEMETERY BURIALS, PAGE 4

12/21/2020

39	[redacted]	01/16/1891	06/22/1964	73	Afr. Am.	
39		06/1857	02/13/1935	78	Afr. Am.	
40		12/16/1866	02/21/1945	89	Afr. Am.	
41		09/15/1960	04/02/1961	6 mths	Afr. Am.	
42		1915	04/25/1937	22	Afr. Am.	
43		12/24/1892	02/09/1964	81	Afr. Am.	
44		02/17/1922	03/24/1974	52	Afr. Am.	
45		08/23/1918	12/29/1964	46	Afr. Am.	
46		03/26/1878	10/21/1934	56	Afr. Am.	
47		09/20/1906	04/13/1946	40	Afr. Am.	
48		01/15/1890	12/07/1947	57	Afr. Am.	
49		06/12/1910	02/11/1931	20	Afr. Am.	
50		01/08/1912	11/11/1932	20	Afr. Am.	
51		1877	11/03/1932	55	Afr. Am.	
52		03/23/1947	03/25/1947	2 days	Afr. Am.	
53		1895	02/26/1924	29	Afr. Am.	
54		07/03/1921	08/08/1936	15	Afr. Am.	
55		08/26/1890	12/15/1962	72	Afr. Am.	
56		08/03/1885	10/13/1933	68	Afr. Am.	
57		11/1928	02/16/1929	3 mths.	Afr. Am.	
58		11/01/1936	02/01/1937	3 mths.	Afr. Am.	
59		06/15/1943	06/15/1943	1 hr.	Afr. Am.	
60		11/20/1909	09/25/1937	28	Afr. Am.	
61		05/24/1884	04/29/1966	81	Afr. Am.	
62		07/16/1946	01/13/1947	5 mths.	Afr. Am.	
63		11/06/1918	10/11/1936	17	Afr. Am.	
64		01/01/1866	08/02/1950	84	Afr. Am.	
65		08/04/1934	09/04/1934	1 mth.	Afr. Am.	
66		04/26/1860	11/29/1927	67	Afr. Am.	
67		12/05/1884	07/21/1945	60	Afr. Am.	
68		1846	08/17/1923	77	Afr. Am.	
69		04/20/1894	09/01/1960	66	Afr. Am.	
70		01/08/1948	02/23/1949	1	Afr. Am.	
71		1885	06/24/1952	67	Afr. Am.	
72		01/22/1857	01/16/1938	80	Afr. Am.	
73		04/19/1888	02/23/1919	32	Afr. Am.	
74		06/12/1864	08/27/1929	65	Afr. Am.	
75		1865	06/28/1932	67	Afr. Am.	
76		07/03/1897	07/16/1935	38	Afr. Am.	
77		08/22/1906	01/06/1937	30	Afr. Am.	
78		10/04/1927	12/22/1931	4	Afr. Am.	
79		03/1894	06/12/1922	28	Afr. Am.	
80		1921	12/09/1923	2	Afr. Am.	
81		08/07/1886	03/28/1935	68	Afr. Am.	
82		02/01/1894	02/25/1961	67	Afr. Am.	
83		07/03/1875	01/04/1935	59	Afr. Am.	
84		1846	06/20/1931	85	Afr. Am.	

(b) (6) Privacy, (b) (7)(C) Enforcement Privacy

(b) (6) Privacy, (b) (7)(C) Enforcement Privacy

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EXHIBIT A - BOYD CARTER MEMORIAL & METHODIST CEMETERY BURIALS, PAGE 5

12/21/2020

85	(b) (6) Privacy, (b) (7)(C) Enforcement				
86		10/01/1892	09/14/1968	85	Afr. Am.
87		1844	02/15/1926	82	Afr. Am.
		04/17/1885	02/21/1926	40	Afr. Am.

(b) (6) Privacy, (b) (7)(C) Enforcement Privacy

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EXHIBIT B - THE 1902 METHODIST CEMETERY DEED

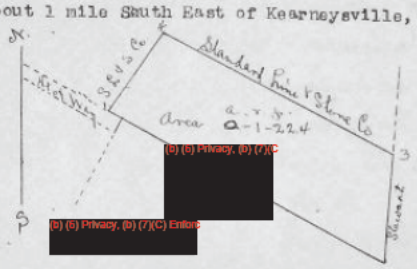
Standard Lime & Stone Co.

To: Deed of Bargain and Sale.

Trustees' "Burying Ground"

This Deed made this 31st day of December 1902 between the Standard Lime and Stone Company, a corporation of W. Va., having an office at Baltimore, Maryland of the first part and Allen Cole, WilliamGoius, Tucker Ford, Albert Mason, Douglass Roper, Benjamin Carter, and Weley Fry Col, Trustees, all of Jefferson County West Virginia.

Witnesseth:- that for and in consideration of the sum of One Dollar ($1.00) cash in hand paid by the parties of the second part, the receipt whereof is hereby acknowledged, the parties of the first part do grant and convey with covenants of general warranty unto the said Trustees all of their right, title, interest to, and in the following described tract of land situated about 1 mile South East of Kearneysville, Jefferson County, West Virginia.



Beginning at a stake (fig 1); thence S 60-15E at 12 ft. passing through a stone corner to (b) (6) Privacy, (b) (7) (b) (6) Privacy, (b) (7) in all 14.9 poles to a stone (b) (6) Privacy, (b) (7) corner (fig 2); thence N 6-0E 5.1 pole to a stake now made a corner (fig 3); thence N 60-15 W 12.45 poles to a stake corner to (fig ;thence S 34-40W 4.58 poles to the beginning containing one rood twenty two and four tenths perches (22.4#).

The said lot of ground conveyed to the aforesaid Trustees to be used as a burying ground for colored people and for no other purpose.

To have and to hold the said lot herein conveyed with all rights privileges and appurtenances thereunto belonging including a right to use a road, for ingress or egress to said burying ground, and used by William Stewart through the lands of the Standard Lime & Stone Company unto the said Trustees or their successors forever.

Witness the following signatures and seals.

The Standard Lime & Stone Co., (Seal)

by Daniel Baker (Seal)

President.

State of Maryland,

Baltimore City SS.

I, hereby certify that on this 10th day of January A. D. 1903, before the subscriber a Notary Public of the State of Maryland personally appeared Daniel Baker President of the Standard Lime & Stone Co. and did acknowledge the foregoing deed to be his act.

Witness my hand and Notarial Seal.

State of West Va.,

County of Jefferson SS.

In the Clerk's Office of County Court, Sept, 14th, 1906.

This Deed of Bargain and Sale, dated Dec. 31st 1902 from Standard Lime & Stone Co. to Test:

EXHIBIT C - METHODIST CEMETERY 2019 SURVEY

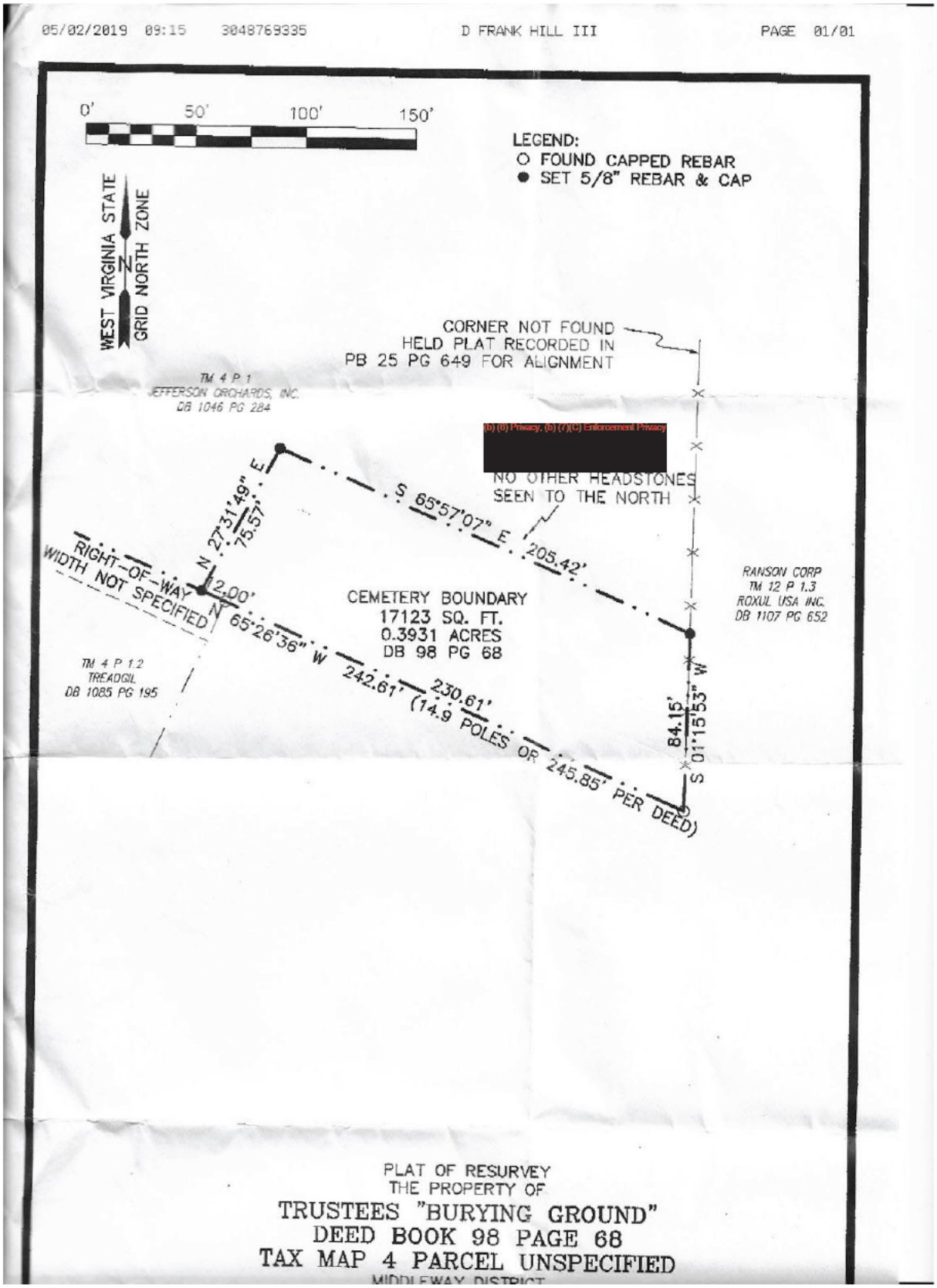
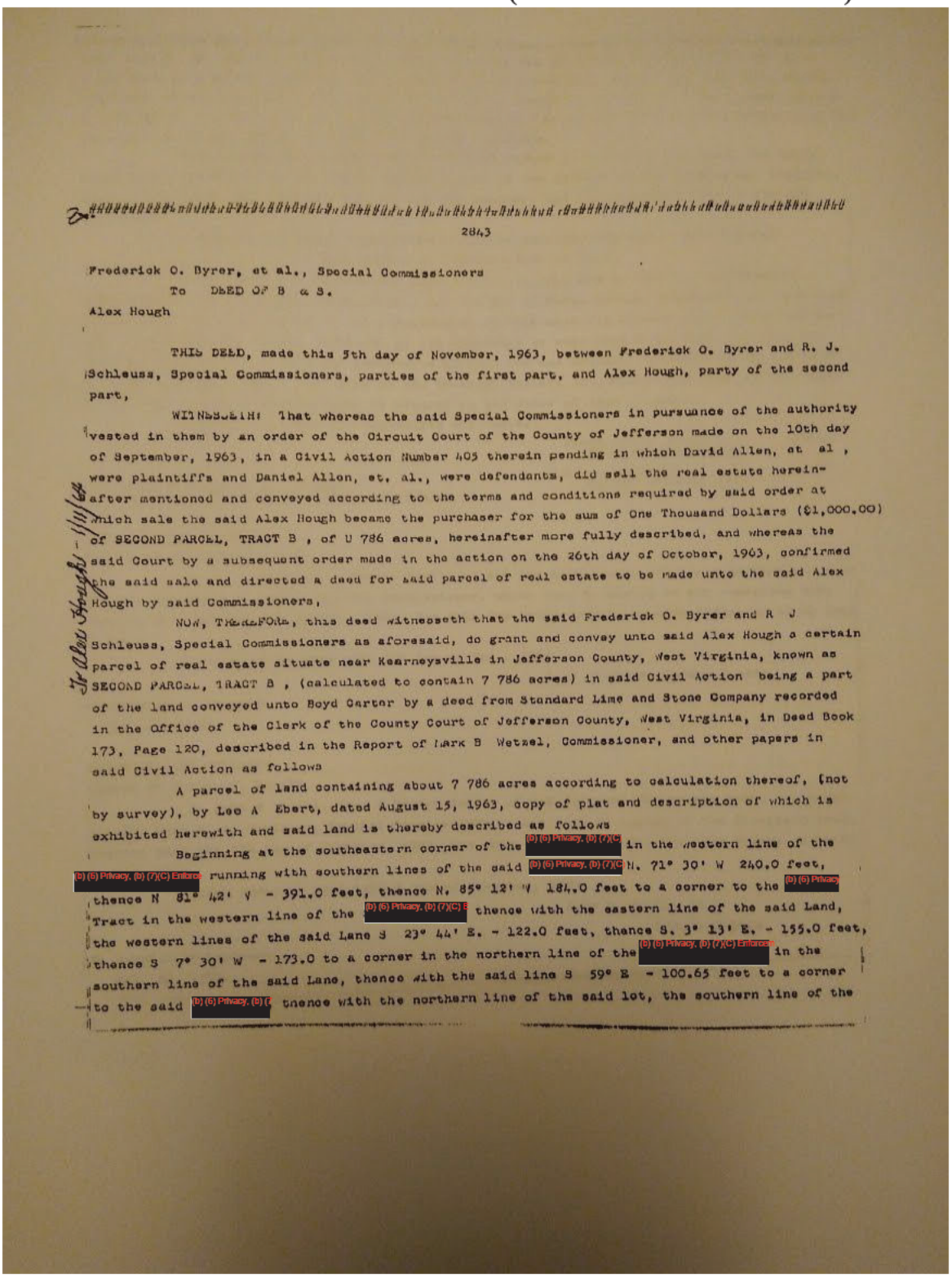


EXHIBIT D - BOYD CARTER CEM. DEED (DEED BOOK 263 PAGE 273) PAGE 1



2843

Frederick O. Byrer, et al., Special Commissioners
To DEED OF B & S.
Alex Hough

THIS DEED, made this 5th day of November, 1963, between Frederick O. Byrer and R. J. Schleuss, Special Commissioners, parties of the first part, and Alex Hough, party of the second part,

WITNESSETH: That whereas the said Special Commissioners in pursuance of the authority vested in them by an order of the Circuit Court of the County of Jefferson made on the 10th day of September, 1963, in a Civil Action Number 405 therein pending in which David Allen, et al, were plaintiffs and Daniel Allen, et. al., were defendants, did sell the real estate hereinafter mentioned and conveyed according to the terms and conditions required by said order at which sale the said Alex Hough became the purchaser for the sum of One Thousand Dollars ($1,000.00) of SECOND PARCEL, TRACT B, of 7 786 acres, hereinafter more fully described, and whereas the said Court by a subsequent order made in the action on the 26th day of October, 1963, confirmed the said sale and directed a deed for said parcel of real estate to be made unto the said Alex Hough by said Commissioners,

NOW, THEREFORE, this deed witnesseth that the said Frederick O. Byrer and R J Schleuss, Special Commissioners as aforesaid, do grant and convey unto said Alex Hough a certain parcel of real estate situate near Kearneysville in Jefferson County, West Virginia, known as SECOND PARCEL, TRACT B, (calculated to contain 7 786 acres) in said Civil Action being a part of the land conveyed unto Boyd Carter by a deed from Standard Lime and Stone Company recorded in the Office of the Clerk of the County Court of Jefferson County, West Virginia, in Deed Book 173, Page 120, described in the Report of Mark B Wetzel, Commissioner, and other papers in said Civil Action as follows

A parcel of land containing about 7 786 acres according to calculation thereof, (not by survey), by Lee A Ebert, dated August 15, 1963, copy of plat and description of which is exhibited herewith and said land is thereby described as follows

Beginning at the southeastern corner of the [redacted] in the western line of the [redacted] running with southern lines of the said [redacted] N. 71° 30' W 240.0 feet, thence N 81° 42' W - 391.0 feet, thence N. 85° 12' W 184.0 feet to a corner to the [redacted] Tract in the western line of the [redacted] thence with the eastern line of the said Land, the western lines of the said Lane S 23° 44' E. - 122.0 feet, thence S. 3° 13' E. - 155.0 feet, thence S 7° 30' W - 173.0 to a corner in the northern line of the [redacted] in the southern line of the said Lane, thence with the said line S 59° E - 100.65 feet to a corner to the said [redacted] thence with the northern line of the said lot, the southern line of the

said Lane S 78° 30' E - 392.0 feet, thence crossing the said [redacted] N 31° 08' E. - 24.15 feet to a corner in the southern line of the Cemetery Lot, thence with the three following lines of the said Lot N. 60° 30' W - 12.0 feet, thence N 34° 40' E - 75.57 feet, thence S 60° 30' E. - 209.43 feet to a corner in the western line of the [redacted] farm, thence with the said line N. 8° 59' 20" E. - 437.77 feet to the beginning.

THIS CONVEYANCE IS MADE SUBJECT TO SUCH rights of burial as may exist (it being understood that there may be certain bodies buried in the portion of the land herein described near to and along the northeast line of the old cemetery and the northwest line of the old cemetery).

A plat of the Ebert calculation is hereby attached and made a part hereof.

DECLARATION OF CONSIDERATION OR VALUE

Under penalties of fine and imprisonment as provided by law, the undersigned Frederick O Byrer, Special Commissioner, who resides on First Avenue, Charles Town, Jefferson County, West Virginia, being one of the grantors in this deed and a responsible party familiar with the transaction herein involved, by his signature to this deed does hereby declare that the total consideration paid and secured to be paid for the property conveyed by the document of which this declaration is a part is One Thousand Dollars ($1,000.00) and that 100 per cent of the real estate herein conveyed is situate in the State of West Virginia

WITNESS the following signatures and seals.

Frederick O Byrer (SEAL)
Special Commissioner .

R. J Schleuss (SEAL)
Special Commissioner

Documentary stamp $1.10 affixed.
W.Va Transfer stamps $2 20 affixed, 11/7/63.

STATE OF WEST VIRGINIA,
COUNTY OF JEFFERSON, TO-WIT

I, J W. Strider, a Notary Public of and for said County and State do hereby certify that Frederick O. Byrer, Special Commissioner, whose name is signed to the foregoing deed bearing date the 5th day of Nov., 1963, has this day acknowledged the same before me in my said County.

Given under my hand this 7th day of Nov , 1963

J. W Strider, Notary Public

My Commission Expires:
Jan 25 1966

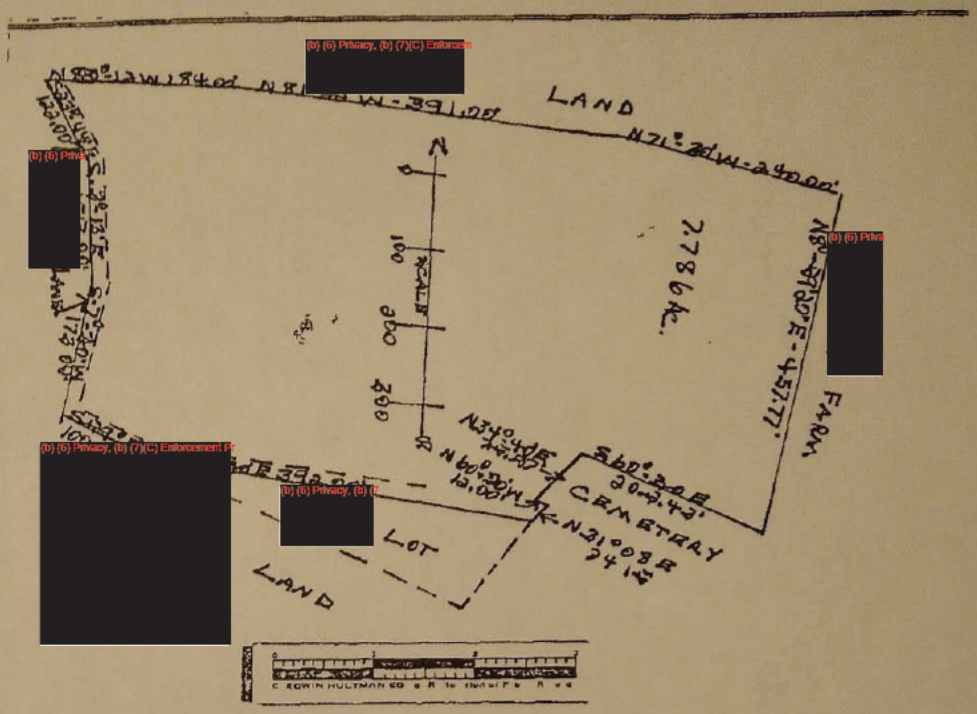
STATE OF WEST VIRGINIA
COUNTY OF BERKELEY, TO-WIT

I, John W Small, Jr., a Notary Public of and for said County and State do hereby certify that R J. Schleuss, Special Commissioner, whose name is signed to the foregoing deed, bearing date the 5th day of November, 1963, has this day acknowledged the same before me in my said County.

Given under my hand this 5 day of November, 1963.

John W. Small, Jr ,
Notary Public

My Commission Expires:
Feb. 25, 1973.



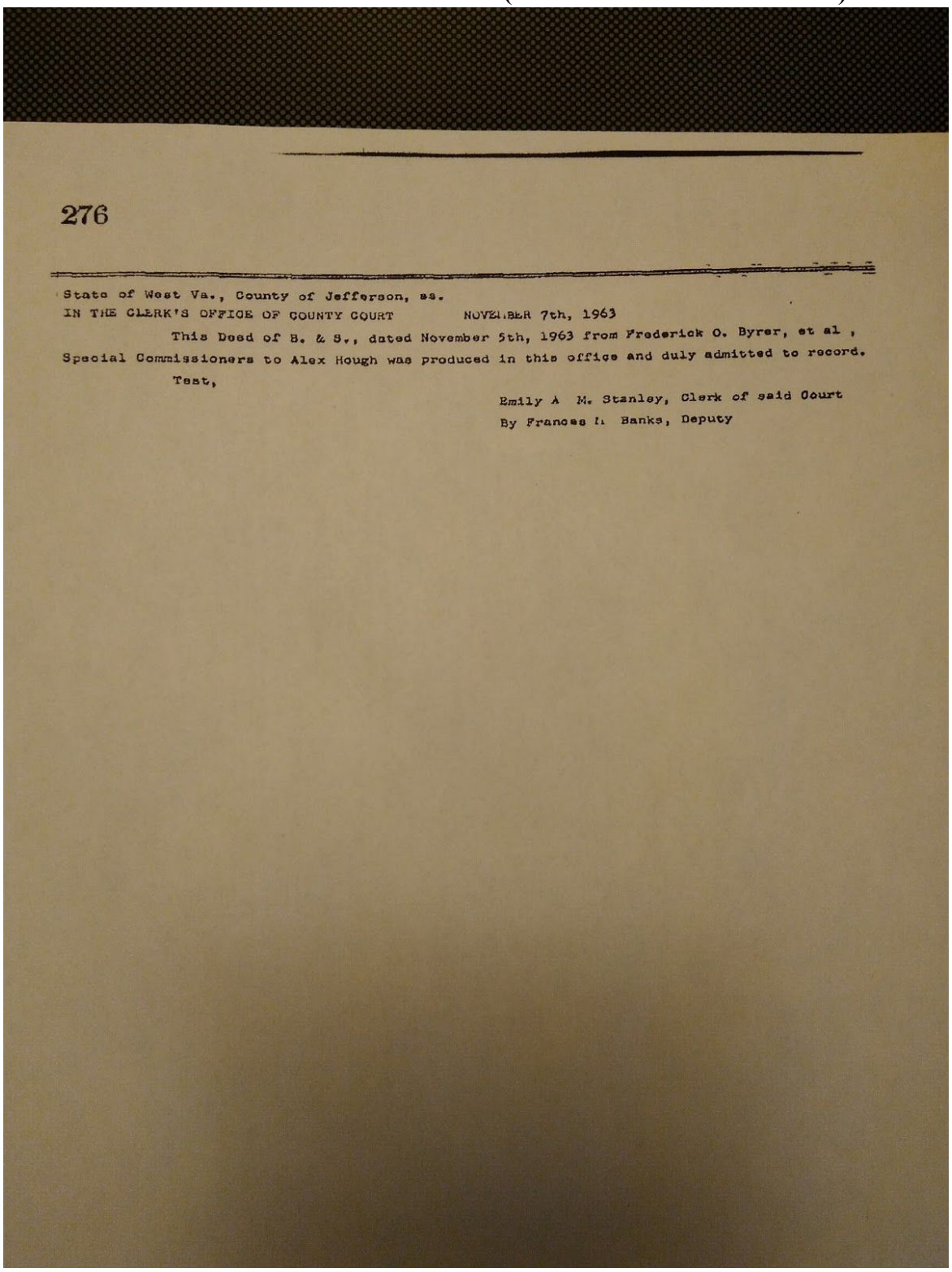
The above Plat is a Calculation (NOT BY SURVEY) of the Southeastern Portion of the Land Conveyed to Boyd Carter by Deed dated 8 June 1948 in Book 173, Page 120. This Calculation is made by using the Original Lines of the 99 Acre and 9 Square Poles Tract - Lines of the Cemetery Tract (Book 98 Page 68) - The Northern Line of the [redacted] Lot - The Eastern Lines of the Harry Powell Tract & The Southern Lines of the [redacted] Tract (Book 184 Page 16). The said Land lies at Kearneysville, in Jefferson County, West Virginia:

Beginning at the southeastern corner of the Hodges Land in the western line of the [redacted] Farm, running with the southern lines of the said [redacted] Land N 71° 30' W - 240.0 ft ; thence N. 81° 42' W - 391.0 ft , thence N 85° 12' W - 184.0 ft to a corner to the [redacted] Tract in the western line of the [redacted] Lane, thence with the eastern line of the said Land, the western lines of the said Lane S 23° 44' E - 122.0 ft., thence S 3° 13' E - 155.0 ft., thence S 7° 30' W - 173.0 to a corner in the northern line of the [redacted] Land in the southern line of the said Lane, thence with the said line S 59° E - 100.65 ft to a corner to the said [redacted] lot, thence with the northern line of the said Lot, the southern line of the said Lane S 78° 30' E - 392.0 ft , thence crossing the said [redacted] Lane N 31° 08' E - 24.15 ft to a corner in the southern line of the Cemetery Lot, thence with the three following lines of the said Lot N 60° 30' W - 12.0 ft , thence N 34° 40' E - 75.57 ft , thence S 60° 30' E - 205.43 ft. to a corner in the western line of the [redacted] Farm, thence with the said line N 8° 59' 20" E - 437.77 ft. to the Beginning.

CONTAINING ----- 7.786 Acres
CALCULATED ----- August 15, 1963.

Lee A. Ebert,
Surveyor

EXHIBIT D - BOYD CARTER CEM. DEED (DEED BOOK 263 PAGE 273) PAGE 4



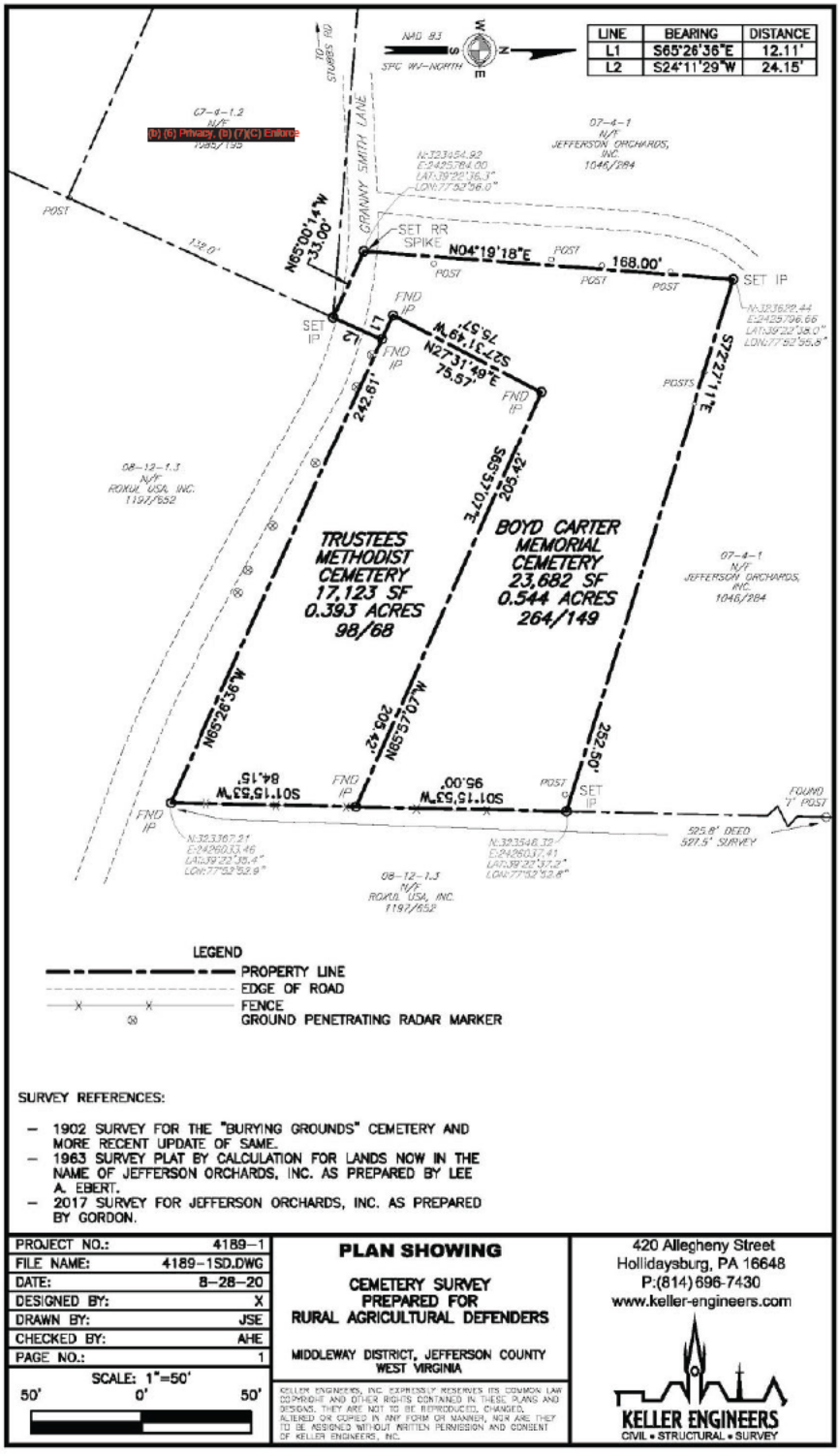
276

State of West Va., County of Jefferson, ss.
IN THE CLERK'S OFFICE OF COUNTY COURT NOVEMBER 7th, 1963
This Deed of B. & S., dated November 5th, 1963 from Frederick O. Byrer, et al , Special Commissioners to Alex Hough was produced in this office and duly admitted to record.
Test,

Emily A M. Stanley, Clerk of said Court
By Frances H Banks, Deputy

EXHIBIT E - JEFF. CO. TAX MAP - ONLY METHODIST CEM. APPEARS ON MAP; NOT BOYD CARTER MEM. CEM.

EXHIBIT F - 2020 BOYD CARTER CEMETERY SURVEY



SURVEY REFERENCES:

- 1902 SURVEY FOR THE "BURYING GROUNDS" CEMETERY AND MORE RECENT UPDATE OF SAME.
- 1963 SURVEY PLAT BY CALCULATION FOR LANDS NOW IN THE NAME OF JEFFERSON ORCHARDS, INC. AS PREPARED BY LEE A. EBERT.
- 2017 SURVEY FOR JEFFERSON ORCHARDS, INC. AS PREPARED BY GORDON.

PROJECT NO.:	4189-1
FILE NAME:	4189-1SD.DWG
DATE:	8-28-20
DESIGNED BY:	X
DRAWN BY:	JSE
CHECKED BY:	AHE
PAGE NO.:	1

SCALE: 1"=50'
50' 0' 50'

PLAN SHOWING

CEMETERY SURVEY
PREPARED FOR
RURAL AGRICULTURAL DEFENDERS

MIDDLEWAY DISTRICT, JEFFERSON COUNTY
WEST VIRGINIA

420 Allegheny Street
Hollidaysburg, PA 16648
P:(814)696-7430
www.keller-engineers.com
KELLER ENGINEERS
CIVIL • STRUCTURAL • SURVEY

EXHIBIT G - APRIL 2019 GROUND PENETRATING RADAR RESULTS

Above the markers indicate as follows:

Red Markers: Potential Graves

Blue Markers: Potential Voids

Yellow Markers: Visible gravestone but no GPR data indicating burial/void

Site Map with Findings	N	Granny Smith Lane Cemetery Kearneysville, WV	GPRS

EXHIBIT H - APRIL 2019 GROUND PENETRATING RADAR RESULTS - GRAVES NEAR ROAD

EXHIBIT I - BURIAL PLOTTING

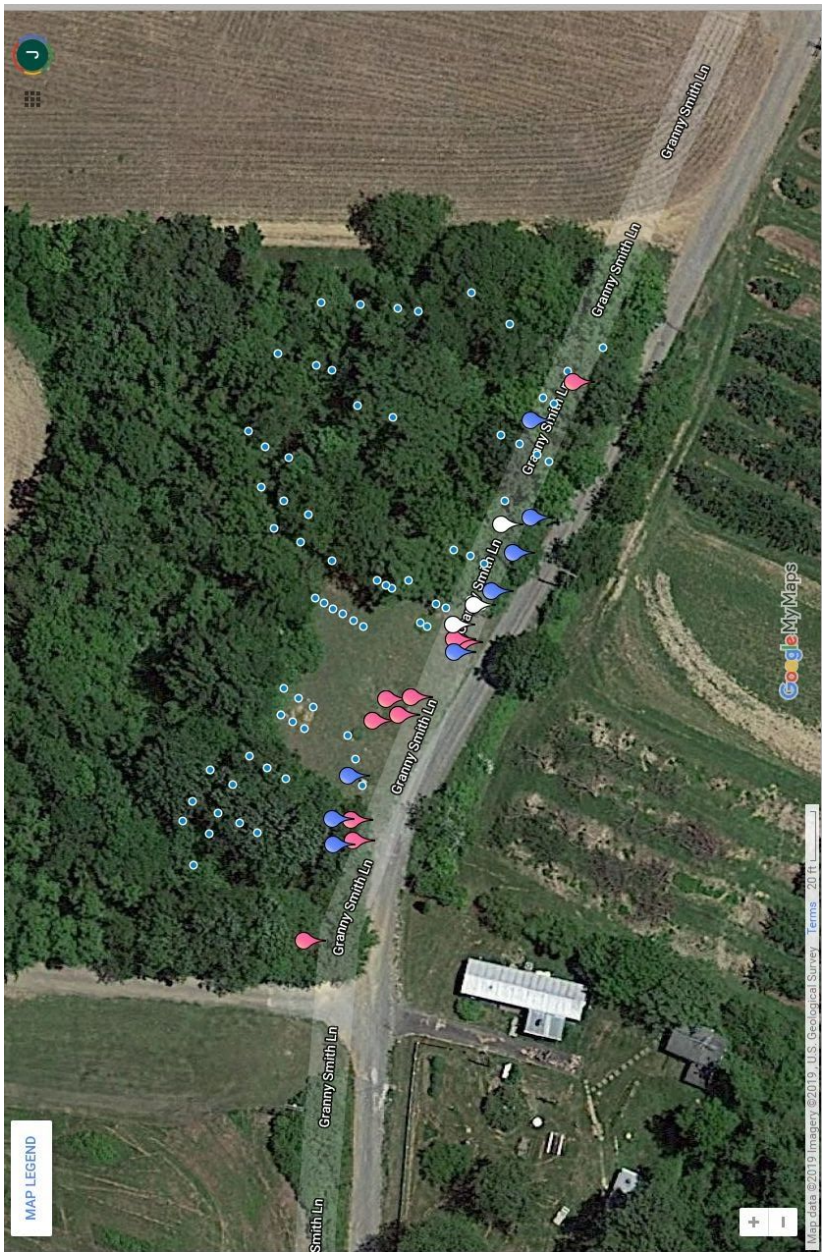


EXHIBIT J - AUG. 17, 2020 GPR RESULTS REVEALING GRAVES ON THE EAST SIDE OF CEMETERIES - PAGE 1

EXHIBIT J - AUG. 17, 2020 GPR RESULTS REVEALING GRAVES ON THE EAST SIDE OF CEMETERIES - PAGE 2

EXHIBIT J - AUG. 17, 2020 GPR RESULTS REVEALING GRAVES ON THE EAST SIDE OF CEMETERIES - PAGE 3

EXHIBIT J - AUG. 17, 2020 GPR RESULTS REVEALING GRAVES ON THE EAST SIDE OF CEMETERIES - PAGE 4

EXHIBIT J - AUG. 17, 2020 GPR RESULTS REVEALING GRAVES ON THE EAST SIDE OF CEMETERIES - PAGE 5

EXHIBIT J - AUG. 17, 2020 GPR RESULTS REVEALING GRAVES ON THE EAST SIDE OF CEMETERIES - PAGE 6

EXHIBIT J - AUG. 17, 2020 GPR RESULTS REVEALING GRAVES ON THE EAST SIDE OF CEMETERIES - PAGE 7

EXHIBIT J - AUG. 17, 2020 GPR RESULTS REVEALING GRAVES ON THE EAST SIDE OF CEMETERIES, UNAUTHORIZED TREE REMOVAL - PAGE 8

EXHIBIT J - AUG. 17, 2020 GPR RESULTS REVEALING GRAVES ON THE EAST SIDE OF CEMETERIES, UNAUTHORIZED TREE REMOVAL - PAGE 9

EXHIBIT J - AUG. 17, 2020 GPR RESULTS REVEALING GRAVES ON THE EAST SIDE OF CEMETERIES - PAGE 10

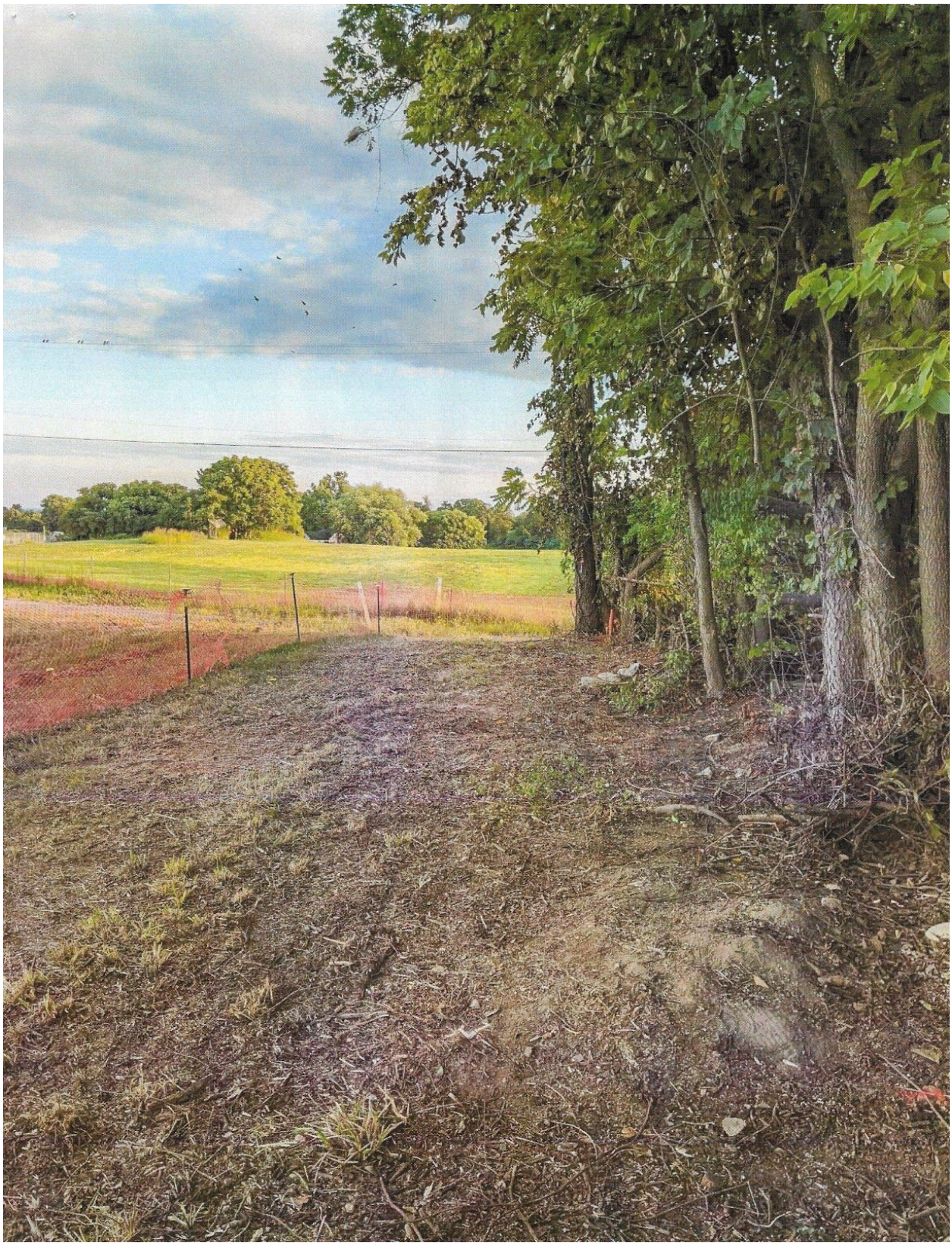


EXHIBIT J - AUG. 17, 2020 GPR RESULTS REVEALING GRAVES ON THE EAST SIDE OF CEMETERIES - PAGE 11

EXHIBIT K - 04/03/2017 WVSHPO LETTER TO ERM, INC., PAGE 1

WEST VIRGINIA
Division of Culture and History

The Culture Center
1900 Kanawha Blvd., E.
Charleston, WV 25305-0300
Randall Reid-Smith, Commissioner
Phone 304.558.0220 • www.wvculture.org
Fax 304.558.2779 • TDD 304.558.3562
EEO/AA Employer

April 3, 2017

Matt Hurst, Ph.D.
Associate Engineer
ERM, Inc.
204 Chase Drive
Hurricane, West Virginia 25526

RE: Proposed Development Parcel – Granny Smith Lane, Kearneysville
FR# 17-437-JF

Dear Mr. Hurst:

We have reviewed the above referenced project to determine potential effects to cultural resources. As required by Section 106 of the National Historic Preservation Act, as amended, and its implementing regulations, 36 CFR 800: "Protection of Historic Properties," we submit our comments.

According to the submitted information, the project will result in the development of a parcel of land located along Route 9 near Kearneysville in Jefferson County. The limits of disturbance (LOD) is estimated at 150 acres, of which approximately four acres are comprised of former apple orchard trees.

Architectural Resources:
We cannot complete our review with the information submitted. Please forward photographs of any buildings and/or structures that will be within the project area and within the line-of-sight of the proposed above ground components of this project. We understand that the development of this site in conceptual at this time and it appears this is an effort to complete compliance to attract developers. There are several previously recorded properties on our WV SHPO GIS (http://mapwv/shpo) that if still standing will need updated information to determine if they are still eligible for the National Register of Historic Places. If there are no solid proposals and you wish to more forward we recommend for the view shed anticipating 2-3 story buildings. These photographs should be keyed to a USGS topographic map. We will provide additional comments upon receipt of the requested information; however, we reserve the right to request additional information, including the completion of Historic Property Inventory (HPI) forms.

Archaeological Resources:
Our records indicate that portions of the current project area underwent a Phase I archaeological survey for FR# 05-977-JF. One archaeological resource, 46JF501, was identified during that survey. This resource was determined not eligible for inclusion in the National Register of Historic Places.

However, the prior survey work does not investigate the entire current project area. Aerial photographs and project mapping denote the presence of buildings, including a early twentieth century farmstead, within the project area. Also, Civil War skirmishes and troop movements took place in the project area vicinity. As a result, we have concerns that there may be unrecorded archaeological deposits present. We, therefore, request that a Phase I archaeological survey be conducted in the portions of the project area that were not previously surveyed. The phase I survey should include a metal detector survey. We will provide further comment upon receipt of the resulting Phase I archaeological survey technical report.

EXHIBIT K - 04/03/2017 WVSHPO LETTER TO ERM, INC., PAGE 2

Cemetery Resources:
Our records and project mapping note the presence of a cemetery, 46JF507, immediately adjacent to the project area. This cemetery does not have a determination of eligibly for the National Register of Historic Places at this time. Since it presently not in the direct footprint of the project area only the viewshed would have to be evaluated should the cemetery be determined eligible. We will provide further comment upon receipt of the additional information

Public Comments:
In addition, federal regulations in 36 CFR 800.2(d)(1), 800.2(d)(2), 800.3(e), 800.6(a)(4) all stress the importance of public comment during the Section 106 process. If you have already completed this aspect of the requirements under Section 106, please provide written documentation of that along with any comments you have received. If you have not already done so, please forward a copy of the submitted information for the project to Jefferson County Historic Landmark Commission, allowing them the opportunity to comment on this project. Below is their contact information. Please forward any comments that you receive to this office. If you receive no comments, please indicate that *in writing* to this office. Please contact the below for further information.

Jefferson County Historic Landmark Commission
Post Office Box 23
Charles Town, West Virginia 25414

In addition to our usual comments, your letter requested "recommendations for the potential development on this property." It is our opinion, beyond the concerns mentioned above, that we do not have an interest in making specific recommendations for development this property at this time.

We appreciate the opportunity to be of service. *If you have questions regarding our comments or the Section 106 process, please contact, Carolyn Kender, Archaeologist, or Ernest E. Blevins, Structural Historian at (304) 558-0240.*

Sincerely,

Susan M. Pierce
Deputy State Historic Preservation Officer

SMP/CMK/EEB

EXHIBIT L - 1966 JEFFERSON ORCHARDS' DEED, [redacted] OWNERSHIP

1184.

460

2772

[redacted] et ux.

To: DEED OF B. & S.

Jefferson Orchards, Inc.

THIS DEED made and executed this 1st day of December, 1966, by and between [redacted] his wife, parties of the first part, and Jefferson Orchards, Inc., a West Virginia corporation, party of the second part:

WITNESSETH, That for and in consideration of the sum of $5.00, cash in hand paid, and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties of the first part do hereby grant, bargain, sell and convey and by these presents, have granted, bargained, sold and conveyed, to and unto the party of the second part, with general warranty, the following described real estate, situate in Middleway District of Jefferson County, West Virginia, more particularly described as follows:

"All those certain tracts or parcels of land situate in Middleway District, Jefferson County, West Virginia, together with all improvements thereon and appurtenances belonging thereto, described as follows:

FIRST PARCEL

Those three several tracts of land, which were heretofore conveyed to [redacted] by Charles J. Faulkner, Jr. and E. Boyd Faulkner, Trustees, by deed dated February 18, 1876, and recorded in the Office of the Clerk of the County Court of Jefferson County, West Virginia, in Deed Book D, page 104, containing in the aggregate about 208 acres, 2 roods and 30 perches, and described as follows:

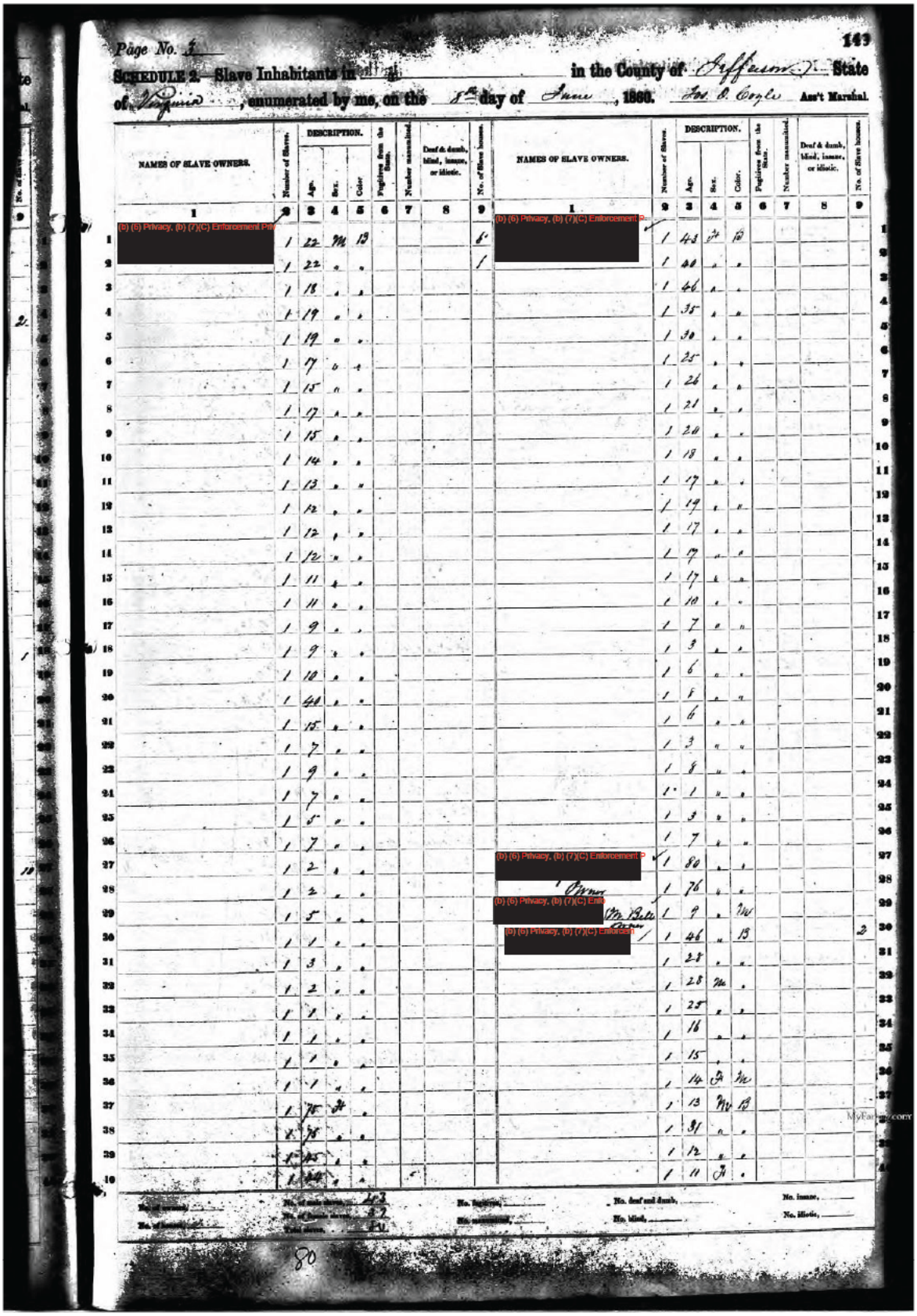
TRACT NO. 1:

Beginning at a stone in the edge of [redacted] field about 1 pole from the fence in the line of Blackborn and Paynes Patent, now [redacted] thence with the line of said Patent, now [redacted] and [redacted] S. 64° 40' E. 216.7 poles to a stone set in the ground in the line of said Patent, now [redacted] corner to [redacted] about 2 poles to [redacted] field; thence with the line of [redacted] N. 4° 3/4' E. 142 poles to a stone set in the ground in the line of [redacted] now made corner to the heirs of [redacted] thence, leaving Mrs. [redacted] and running the division line, N. 64° 3/4' W. 165.7 poles to a stone standing nearly in the center between sundry marked white oaks; thence S. 25° 1/4' W. 133.5 poles to the beginning; containing 160 acres.

TRACT NO. 2:

Beginning at a stone in the line of [redacted] deceased, and corner to [redacted]

EXHIBIT M - 1860 Slave Schedule Census



Page No. 1 — 143

SCHEDULE 2.—Slave Inhabitants in [illegible] in the County of Jefferson, State of Virginia, enumerated by me, on the 8th day of June, 1860. Jos. B. Coyle Ass't Marshal.

NAMES OF SLAVE OWNERS.	Number of Slaves.	DESCRIPTION. Age.	Sex.	Color.	Fugitives from the State.	Number manumitted.	Deaf & dumb, blind, insane, or idiotic.	No. of Slave houses.
1	2	3	4	5	6	7	8	9
(b) (6) Privacy, (b) (7)(C) Enforcement Priv	1	22	M	B				6
	1	22	"	"				1
	1	18	"	"				
	1	19	"	"				
	1	19	"	"				
	1	17	"	"				
	1	15	"	"				
	1	17	"	"				
	1	15	"	"				
	1	14	"	"				
	1	13	"	"				
	1	12	"	"				
	1	12	"	"				
	1	12	"	"				
	1	11	"	"				
	1	11	"	"				
	1	9	"	"				
	1	9	"	"				
	1	10	"	"				
	1	41	"	"				
	1	15	"	"				
	1	7	"	"				
	1	9	"	"				
	1	7	"	"				
	1	5	"	"				
	1	7	"	"				
	1	2	"	"				
	1	2	"	"				
	1	5	"	"				
	1	1	"	"				
	1	3	"	"				
	1	2	"	"				
	1	1	"	"				
	1	1	"	"				
	1	1	"	"				
	1	1	"	"				
	1	35	M	"				
	1	35	"	"				
	1	45	"	"				
	1	40	"	"				

NAMES OF SLAVE OWNERS.	Number of Slaves.	DESCRIPTION. Age.	Sex.	Color.	Fugitives from the State.	Number manumitted.	Deaf & dumb, blind, insane, or idiotic.	No. of Slave houses.
1	2	3	4	5	6	7	8	9
(b) (6) Privacy, (b) (7)(C) Enforcement P	1	43	M	B				
	1	40	"	"				
	1	46	"	"				
	1	35	"	"				
	1	30	"	"				
	1	25	"	"				
	1	26	"	"				
	1	21	"	"				
	1	20	"	"				
	1	18	"	"				
	1	17	"	"				
	1	19	"	"				
	1	17	"	"				
	1	17	"	"				
	1	17	"	"				
	1	10	"	"				
	1	7	"	"				
	1	3	"	"				
	1	6	"	"				
	1	5	"	"				
	1	6	"	"				
	1	3	"	"				
	1	8	"	"				
	1	1	"	"				
	1	3	"	"				
	1	7	"	"				
(b) (6) Privacy, (b) (7)(C) Enforcement P	1	80	"	"				
	1	76	"	"				
(b) (6) Privacy, (b) (7)(C) Enf Mr. Bell	1	9	"	Mu				
(b) (6) Privacy, (b) (7)(C) Enforcement	1	46	"	B				2
	1	28	"	"				
	1	28	Mu	"				
	1	25	"	"				
	1	16	"	"				
	1	15	"	"				
	1	14	M	Mu				
	1	13	Mu	B				
	1	31	"	"				
	1	12	"	"				
	1	11	M	"				

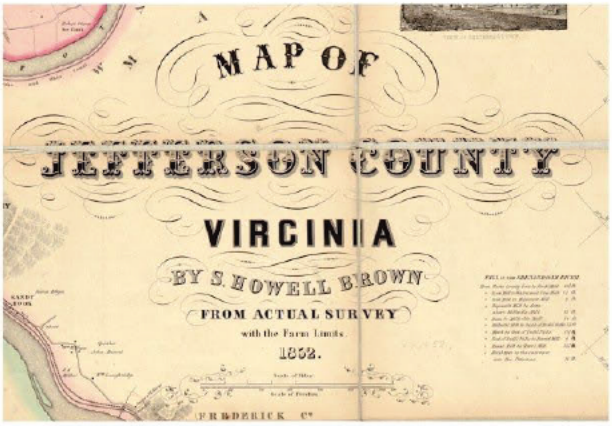
No. of male slaves 42
No. of female slaves 32
Total slaves 74

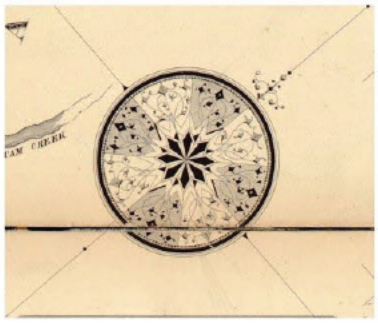
No. fugitives: ____ No. manumitted: ____ No. deaf and dumb: ____ No. blind: ____ No. insane: ____ No. idiotic: ____

80

EXHIBIT N - 1852 S. HOWELL BROWN MAP OF JEFFERSON COUNTY, WV
CLOSEUP SHOWING [redacted] LAND OWNERSHIP & CEMETERY

Jefferson County, WV
1852 Map Closeups





COMPASS

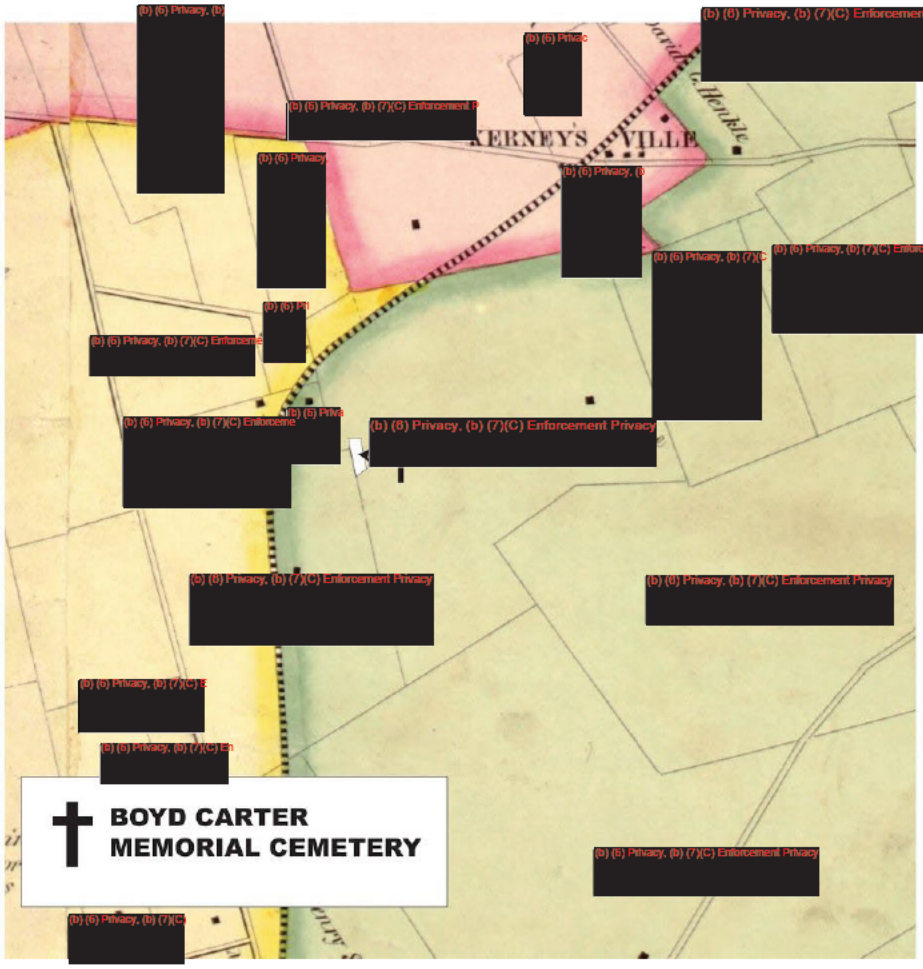


EXHIBIT O - JEFFERSON COUNTY WV TAX MAP OVERLAY WITH 1852 MAP

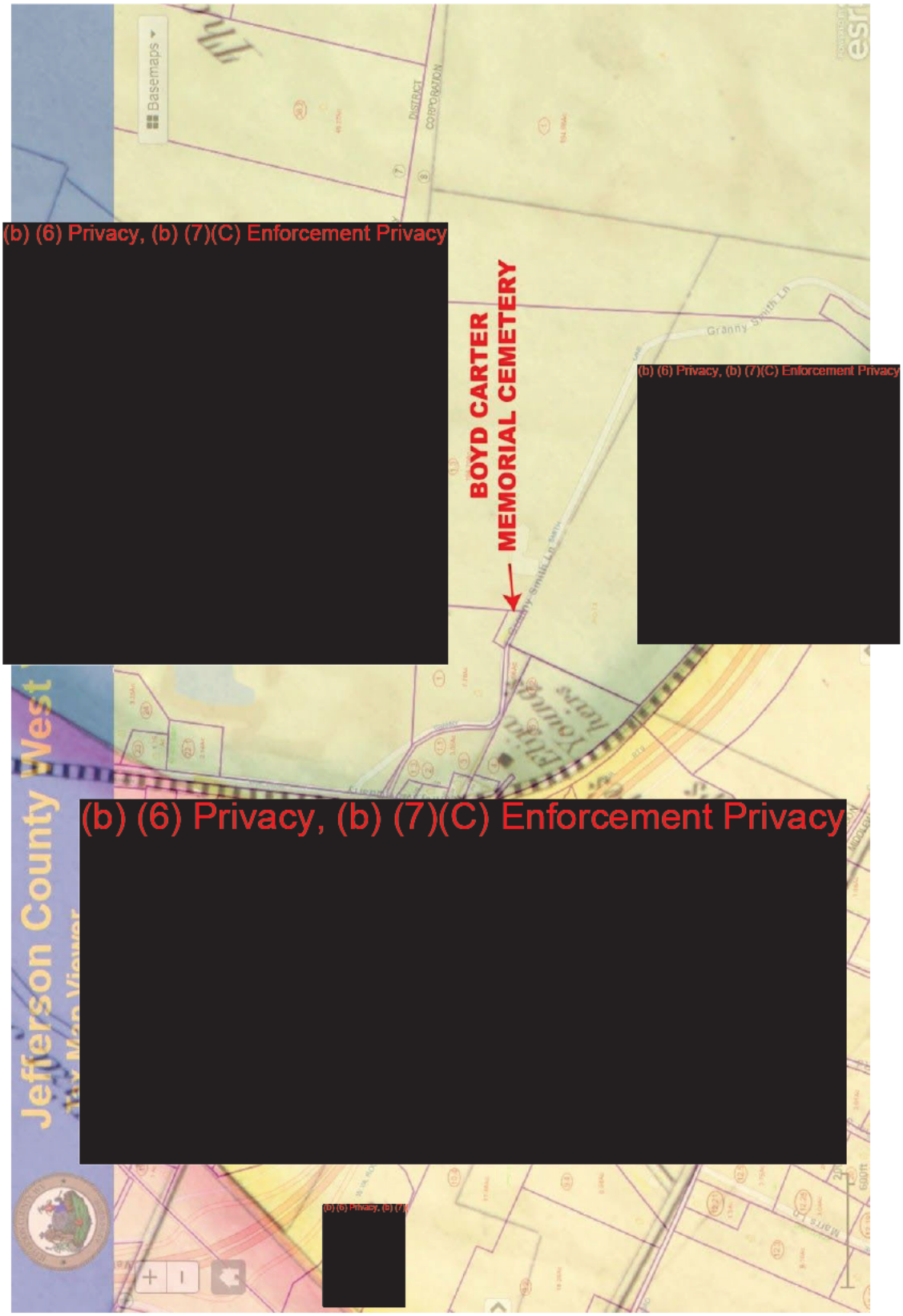


EXHIBIT P - WEST VIRGINIA GEOHISTORY / GEO-EXPLORER PROJECT: JEFFERSON COUNTY LAND GRANTS SHOWING [redacted] OWNERSHIP OF CEMETERY IN 1763

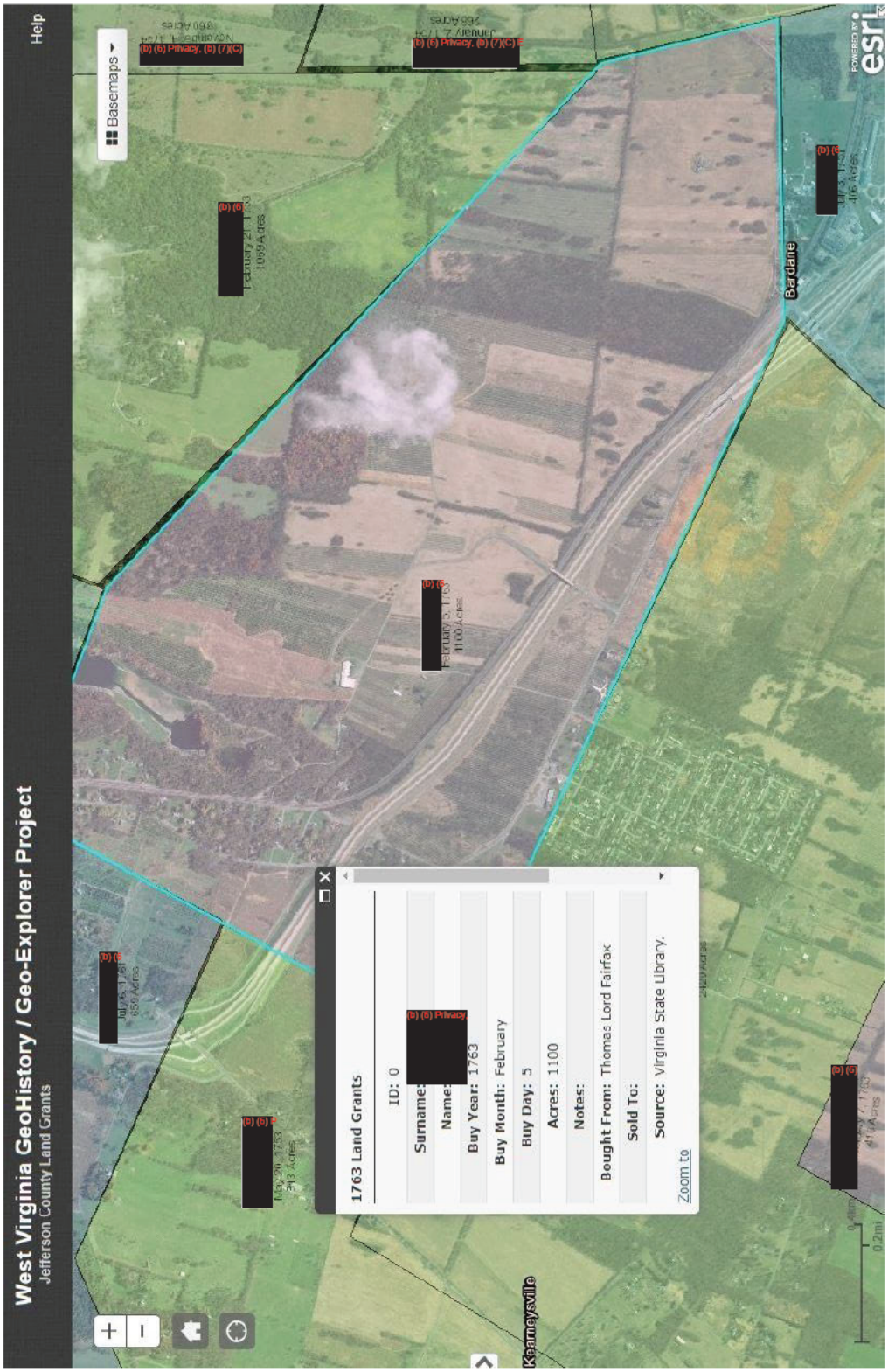


EXHIBIT Q - "GRAVE MATTERS: THE PRESERVATION OF AFRICAN AMERICAN CEMETERIES" BY THE CHICORA FOUNDATION, PAGE 4

"A Negro Funeral" in the late nineteenth century, from *Harper's New Monthly Magazine.*

place at night, possibly to allow slaves from neighboring plantations to attend, but just as likely because no other time was available. This may help explain why so many African-American burials continued to be held on Sundays even into the early twentieth century. All of the accounts suggest that the burials were rather significant affairs, with prayers, singing, and sometimes even an air of a pageant. Sometimes the service was reported to continue until the morning. Many accounts from the mid- and late-nineteenth century reveal that African-Americans were uniformly buried east-west, with the head to the west. One freed slave explained that the dead should not have to turn around when Gabriel blows his trumpet in the eastern sunrise. Others have suggested they were buried facing Africa.

Even where the slaves were buried seems similar. All seem to represent marginal property — land which the planter wasn't likely to use for other purposes. The burial spots have been described as "ragged patches of live-oak and palmetto and brier tangle which throughout the Islands are a sign of graves within, — graves scattered without symmetry, and often without headstones or head-boards, or sticks . . . ." A more recent researcher, Elsie Clews Parsons, observes that the African-American cemeteries were:

> hidden away in remote spots among trees and underbrush. In the middle of some fields are islands of large trees the owners preferred not to make arable, because of the exhaustive work of clearing it. Old graves are now in among these trees and surrounding underbrush.

Frances Anne Kemble reported that while an enclosure was erected around the graves of several white laborers buried on Butler Island, the graves of the African-American slaves were trampled on by the plantation cattle.

A black cemetery in the South Carolina up country was described by John William DeForest shortly after the Civil War. He commented that while a few marble and brick headstones were present, most were "wooden slabs, all grimed and mouldering with the dampness of the forest. . . ." At the time, some of the wooden slabs had painted names and dates. The paint likely flaked off only shortly before the wood itself rotted away.

EXHIBIT R - "AFRICAN AMERICAN CEMETERIES AND THE RESTORATION MOVEMENT" UNIVERSITY OF GEORGIA, SLAVE BURIAL GROUND CHARACTERISTICS

DEATH AND HUMAN HISTORY IN ATHENS

AFRICAN AMERICAN CEMETERIES AND THE RESTORATION MOVEMENT

African American Burial Traditions

Africa is a heterogeneous continent with various religions, racial identities, and cultural practices. When slaves arrived in America, they came from different tribes. Once in America, slaves were deliberately separated from family members. Then implicitly and explicitly discouraged by their owners from expressing their cultural beliefs. One form of resistance to cultural assimilation was creating their own burial customs.

On plantations, funeral ceremonies usually occurred at night. Since slaves had to work all day, night was the only time for them to participate in the ceremony. But it also allowed neighboring slaves to commune across legalistic borders. This tradition continued into the 20th century. Pre-Civil War, slave owners, not wanting to use their arable land for slave burials, would bury slaves in hidden in remote spots among trees and underbrush. During the ceremony, attendees would perform prayers and sing hymnals. Some cemeteries have their headstones facing west for spiritual reasons. Some graves are marked with trees, plants (ex; Yucca) or wooden planks. Believing that since trees would continue after their burial, death would not be their end. By using temporary markers, the residents ensured that there would always be room in the cemetery for future generations. Once buried, slaves from coastal regions would surround the gravesite with shells to enclose the soul's immortal presence. In other areas, offerings could be the last physical object the deceased touched.

Consequently, these traditions, along with the South's segregated past, has lead to the negative perception of Black cemeteries as being abandoned and unkept.

Figure 1. Although there is no way to know for certain, based on our knowledge of the tradition of leaving everday items at a gravesite, it is possible that this bottle was left purposely by the family of the deceased.

Figure 2. In Brooklyn Cemetery there are several family plots (see figure 2). At the same time, several families are sprawled across several sections. Family members may not be buried together because Black cemeteries did not typically preserve family groupings.

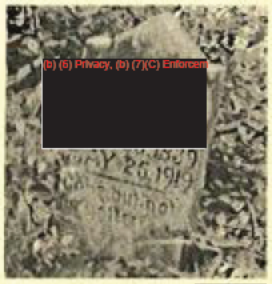
Preserving Black Cemeteries

In our capitalistic society, we have the tendency to focus on the most profitable options instead of the most humanistic. Landowners may ignore the existence of the cemetery or underestimate the size of the plot to support their building developments. Similarly, the University of Georgia had a recent issue, finding unidentified corpses in their construction zone.

However, most Black cemeteries were not delineated by deeds or legal instruments. Since cemeteries do not provide tax revenue for the county, disincentivizing the county from keeping up with the owners of the plots. Ultimately leaving the cemeteries forgotten by the local government. Once reintroduced to the cemeteries, counties have the legal right to choose whether or not to maintain 'abandoned' cemeteries. With that in mind, counties should be sure to include local Black communities in the decision making.

Some Black cemeteries do not have records of names, death certificate numbers or lists of relatives. Let alone a map of where people are buried. At Brooklyn Cemetery we are fortunate enough to have a record of names, death certificate numbers,

EXHIBIT S - "GRAVE MATTERS: THE PRESERVATION OF AFRICAN AMERICAN CEMETERIES" BY THE CHICORA FOUNDATION, PAGE 5



Example of a stone marker fo (b) (6) Privacy, (b) (6) Privacy, born a slave, in Georgetown County, South Carolina.

Graves were marked in a variety of ways besides wood or stone slabs. Sometimes unusual carved wooden staffs, thought perhaps to represent religious motifs or effigies, were used. Some graves were marked using plants, such as cedars or yuccas, and anthropologists have suggested this tradition may reflect an African belief in the living spirit. This tradition can be traced at least to Haiti, where blacks, probably mixing Christian religion with African beliefs, explain that, "trees live after, death is not the end." Yuccas and other "prickly" plants may also have been used "to keep the spirits" in the cemetery. Other graves were marked with pieces of iron pipe, railroad iron, or any other convenient object.

At times shells were used to mark the grave. One anthropologist in the early 1890s remarked that "nearly every grave has bordering or thrown upon it a few bleached sea-shells of a dozen different kinds." This practice has been traced back to at least the BaKongo belief that the sea shell encloses the soul's immortal presence. There was a prayer to the mbamba sea shell:

> As strong as your house you shall keep my life for me. When you leave for the sea, take me along, that I may live forever with you.

Even into the twentieth century some Gullah explained the use of shells on graves

African-American graves on Springfield Plantation, now part of Brookgreen Gardens, in January 1931. Courtesy of Brookgreen Gardens Archives, Murrells Inlet, South Carolina.

5

EXHIBIT T - THE CEMETERIES' YUCCAS

EXHIBIT U - AREA OF GRAVES BEYOND CEMETERIES' BOUNDARIES

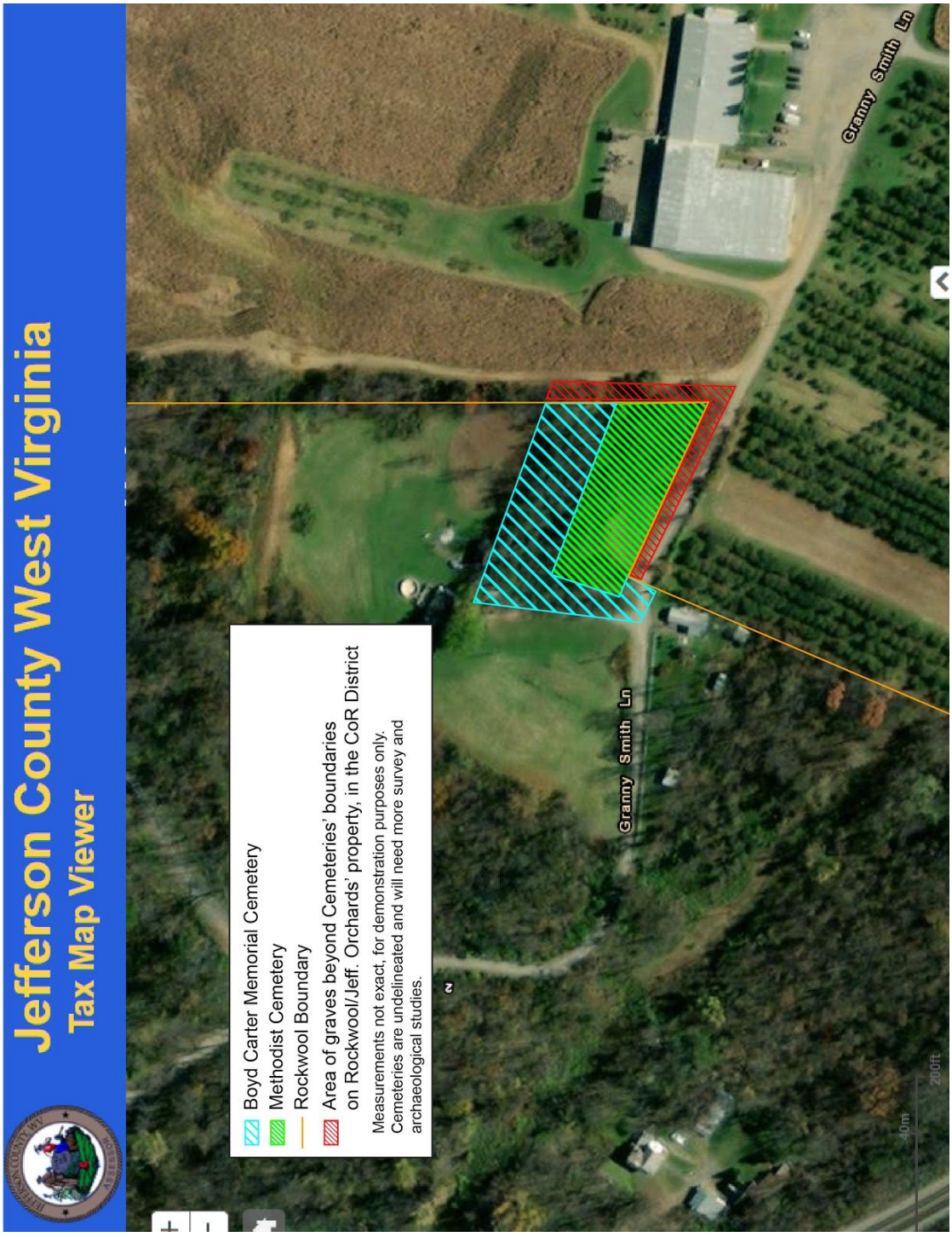


EXHIBIT V - 2012 JEFFERSON ORCHARDS' REZONING

EXHIBIT W - 2012 JEFFERSON ORCHARDS' REZONING MAP SHOWING CEMETERIES AND GRAVES

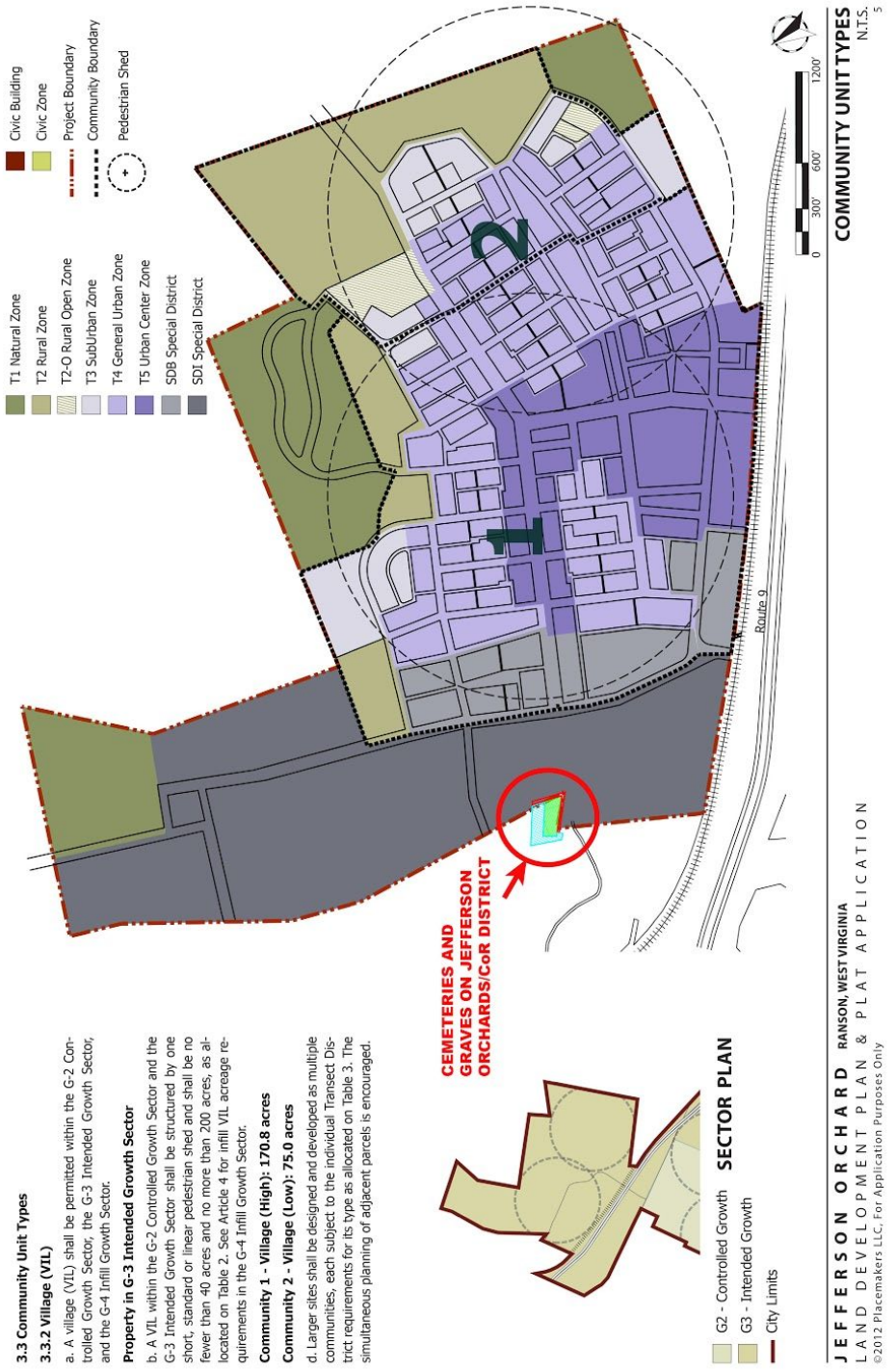


EXHIBIT X - 2012 JEFFERSON ORCHARDS' REZONING REQUEST - PAGE 2, EXISTING CONDITIONS

Existing Conditions

The property is located in District 8 of Jefferson County, West Virginis and is identified on Map 12 as Parcel 1. The total area of the property is approximately 389.7 acres. The boundary information for the property is obtained from exhibit titled Plat of Resurvey prepared by Resource International Ltd. Adjacent parcel and right-of-way locations obtained from Jefferson County Tax Map information. The National Wetlands Inventory Map identifies no potential wetland on the subject property. FEMA Map 5400650035C does not identify a 100-year floodplain on the property. No known right-of-ways or easements exist on the property other than easements associated with individual service utilities such as overhead electric.

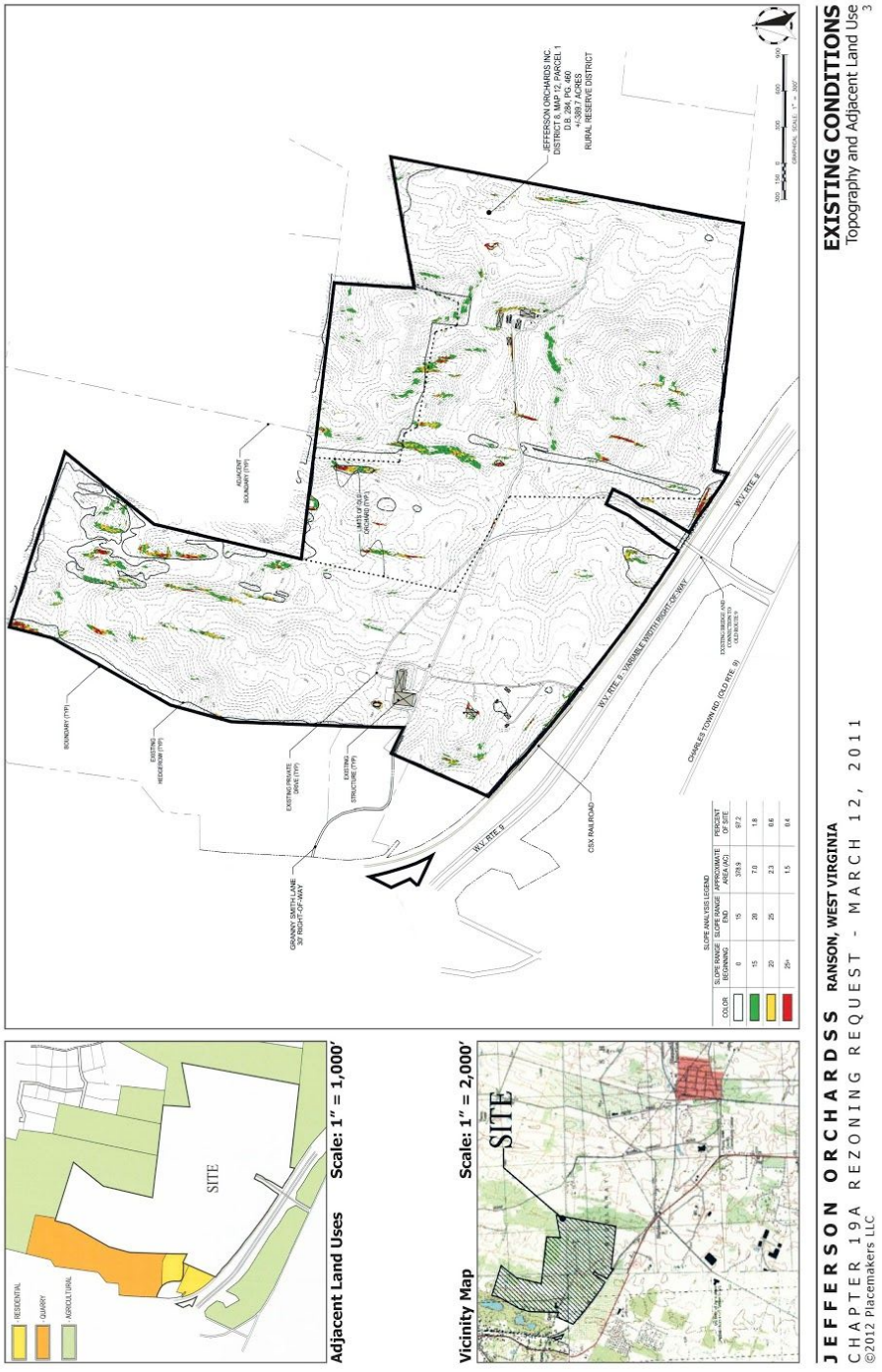
All technical information and many of the maps in this application were provided by William H. Gordon Associates, Inc.

The City of Ranson is co-sponsoring this application because of its use as an illustrative site in shaping Chapter 19A.

JEFFERSON ORCHARDS RANSON, WEST VIRGINIA
CHAPTER 19A REZONING REQUEST - MARCH 12, 2011

EXISTING CONDITIONS
Aerial
2

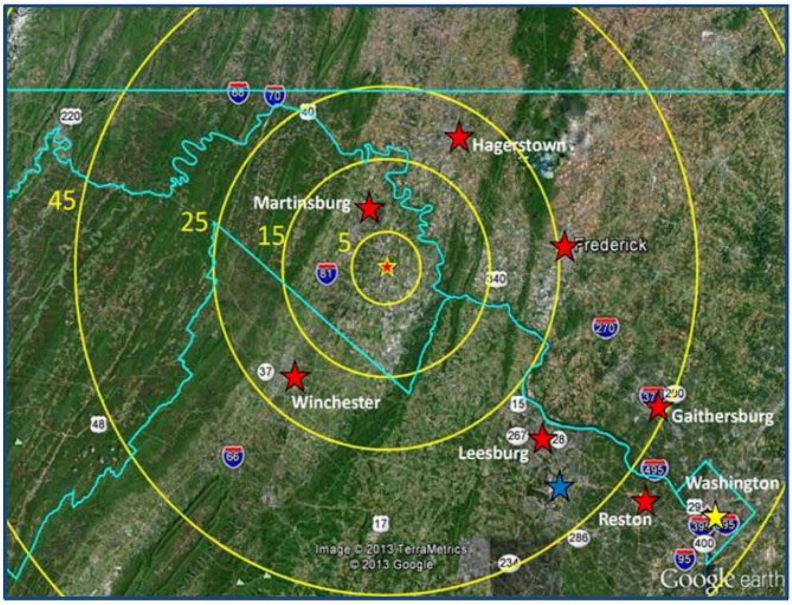
EXHIBIT Y - 2012 JEFFERSON ORCHARDS' REZONING REQUEST - PAGE 3, CLAIMING CEMETERIES ARE RESIDENTIAL



Introduction

The City of Ranson is an innovative and growing city located in the Eastern Panhandle of West Virginia in Jefferson County. The city is strategically located 65 miles from both Baltimore, MD and Washington, D.C. as mapped in *Figure 1*. It is included in the Washington, D.C. Metropolitan Statistical Economic Area with easy access to Frederick, MD and the Dulles technology corridors.

Figure 1 – Ranson's Location and Distance from Metropolitan Areas



Ranson's planning efforts provide a vision focusing on Sustainable Communities and Complete Streets to revitalize the effects of manufacturing closures and vacant industrial sites. The Ranson and Charles Town communities are serving as a national model for small rural cities on the fringe of a major metropolitan area by fostering sustainable economic development, transit and community livability through their planning efforts and infrastructure investments. Working closely with federal and state agencies, Ranson has leveraged significant grant and local funding to create a new vision and plan for smart growth. This includes Ranson's use of a HUD Sustainable Communities Challenge Grant, a U.S. EPA Brownfields Area-Wide Planning Grant and other resources to create the Ranson Comprehensive Land Use Plan, a Ranson "Smart Code," and a site use plan for the Jefferson Orchards property as described in this report.

EXHIBIT AA - CoR'S RESOLUTION #2015-22, PAGE 1

Resolution #2015-22

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RANSON ADOPTING AND APPROVING THE NORTHPORT STATION FEASIBILITY STUDY AND MEMORANDUM OF UNDERSTANDING WITH JEFFERSON ORCHARDS, INC..

WHEREAS, the City of Ranson was selected in October 2010 and awarded over $1,000,000 by the Partnership for Sustainable Communities which is comprised of the United States Department of Transportation, United States Housing and Urban Development and United States Environmental Protection Agency to serve as a national model for how small rural cities on the fringe of a major metropolitan area can foster sustainable economic development, transit, and community livability through targeted and strategic planning and infrastructure investments;

WHEREAS, the planning funds were used for the following linked and interdependent project components:

- Draft the 2012 Comprehensive Plan.
- Develop a new zoning ordinance for downtown, as well as undeveloped, outlying areas of the City of Ranson;
- Redesign the Fairfax Boulevard-George Street Corridor into a "complete street" with green infrastructure, to promote a better transportation route for pedestrians, cyclists, and transit;
- Design a new regional Charles Washington Commuter Center in downtown Charles Town that will facilitate access to regional rail and bus transit systems for Ranson, Charles Town and Jefferson County; and
- Create a master plan for downtown Ranson that spurs job growth and economic development in former dilapidated manufacturing sites;

WHEREAS, within the 2012 Ranson Comprehensive Plan, the Jefferson Orchards property is highlighted as one of the major development projects within the region and was selected by the Ranson City Council and Ranson Planning Commission as a property to demonstrate "SmartCode" regulations to promote traditional-neighborhood, mixed-use, and green focused development. The approved plan allows for a Village, Town Center or Transit Oriented Development. Within the Comprehensive Plan, the proposed relocation of the Duffields MARC Stop to Jefferson Orchards is supported;

WHEREAS, the City of Ranson and Hagerstown-Eastern Panhandle MPO has committed significant resources for the proposed relocation of the Duffields MARC stop to the Jefferson Orchards site. The West Virginia State Rail Authority adopted a unanimous resolution supporting the relocation and signed an agreement with MARC and CSX to relocate the MARC stop at Duffields to NorthPort;

EXHIBIT AA - NORTHPORT STATION FEASIBILITY STUDY - PAGE 1

WHEREAS, the Hagerstown-Eastern Panhandle Metropolitan Transit Authority funded a Feasibility Study to conduct a site assessment to identify key physical constraints that could affect the location of the Northport Station and design criteria for the station and its parking facilities;

WHEREAS, the Hagerstown-Eastern Panhandle MPO and its consultants have presented the final study to Ranson City Council;

WHEREAS, Jefferson Orchards, Inc. and the City of Ranson desire to enter into a Memorandum of Understanding concerning the implementation of the "Northport Station" project to establish a multi-modal transportation station on the Jefferson Orchards property that is consistent with the plan for future development of that property.

WHEREFORE, the Ranson City Council resolves as follows:

Section 1. The Ranson City Council hereby adopts and supports the Northport Feasibility Study, a copy which is attached to this Resolution and incorporated as fully set forth herein.

Section 2. The Mayor is hereby authorized to execute the Memorandum of Understanding with Jefferson Orchards, Inc., a copy of which is attached to this resolution and incorporated as fully set forth herein.

Section 3. The City Clerk is hereby directed to forward a copy of this executed Resolution and Memorandum of Understanding to the Hagerstown-Eastern Panhandle MPO and Jefferson Orchards, Inc.

Dated this 7th day of July 2015.

Approved by:

A. David Hamill
Mayor

Attested by:

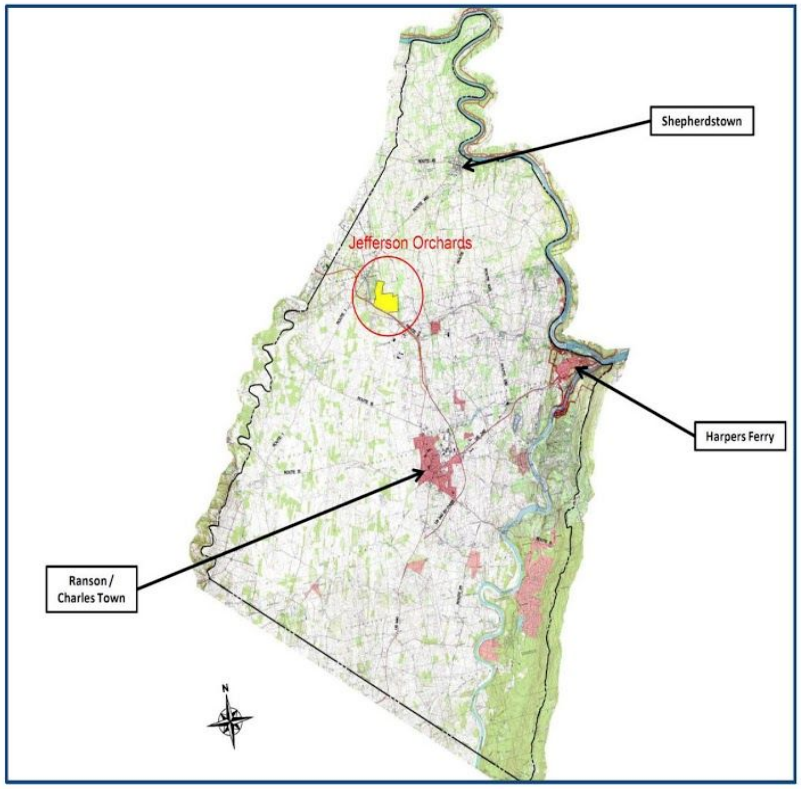
Stacey A. Dodson Pfaltzgraff
City Clerk

Jefferson Orchards

Within the 2012 Ranson Comprehensive Plan, the Jefferson Orchards property is highlighted as one of the major development projects within the region. The project is expected to provide economic development opportunities in the region including jobs in the technology, manufacturing, service and tourism industries. The planned neighborhood will contain a balance mix of activities to meet the needs of all its residents and will be designed to support the use of transit.

The Jefferson Orchards property consists of 389 acres in Jefferson County abutting Route 9 and the CSX railroad tracks that also service the MARC Brunswick Line. The location of the property is highlighted in *Figure 2*. Under the adopted "Ranson Smart Code" land development ordinance, the Jefferson Orchards site has obtained full zoning and site plan entitlements from the City of Ranson to include commercial, residential and industrial mixed uses. The Transit Oriented Development (TOD) plan provides a smart growth vision for the property focused around a new MARC commuter station.

Figure 2 – Location of the Jefferson Orchard Property



Environmental Screening Assessment

An Environmental Due Diligence screening was completed for the parcel being considered for acquisition and development. The Environmental Due Diligence Document does not fulfill requirements under the National Environmental Policy Act (NEPA) but rather is intended to highlight environmental subject areas most likely to require detailed study as project planning progresses. If and when the project does progress, the appropriate coordination must occur with the WV Division of Highways (DOH), the WV State Rail Authority (WV SRA), the Federal Highway Administration (FHWA), the Federal Railroad Administration (FRA), and other agencies as indicated throughout the Environmental Due Diligence Document. A summary of the Due Diligence findings is provided in *Table 3* and the full report is attached as Appendix B.

Table 3 – Summary of Due Diligence Findings

Environmental Subject Area	Recommendations for Additional Coordination or Analyses
Metropolitan Planning & Air Quality	N/A
Land Use & Zoning	N/A
Traffic	Impacts to all modes of traffic in the area will be investigated as part of the ongoing feasibility study being prepared for HEPMPO, and the findings will be incorporated into the project design. As planning and design progress beyond the scope of the feasibility study, a full Traffic Impact Study will be necessary. A preliminary scope for the Traffic Impact Study should be provided to WV DOH for review and concurrence, per DOH Traffic Engineering Directive 106-2 concerning access to/from DOH roadways.
Cultural Resources	Coordination with the WV SHPO is necessary in order to determine whether or not archaeological investigations are warranted. Also, if the multimodal facility work area encroaches on the nearby cemetery, then work must comply with state code and SHPO requirements. If any publicly or privately owned historic resources will be impacted by the project, then Section 4(f) requirements may apply.
Noise & Vibration	If federal funding is received, then noise and vibration impacts will need to be assessed per the Federal Transit Administration's *Transit Noise and Vibration Impact Assessment* manual.
Acquisitions & Relocations	Easements, coordination, and plan reviews by WV DOH, WV SRA, FHWA, FRA and other entities may be necessary for any work proposed outside of Jefferson Orchards' existing right-of-way.
Hazardous Materials	Due to the limited nature of the past screening effort, it is recommended that Phase I and Phase II Environmental Site Assessments be completed per American Society for Testing and Materials (ASTM) standards prior to property acquisition or development.
Community Involvement & Equity and Environmental Justice Analyses	Equity and environmental justice analyses should be completed to determine if the proposed project would result in disproportionately high or adverse impacts to minority or low-income populations present at either the NorthPort or the Duffields Stop locations.
Public Parkland & Recreation Areas	N/A
Wetlands	A qualified wetland professional should conduct an onsite wetland survey to confirm the absence of wetlands with the project area.
Floodplains	N/A
Water Quality & Navigable Waterways	If the CSX rail tunnel is utilized as a pedestrian underpass (Option 1), then impacts to site drainage will need to be investigated. Any proposals to modify the existing drainage system or to utilize the existing drainage structure for pedestrian access would need to be

EXHIBIT DD - NORTHPORT STATION FEASIBILITY STUDY - APPENDIX B, TABLE 3: SUMMARY OF DUE DILIGENCE FINDINGS

Table 3: Summary of Due Diligence Findings

Environmental Subject Area	Recommendations for Additional Coordination or Analyses
Metropolitan Planning & Air Quality	N/A
Land Use & Zoning	N/A
Traffic	Impacts to all modes of traffic in the area will be investigated as part of the ongoing feasibility study being prepared for HEPMPO, and the findings will be incorporated into the project design. As planning and design progress beyond the scope of the feasibility study, a full Traffic Impact Study will be necessary. A preliminary scope for the Traffic Impact Study should be provided to WV DOH for review and concurrence, per DOH Traffic Engineering Directive 106-2 concerning access to/from DOH roadways.
Cultural Resources	Coordination with the WV SHPO is necessary in order to determine whether or not archaeological investigations are warranted. Also, if the multimodal facility work area encroaches on the nearby cemetery, then work must comply with state code and SHPO requirements. If any publicly or privately owned historic resources will be impacted by the project, then Section 4(f) requirements may apply.
Noise & Vibration	If federal funding is received, then noise and vibration impacts will need to be assessed per the Federal Transit Administration's *Transit Noise and Vibration Impact Assessment* manual.
Acquisitions & Relocations	Easements, coordination, and plan reviews by WV DOH, WV SRA, FHWA, FRA and other entities may be necessary for any work proposed outside of Jefferson Orchards' existing right-of-way.
Hazardous Materials	Due to the limited nature of the past screening effort, it is recommended that Phase I and Phase II Environmental Site Assessments be completed per American Society for Testing and Materials (ASTM) standards prior to property acquisition or development.
Community Involvement & Equity and Environmental Justice Analyses	Equity and environmental justice analyses should be completed to determine if the proposed project would result in disproportionately high or adverse impacts to minority or low-income populations present at either the NorthPort or the Duffields Station locations.
Public Parkland & Recreation Areas	N/A
Wetlands	A qualified wetland professional should conduct an onsite wetland survey to confirm the absence of wetlands with the project area.
Floodplains	N/A
Water Quality & Navigable Waterways	If the CSX rail tunnel is utilized as a pedestrian underpass (Option 1), then impacts to site drainage will need to be investigated. Any proposals to modify the existing drainage system or to utilize the existing drainage structure for pedestrian access would need to be vetted by the WV DOH and the FHWA. Regardless of what is proposed, the WV DOH will need to review the drainage layout and calculations to verify the level of impact on the State Highway System. Potential short-term and long-term surface and ground water quality

EXHIBIT DD - NORTHPORT STATION FEASIBILITY STUDY - APPENDIX B, TABLE 3: SUMMARY OF DUE DILIGENCE FINDINGS

Environmental Subject Area	Recommendations for Additional Coordination or Analyses
	impacts caused by implementation of the proposed project should be mitigated with the use of Best Management Practices, an Erosion and Sediment Pollution Control Plan, and/or a NPDES permit, according to all relevant standards and guidelines.
Endangered Species & Ecologically-Sensitive Areas	Further consultation with the USFWS is required under section 7 of the Endangered Species Act of 1973, as amended.
Safety & Security	N/A
Construction	N/A

No Concerns or Further Coordination/Analyses Identified
Additional Coordination or Analyses Warranted
Potential Concern Identified

EXHIBIT EE - NORTHPORT STATION FEASIBILITY STUDY - ADMISSION OF MARKED GRAVES IN CoR DISTRICT

Table 1: Structures Surveyed for Historic Integrity within the Project Area Viewshed

Map ID	SHPO ID	Year Built	Type	Eligibility
A	JF-0078-0003	1900	Two-story farmstead ([redacted] House)	Not Eligible (1992 survey); Not Eligible (1996 survey)
B	JF-0078-0014	1926	Two-story Residence ([redacted] House)	Not Eligible (1992 survey)
C	JF-0078-0015	1920s	Two-story Residence ([redacted] House)	Not Eligible (1992 survey)
D	JF-0078-0004	1910	B&O Railroad Bridge	Not Eligible (1992 survey); Not Eligible (1996 survey)
E	JF-0078-0016	1930s-early 40s	Two-story Residence ([redacted] House)	Not Eligible (1992 survey); Not Eligible (1996 survey); Not Eligible (1997 survey)
F	JF-0078-0109	1900	Two-story Residence ([redacted] House)	Not Eligible (1992 survey); Not Eligible (1996 survey)
G	JF-0078-0108	1920s	Two-story Residence ([redacted] House)	Not Eligible (1996 survey)
H	JF-0078-0107	1920s	Two-story Residence ([redacted] House)	Not Eligible (1996 survey)

Archaeology

Coordination with the WV SHPO is necessary in order to determine whether or not archaeological investigations are warranted.

Marked Graves

There are at least two dozen marked graves located within the subject parcel, north of Granny Smith Lane and west of the intersection with 1st Street. The graves are scattered through an area that is partially maintained lawn and partially forested (Figure 2). A complete survey of the memorial stones was not completed, but observed dates ranged from 1901 to 1990. The burial ground is significantly beyond the limits for the proposed multimodal transportation facility but may be impacted by any future improvements to Granny Smith Lane or by any transit-oriented development proposed separately from the multimodal transportation facility.

Figure 2: A Few of the Marked Graves

The West Virginia state code includes provisions regarding burial sites on private property. Chapter 37, Article 13[5], details removal, transfer, and disposition of remains in graves located upon privately owned lands. Section 37-13-1a states that "no improvement, construction, or

[5] http://www.legis.state.wv.us/WVcode/Code.cfm?chap=37&art=13#13

EXHIBIT EE - NORTHPORT STATION FEASIBILITY STUDY - ADMISSION OF MARKED GRAVES IN CoR DISTRICT

development shall commence upon privately owned lands on which a cemetery or graves are located if such improvement, construction or development would destroy or otherwise physically disturb the cemetery or graves located on the land unless the owner first files a petition in accordance with the provisions of section two of this article and an order is entered pursuant to section five of this article providing for the disposition of the remains." If removal of the remains is permitted, then the plaintiff is responsible for all associated costs of removal, transfer, and disposition. Chapter 37, Article 13A, Section 37-13A-7[6], stipulates that if a governmental subdivision is notified of the existence within its jurisdiction of a marked grave site that is not located in a dedicated cemetery, then the governmental subdivision shall document the location and notify the property owner and the Division of Culture and History of both the location and the provisions in the state code regarding graves on private property.

The West Virginia SHPO has a limited role in respect to cemeteries. The SHPO has the authority to comment on whether or not the cemetery is eligible to be listed in the National Register of Historic Places. If determined to be eligible, then the SHPO works with Federal agencies to avoid the cemetery or to have it excavated by professional archaeologists. If the cemetery is determined to not be eligible for the National Register, then the SHPO's role ends[7].

In summary, if the multimodal facility work area encroaches on the nearby cemetery, then work must comply with state code and SHPO requirements.

If any publicly or privately owned historic resources will be impacted by the project, then Section 4(f) requirements may apply.

G. Noise & Vibration

Potential sources of noise and vibration created by the project include locomotive idling and passbys as well as bus idling and passbys. **If federal funding is received, then noise and vibration impacts will need to be assessed per the Federal Transit Administration's *Transit Noise and Vibration Impact Assessment* manual.**

H. Acquisitions & Relocations

A Memorandum of Understanding is being developed to specify roles and responsibilities for covering costs, the structure for decision-making among the parties, and the confirmation of Jefferson Orchards' intent to donate approximately five acres of land for the NorthPort Station. No additional property acquisition is anticipated for the multimodal facility project.

However, easements in WV DOH right-of-way may be required for a pedestrian bridge, alterations to existing drainage facilities, utilities, or other station components. Any work proposed within the controlled access right-of-way of Route 9 would need to be reviewed by WV DOH at the conceptual stage before progressing to further planning and design. Likewise,

[6] http://www.legis.state.wv.us/WVcode/Code.cfm?chap=37&art=13A
[7] http://www.wvculture.org/shpo/cemeteries.html

EXHIBIT FF - CoR ORDINANCE# 2017-302, PAGE 1

ORDINANCE # 2017-302

AN ORDINANCE AMENDING AND RE-ENACTING THE OFFICIAL ZONING MAP OF THE CITY OF RANSON PURSUANT TO RANSON MUNICIPAL CODE § 19-20 AND CHAPTER 19A, ARTICLE 1: "JEFFERSON ORCHARDS" REALLOCATING TRANSECT DISTRICTS (DISTRICT 8, TAX MAP 12, PARCEL 1)

AN ORDINANCE to amend certain portions of the official Zoning Map of the City of Ranson, West Virginia, for the purpose of reallocating transect districts within Smart Code New Community District (SC-NC) pursuant to Chapter 19-20 of the Ranson Municipal Code and Chapter 19A, Article 1 of the Ranson Municipal Code;

WHEREAS, West Virginia Code § 8A-7-8 and § 8A-7-9 permits the amendments to the zoning ordinance by either the governing body or petition by owners of fifty percent or more of the real property in the area in which the petition relates;

WHEREAS, Jefferson Orchards Inc. has submitted a rezoning petition and application;

WHEREAS, Jefferson Orchards, Inc., is the sole owner of the attached illustrated property, more commonly known as Jefferson Orchards, and being the same property, as described below, has petitioned the City of Ranson Planning

Commission for a zoning map amendment to change the allocation of the transect districts within Smart Code New Community District (SC-NC);

WHEREAS, the Ranson Planning Commission adopted a Resolution dated August 7, 2017, recommending the Ranson City Council to amend the zoning map and change the subject property's zoning from as specifically illustrated on the attached Zoning Application;

WHEREAS, pursuant West Virginia Code § 8A-7-9, proper public notice and public hearings have been provided; and

WHEREAS, the rezoning petition is consistent with the 2012 Ranson Comprehensive Plan. The G3 Preferred Growth Sector of the application area is a priority expansion area of the 2012 City of Ranson Comprehensive Plan, and encourages the use of Chapter 19A Smart Code. As such, this rezoning petition conforms to the preferred vision of the Comprehensive Plan.

NOW, THEREFORE, be it enacted and ordained by the Council of the City of Ranson, West Virginia:

Section 1. The official City of Ranson Zoning Map be amended to reflect that Jefferson Orchards, located in District 8 of Ranson, Jefferson County, and identified

on Map 12 as Parcel 1 consisting of approximately 389.7 acres is Smart Code-New Community (SC-NC) with new allocated transect districts.

Section 2. Consistent with Chapter 19A, Section 1.3.7, upon approval of the Land Development Plan and Plat by the Planning Commission pursuant to 3.1.4, specific transect districts shall replace the SC-NC designation on the official zoning map as part of the Planning Commission's approval of the land development plan and plat, so long as the allocation of the zoning districts within the land development plan and plat are consistent with Table 3 of Chapter 19A and the original rezoning to SC-NC. The replacement of specific transect zones on the official zoning map shall not be considered a zoning amendment pursuant to West Virginia § 8A-7-8 or West Virginia § 8A-7-9; thus, the placement of transect zones will not require further action of the Planning Commission or City Council. Transect zone placement shall be considered a continuation of the original SC-NC rezoning process pursuant to this Ordinance. So may be relocated within the parcel(s) administratively and on the official zoning map until final plat approval. Once the final plat is approved pursuant to Chapter 19A, 5.1.6.g transect districts may not be relocated or rearranged and may only be amended through the City's rezoning process.

EXHIBIT FF - CoR ORDINANCE# 2017-302, PAGE 4

Adopted by the City Council of the City of Ranson after a 1st reading on August 15, 2017 and second reading on September 5, 2017 by 6 in the affirmative, 0 in the negative with 0 abstentions.

Keith D. Pierson
Mayor

ATTEST:

Stacey A. Dodson Pfaltzgraff
City Clerk

6.1

RANSON
AT THE CENTER OF OPPORTUNITY

City Council
Request For Council Action

TO: Mayor and Council

FROM: Andrew Blake, City Manager

SUBJECT: Ordinance #2017-301 - 1st READING of an Ordinance of the City Council of Ranson, West Virginia, Amending the City of Ranson Municipal Code, Chapter 19A, Article 3, Sec. 3.9 "Special Districts and Chapter 19A, Article 6, Sec. 6.1 "Special District"; and Tables 22, 23A and 23B of Chapter 19A

Per recommendation by the Ranson Community Development staff and Ranson Planning Commission approval of Resolution #2017-5 - Proposed Revisions to New Community Special District July 10, 2017, amendments to Chapter 19A - Special Districts of the Ranson Municipal Code are hereby submitted to Council for the approval of the 1st READING of Ordinance #2017-301.

Attachments:

1. **20170718 - CM - Ordinance #2017-301 - Chapter 19-A - Special Districts Amend**
2. **20170718 - Special Districts Tables**
3. **20170710 - PC Minutes**

1. Motion to approve the 1st READING of Ordinance #2017-301
2. Second to approve the 1st READING of Ordinance #2017-301
3. Discussion
4. Vote
5. 2nd READING has been scheduled for August 1, 2017

Packet Pg. 17

ORDINANCE #2017-301

AN ORDINANCE OF THE CITY COUNCIL OF RANSON, WEST VIRGINIA, AMENDING THE CITY OF RANSON MUNICIPAL CODE, CHAPTER 19A, ARTICLE 3, SEC. 3.9 "SPECIAL DISTRICTS AND CHAPTER 19A, ARTICLE 6, SEC. 6.1 "SPECIAL DISTRICT"; AND TABLES 22, 23A AND 23B OF CHAPTER 19A

Be it enacted and ordained by the Council of the City of Ranson that the following Chapters and Sections of the Ranson Municipal Code be amended: Chapter 19A, Article 3, Section 3.9; Chapter 19A, Article 6, Section 6.1; and Tables 22, 23A and 23B of Chapter 19A.

Section 1.

Article 3. New Community

3.9 Special Districts

3.9.1 Special district designations shall be assigned to areas that, by their intrinsic size, use, or configuration, cannot conform to the requirements of any Transect District or combination of districts.

3.9.2 Conditions of development for special districts not included in Article 6 shall be recommended by the Planning Commission and approved by the City Council and recorded in Article 6.

3.9.3 Special districts may be mapped within or outside of community units. If mapped within a community unit, a special district shall not exceed 20% of the net site area.

3.9.4 Special Districts shall conform to the heights, setbacks, and lot requirements of ~~Table 22 and Table 23~~ Article 6.1 Special Districts

3.9.5 Business Special District (SDB)

a. SDB is available for industrial and manufacturing areas and areas with a high concentration of office and light industrial uses.

b. SDB is limited to; ~~a maximum size of 120 acres~~.
   i. a maximum of 120 acres
   ii. a minimum of 2 acres within a Community Unit Type
   iii. a minimum of 10 acres outside a Community Unit Type

c. SDB ~~may~~ shall be mapped within or adjacent to village and town center community units.

d. SDB should be mapped within or adjacent to a TOD overlay district.

3.9.6 Industrial Special District (SDI)

a. SDI is available for industrial and manufacturing areas.

b. SDI is limited to: ~~a maximum size of 200 acres.~~
   i. a maximum of 200 acres
   ii. a minimum of 4 acres within a Community Unit Type
   iii. a minimum of 15 acres outside a Community Unit Type

c. SDI may be mapped adjacent to village and town center community units.

d. SDI should be mapped within or adjacent to a TOD overlay district.

Article 6. Special District

6.1 Special Districts ~~SDB and SDI~~

6.1.1 Building Placement

a. Newly platted lots shall be dimensioned according to Sec 3.5.1, Sec 3.6, Table 22, and Table 23.

b. Buildings shall be placed in relation to the boundaries of their lots according to Table 22 and Table 23.

c. ~~One principal building at the frontage, and one outbuilding to the rear of the principal building, may be built on each lot as shown in Table 15.~~

d. Lot coverage by building shall not exceed that recorded in Table 22 and Table 23.

e. Setbacks for buildings shall be as shown in Table 22 and Table 23.

6.1.2 Building Configuration

a. **General to ~~SDB, SDI~~ Special Districts (SD)**

i. ~~Buildings on corner lots shall have two private frontages as shown in Table 17. Prescriptions for the second and third layers pertain only to the principal frontage. Prescriptions for the first layer pertain to both frontages.~~ Building heights, setbacks, and expression lines shall conform to Table 5, and be allocated as required in Table 22, Table 23 A, and Table 23 B.

ii. ~~Encroachments shall be as follows: At the first layer, cantilevered awnings and entry canopies may encroach up to one hundred percent (100%) of the depth of the setback, except as may be further allowed by Chapter 19 of the City of Ranson Code of Ordinances; cantilevered portions of balconies, bay windows, and roofs shall be a maximum three (3) feet deep and may encroach up to a three (3) feet depth of the setback. Other cantilevered portions of the building shall maintain the required setback. At the second layer no encroachments are permitted except that façade components promoting energy efficiency such as shading and screening devices that are non-accessible may encroach a maximum of three (3) feet.~~ The private frontage of buildings shall conform to and be allocated in accordance with Table 6.

iii. ~~Galleries and arcades shall be a minimum twelve (12) feet deep and may encroach up to one hundred percent (100%) of the depth of the setback.~~ Reserved

iv. In a parking structure or garage, each above-ground level counts as a single story regardless of its relationship to habitable stories.

v. Height limits do not apply to attics or raised basements, masts, belfries, clock towers, chimney flues, water tanks, ~~or~~ elevator bulkheads, or stacks.

vi. ~~All storage, utility and infrastructure elements including service areas, loading space, transformers, telephone boxes, garbage cans, dumpsters, condensers, meters, backflow preventers, siamese connections and the like shall be located within the second or third layer and concealed from view from any frontage or sidewalk by streetscreens, and opaque gates. Loading and service entries shall be accessed from alleys when available.~~

vii. ~~Building heights shall be measured in stories and shall conform to Table 5 and be allocated as required in Table 22 and Table 23.~~ ~~Industrial uses requiring~~

~~additional Height in SDI may be permitted by administrative waiver The City Manager or his designee must make the following written findings:~~

~~1. The waiver is consistent with the provisions of Section 1.2 Intent.~~

~~2. The waiver is consistent with the Comprehensive Plan.~~

~~3. The waiver does not require a Special Exception Permit.~~

~~4. The additional height will not materially endanger the public health or safety or constitute a public nuisance if located where proposed and developed according to the plans and information submitted and approved.~~

~~5. The additional height will not substantially injure the value of adjoining property; or that the use is a public necessity.~~

~~6. The additional height, if developed according to the plans and information approved, will be in harmony with proximate land uses, and consistent with the purposes of the district.~~

~~7. The applicant has demonstrated that the use specifically requires the proposed Height.~~

viii. ~~A first floor commercial use, which shall be a minimum of 11 feet with a maximum of 25 feet. A single floor level exceeding 14 feet, or 25 feet at ground level, shall be counted as two (2) stories. Mezzanines extending beyond 33% of the floor area shall be counted as an additional story~~.

~~ix. Flat roofs shall be enclosed by parapets of a minimum height required to conceal mechanical equipment.~~

~~x. Streetscreens shall be between three and a half (3.5) and eight (8) feet in Height. The Streetscreen may be replaced by a hedge or fence. Streetscreens shall have openings no larger than necessary to allow automobile and pedestrian access.~~

b. Specific to Special District Business (SDB)

i. ~~The private frontage of buildings shall conform to Table 6.~~ Buildings on corner lots shall have two private frontages as shown in Table 17. Prescriptions for the second and third layers pertain only to the principal frontage. Prescriptions for the first layer pertain to both frontages.

ii. ~~All facades shall be glazed with clear glass no less than 15% of the first story.~~ A first floor commercial use, which shall be a minimum of 11 feet with a maximum of 25 feet. A single floor level exceeding 14 feet, or 25 feet at ground level, shall be counted as two (2) stories. Mezzanines extending beyond 33% of the floor area shall be counted as an additional story

iii. A first level lodging use shall be raised a minimum of 1.5 feet from average sidewalk grade.

iv. All facades shall be glazed with clear glass no less than 15% of the first story.

vi. All storage, utility and infrastructure elements including service areas, loading space, transformers, telephone boxes, garbage cans, dumpsters, condensers, meters, backflow preventers, siamese connections and the like shall be located within the second or third layer and concealed from view from any frontage or sidewalk by streetscreens, and opaque gates.

vii. Loading and service entries shall be accessed from alleys when available.

viii. Encroachments in to the Front and Side Setbacks shall be as follows:

1. At the first layer, cantilevered awnings and entry canopies may encroach up to one hundred percent (100%) of the depth of the setback.
2. Cantilevered portions of balconies, bay windows, and roofs shall be a maximum three (3) feet deep and may encroach up to a three (3) feet depth of the setback. Other cantilevered portions of the building shall maintain the required setback.
3. At the second layer no encroachments are permitted except that façade components promoting energy efficiency such as shading and screening devices that are non-accessible may encroach a maximum of three (3) feet.

ix. Galleries and arcades

1. Shall be a minimum twelve (12) feet deep
2. May encroach up to one hundred percent (100%) of the depth of the front setback.

x. Flat roofs shall be enclosed by parapets of a minimum height required to conceal mechanical equipment.

c. ~~Specific to SDI~~ Reserved

~~i. Vehicular entries, loading space and service areas shall be permitted on principal frontages.~~

d. Specific to SDI inside a Community Unit Type

i. Buildings on corner lots shall have two private frontages as shown in Table 17. Prescriptions for the second and third layers pertain only to the principal frontage. Prescriptions for the first layer pertain to both frontages.

ii. All facades shall be glazed with clear glass no less than 15% of the first story adjacent to primary frontages.

vi. All storage, utility and infrastructure elements including service areas, loading space, transformers, telephone boxes, garbage cans, dumpsters, condensers, meters, backflow preventers, siamese connections and the like shall be located within the second or third layer and concealed from view from any frontage or sidewalk by streetscreens, and opaque gates.

vii. Loading and service entries shall be accessed from alleys when available.

viii. Encroachments in to the Front and Side Setbacks shall be as follows:

4. At the first layer, cantilevered awnings and entry canopies may encroach up to one hundred percent (100%) of the depth of the setback.
5. Cantilevered portions of balconies, bay windows, and roofs shall be a maximum three (3) feet deep and may encroach up to a three (3) feet depth of the setback. Other cantilevered portions of the building shall maintain the required setback.
6. At the second layer no encroachments are permitted except that façade components promoting energy efficiency such as shading and screening devices that are non-accessible may encroach a maximum of three (3) feet.

ix. Galleries and arcades

3. Shall be a minimum twelve (12) feet deep
4. May encroach up to one hundred percent (100%) of the depth of the front

setback.

x. Flat roofs shall be enclosed by parapets of a minimum height required to conceal mechanical equipment.

e. Specific to SDI outside a Community Unit Type

i. The private frontage of buildings shall conform to Common Lawn as shown in Table 6.

ii. Loading and service entries shall be limited to access from internal driveways or internal private streets.

iii. Height

1. Maximum height shall be 125'.
2. Deviations may be requested through administrative wavier to exceed maximum height (See Chapter 19A, 1.5.3 Administrative Waivers)

iv. Lighting internal to the district shall follow the following lighting requirements

1. The style of the light and light standard shall be consistent with the architectural style of the principal building.
2. The maximum height of on-site freestanding lights shall not exceed 40 feet.
3. All outdoor lighting shall be downward directed and shielded so as to prevent other parcels from being directly illuminated.
4. Where outdoor lighting is provided the maximum incidental *light* spillage onto adjacent non-SDI parcels shall be 0.2 footcandles as measured at eight feet above average grade at the property line of the receiving parcel.

6.1.3 Building Use

a. Buildings in Special Districts shall conform to the uses and intensities described in Table 7 and Table 8.

b. Conditional uses, refer to procedure in Article 5.7.1

6.1.4 Parking Standards

a. Vehicular parking shall be required as shown in Chapter 19, Sec. 19-12.

b. On-street parking available along the frontage lines that correspond to each lot shall be counted toward the parking requirement of the building on the lot.

c. All parking, including open parking areas, covered parking, garages, loading docks and service areas shall be masked from the frontage by a streetscreen or landscape buffer. ~~pursuant to Subsection 6.1.2. Underground parking may extend into the second layer only if it is fully underground and does not require raising the first floor elevation of the second layer above that of the sidewalk.~~

d. Buildings mixing uses shall provide parking required for each use.

e. Parking shall be internally accessed by private driveways such as rear alleys or rear lanes, when such are available.

f. For Special Districts that are outside a Community Unit Type, open parking areas may be allowed unmasked on the frontage if

i. perimeter landscaping and screening is provided

ii. Through an administrative waiver as described in Section 1.5.

6.1.5 Landscape Standards

a. Buffers and screening elements shall be used to screen parking areas from public

view, to screen service yards and other places that are unsightly, and to buffer between the special district and an adjacent Transect District.

i. A frontage landscape buffer, which may also include the sidewalk, shall be a minimum of ten (10) feet in depth, measured from the frontage line and running its full width.
   1. A minimum of one (1) tree shall be planted within the first layer for every 700 square feet of frontage landscape buffer.
   2. Fifty (50) percent or more of the frontage landscape buffer must have shrubs and vegetative cover.

ii. An interior landscape buffer located along common property lines shall be required between a SD and an adjacent Transect Districts.
   1. A minimum of one (1) tree shall be planted within the side and rear setbacks for every 700 square feet of interior landscape buffer.
   2. Fifty (50) percent of the interior landscape buffer shall be covered with vegetation.

6.1.6 Signage Standards Specific to Special Districts

a. The following signs are permitted from Article 5.11 Signage Standards:
   i. Address Sign
   ii. Awning Sign
   iii. Band Sign
   iv. Monument – per entrance
   v. Nameplate Sign

b. The following sign is also permitted from 19-15(f)(1) Wall Signs

Section 2.

Tables 22, 23A and 23B are hereby amended as attached.

Section 3. (Uncodified in published ordinances).

(a) Savings Clause. The provisions of this Ordinance are hereby declared to be severable, and if any clause, sentence, word, section or provision is declared void or unenforceable for any reasons by any court of competent jurisdiction, such declaration shall not affect any portion of the Ordinance other than said part or portion thereof.

(b) Repeal. All ordinances in conflict with this Ordinance are hereby repealed.

(c) Effective Date. This Ordinance shall become effective immediately upon adoption.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.

Adopted by the City Council of the City of Ranson after a 1st reading on _____, 2017 and a 2nd reading on _____, 2017 by a vote of _____ in the affirmative, _____ in the negative with _____ abstentions.

_____
Keith D. Pierson
Mayor

ATTEST:

_____
Stacey A. Dodson Pfaltzgraff
City Clerk

AFFIX CITY SEAL

EXHIBIT HH 07-06-2017 LEGAL NOTICE FOR JEFF. ORCHARDS REZONING

LEGAL NOTICE
PUBLIC HEARING NOTICE
CITY OF RANSON

In accordance with W. Va. Code § 8A-7-9 et seq., and W. Va. Code § 8A-5-8 et seq., and Ranson Code § 19A-1.3 et seq. The Ranson Planning Commission will hold a public hearing on August 7, 2017 at 7:00 pm at Ranson City Hall, 312 S. Mildred Stréet, Ranson, WV. The purpose of the public hearing is to accept public comments on a petition to rezone Jefferson Orchards and to accept public comments on a proposed Land Development Plan and Plat. Upon recommendation and approval of the zoning map amendment by the Ranson Planning Commission, an ordinance amending the zoning map will be presented to the City Council for 1st reading on August 15, 2017 at 7:00 pm at City Hall, and presented to the City Council for the 2nd reading on September 5, 2017 at 7:00 pm at City Hall. The proposed zoning map amendment is intended to rezone Jefferson Orchards from Smart Code New Community (SC-NC) to Smart Code Special District Industrial (SC-SDI). Copies of the proposed zoning amendment and Land Development Plan and Plat are available for inspection during regular office hours of 8:00 am – 4:00 pm weekdays, excluding holidays at City Hall. All persons are invited to attend and make comments about the proposed zoning amendment and Land Development Plan and Plat. If you cannot attend but wish to comment, you may write and it must be received to the following address prior to August 4, 2017: City of Ranson, Attn: Planning Director, 312 S. Mildred Street, Ranson, WV 25438. Written Comments received prior to August 4, 2017, will be provided to the Planning Commission and inserted into the official record.

Maria Dula
Department of Community

EXHIBIT II - CoR ORDINANCE# 2017-302 (06-30-2020), PAGE 1

Ordinance # ***

ORDINANCE # 2017- 302

AN ORDINANCE AMENDING AND RE-ENACTING THE OFFICIAL ZONING MAP OF THE CITY OF RANSON PURSUANT TO RANSON MUNICIPAL CODE § 19-20 AND CHAPTER 19A, ARTICLE 1: "JEFFERSON ORCHARDS" REALLOCATING TRANSECT DISTRICTS (DISTRICT 8, TAX MAP 12, PARCEL 1).

AN ORDINANCE to amend certain portions of the official Zoning Map of the City of Ranson, West Virginia, for the purpose of reallocating transect districts within Smart Code New Community District (SC-NC) pursuant to Chapter 19-20 of the Ranson Municipal Code and Chapter 19A, Article 1 of the Ranson Municipal Code;

WHEREAS, West Virginia Code § 8A-7-8 and § 8A-7-9 permits the amendments to the zoning ordinance by either the governing body or petition by owners of fifty percent or more of the real property in the area in which the petition relates;

WHEREAS, Jefferson Orchards Inc. has submitted a rezoning petition and application;

WHEREAS, Jefferson Orchards, Inc., is the sole owner of the attached illustrated property, more commonly known as Jefferson Orchards, and being the same property, as described below, has petitioned the City of Ranson Planning Commission for a zoning map amendment to change the allocation of the transect districts within Smart Code New Community District (SC-NC);

WHEREAS, the Ranson Planning Commission adopted a Resolution dated August 7, 2017, recommending the Ranson City Council to amend the zoning map and change the subject property's zoning from as specifically illustrated on the attached Zoning Application;

WHEREAS, pursuant West Virginia Code § 8A-7-9, proper public notice and public hearings have been provided; and

WHEREAS, the rezoning petition is consistent with the 2012 Ranson Comprehensive Plan. The G3 Preferred Growth Sector of the application area is a priority expansion area of the 2012 City of Ranson Comprehensive Plan, and encourages the use of Chapter 19A Smart Code. As such, this rezoning petition conforms to the preferred vision of the Comprehensive Plan.

NOW, THEREFORE, be it enacted and ordained by the Council of the City of Ranson, West Virginia:

Section 1. The official City of Ranson Zoning Map be amended to reflect that Jefferson Orchards, located in District 8 of Ranson, Jefferson County, and identified on Map 12 as Parcel 1 consisting of approximately 389.7 acres is Smart Code-New Community (SC-NC) with new allocated transect districts.

Section 2. Consistent with Chapter 19A, Section 1.3.7, upon approval of the Land Development Plan and Plat by the Planning Commission pursuant to 3.1.4, specific transect districts shall replace the SC-NC designation on the official zoning map as part of the Planning Commission's approval of the land development plan and plat, so long as the allocation of the zoning districts within the land development plan and plat are consistent with Table 3 of Chapter 19A and the original rezoning to SC-NC. The replacement of specific transect zones on the official

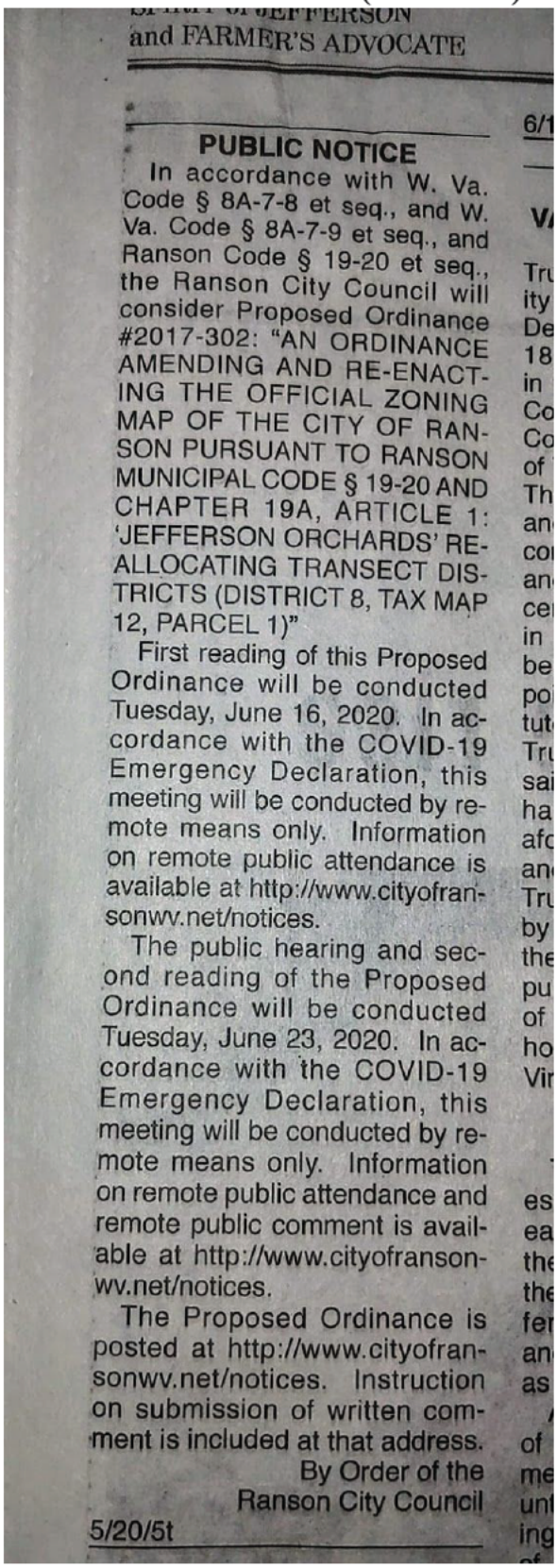
zoning map shall not be considered a zoning amendment pursuant to West Virginia § 8A-7-8 or West Virginia § 8A-7-9; thus, the placement of transect zones will not require further action of the Planning Commission or City Council. Transect zone placement shall be considered a continuation of the original SC-NC rezoning process pursuant to this Ordinance. So may be relocated within the parcel(s) administratively and on the official zoning map until final plat approval. Once the final plat is approved pursuant to Chapter 19A, 5.1.6.g transect districts may not be relocated or rearranged and may only be amended through the City's rezoning process.

Adopted by the City Council of the City of Ranson after a 1st reading on June 16, 2020 and second reading on June 30, 2020 by 5 in the affirmative, 1 in the negative with 0 abstentions.

Keith D. Pierson
Mayor

ATTEST:
Stacey A. Dodson Pfaltzgraff
City Clerk

EXHIBIT JJ - CoR ORDINANCE# 2017-302 (06-30-2020) - PUBLIC NOTICE



STATE OF JEFFERSON
and FARMER'S ADVOCATE

6/1

PUBLIC NOTICE

In accordance with W. Va. Code § 8A-7-8 et seq., and W. Va. Code § 8A-7-9 et seq., and Ranson Code § 19-20 et seq., the Ranson City Council will consider Proposed Ordinance #2017-302: "AN ORDINANCE AMENDING AND RE-ENACTING THE OFFICIAL ZONING MAP OF THE CITY OF RANSON PURSUANT TO RANSON MUNICIPAL CODE § 19-20 AND CHAPTER 19A, ARTICLE 1: 'JEFFERSON ORCHARDS' REALLOCATING TRANSECT DISTRICTS (DISTRICT 8, TAX MAP 12, PARCEL 1)"

First reading of this Proposed Ordinance will be conducted Tuesday, June 16, 2020. In accordance with the COVID-19 Emergency Declaration, this meeting will be conducted by remote means only. Information on remote public attendance is available at http://www.cityofransonwv.net/notices.

The public hearing and second reading of the Proposed Ordinance will be conducted Tuesday, June 23, 2020. In accordance with the COVID-19 Emergency Declaration, this meeting will be conducted by remote means only. Information on remote public attendance and remote public comment is available at http://www.cityofransonwv.net/notices.

The Proposed Ordinance is posted at http://www.cityofransonwv.net/notices. Instruction on submission of written comment is included at that address.

By Order of the
Ranson City Council

5/20/5t

EXHIBIT KK - RAD'S PUBLIC COMMENT FOR PROPOSED ORDINANCE #2017-302, VIA EMAIL SUBMISSION

Subject **Public comments for Proposed Ordinance #2017-302**
From Jennifer King, RAD Chair <chair@radwv.org>
To <SPFaltzgraff@ransonwv.us>, <gtaylor@ransonwv.us>, [redacted] <astroud@ransonwv.us>
Date 2020-06-16 16:23

- RADs Public Comments for Proposed Ordinance #2017-302.pdf(~115 KB)

Dear Council Members,

Please find attached Rural Agricultural Defenders' public comments for Proposed Ordinance #2017-302.

Thank you,
Jennifer King, Chair
Rural Agricultural Defenders (RAD)
PO Box 445, Kearneysville, WV 25430
304-283-0032
www.radwv.org
chair@radwv.org

EXHIBIT KK - RAD'S PUBLIC COMMENT FOR PROPOSED ORDINANCE #2017-302, PAGE 1

RURAL AGRICULTURAL DEFENDERS
P.O. Box 445, Kearneysville, WV 25430
info@radwv.org www.radwv.org

June 16, 2020

Re: Public Comments for Proposed Ordinance #2017-302

Dear City of Ranson Council Members,

I am Chair of Rural Agricultural Defenders (RAD), co-author of the Title VI Civil Rights Complaint for the Boyd Carter Memorial Cemetery against Jefferson County and several West Virginia state agencies, Legal Liaison to Boyd Carter Memorial Cemetery's Trustee Board, and a small agricultural based business owner in Kearneysville who will be negatively affected by Rockwool's air and water pollution.

Abuse of SmartCode Zoning and Home Rule Law

If Ranson passes Ordinance #2017-302, the zoning of Special District Industrial will conflict with many Jefferson County codes. Ranson would be violating Home Rule law. Nowhere in Home Rule code does it say Ranson can act as an autonomous nation and in fact has rules prohibiting this:

> §8-1-5a. Municipal Home Rule Program
> (j) The municipalities participating in the Municipal Home Rule Program may not pass an ordinance, act, resolution, rule, or regulation under the provisions of this section that:
>
> (1) Affects persons or property outside the boundaries of the municipality: Provided, That this prohibition under the Municipal Home Rule Program does not limit a municipality"s powers outside its boundary lines to the extent permitted under other provisions of this section, other sections of this chapter, other chapters of this code, or court decisions;

Indeed this zoning to allow heavy industry will affect many persons and their property negatively inside and outside of Ranson's district. It has been scientifically proven by respected, credentialled persons that Jefferson County's karst geography can not accommodate heavy industry and sediment ponds. Rockwool's sediment ponds put Jefferson County's water supply in danger of contamination. Rockwool's air pollution will negatively affect everyone within a 35 mile radius of Rockwool.

Ranson would be abusing SmartCode zoning by changing the zoning to Special District Industrial specifically to accommodate Rockwool. SmartCode is intended to benefit citizens and communities, not to benefit one corporation.

If this Ordinance is passed, Ranson will be violating their Comprehensive Plan which does not allow for heavy industry. By violating your Comprehensive Plan, Ranson would be once again abusing SmartCode as following a Comprehensive Plan is needed to use SmartCode.
Passing of this Ordinance and deviating from you Comprehensive Plan will also violate Home Rule law:

EXHIBIT KK - RAD'S PUBLIC COMMENT FOR PROPOSED ORDINANCE #2017-302, PAGE 2

Re: Public Comments for Proposed Ordinance #2017-302

§8-1-5a. Municipal Home Rule Program

(i) The municipalities participating in the Municipal Home Rule Program may not pass an ordinance, act, resolution, rule, or regulation, under the provisions of this section, that is contrary to the following:

(8) The municipality"s written plan;

Environmental Racism and Discriminiation on the Boyd Carter Memorial Cemetery

"You always know when it's injustice when you see them tryin' to tear down or build over a Black cemetery. This is not the 1st community I've worked in where a Black cemetery has been a target. I don't care about your living or your damn dead! That's what's happening! Right? That's environmental racism!" [redacted] at RAD's Air Symposium
https://youtu.be/PgbgzHyb0fc?t=47

The African American Boyd Carter Memorial Cemetery has never been given the respect, preservation, and protection from West Virginia, Jefferson County, or Ranson. There are more than a dozen marked and unmarked Black graves on Rockwool's property… in Ranson's district. These graves are in danger of being removed by Rockwool's fire access road. This Cemetery is sacred ground and possibly a slave burial ground. You think tearing up Black graves and erasing Black history for the sake of development or one corporation is progress?

The final resting places at the Boyd Carter Memorial Cemetery and their descendants deserve respect and not one Ranson official has offered an olive branch to listen and/or help with these critical issues. The Cemetery and it's graves on Rockwool's property were never taken into account for this zoning change or Rockwool's project. They have been pushed aside and ignored intentionally.

Ranson might not have known all the facts before in 2017 when they were pressured by the state, improperly tried to change this zoning for Rockwool, and ushered in Rockwool. But you all know now. Your lives and your neighbors lives depend on your vote. The protection of the Cemetery, its Black history, and descendants depend on your vote. Vote no on Proposed Ordinance #2017-302. It is never too late to do the right thing.

Thank you,
Jennifer King
Rural Agricultural Defenders, Chair

EXHIBIT LL - CoR's COUNCIL MEMBER STROUD'S RESPONSE TO RAD'S PUBLIC COMMENT FOR PROPOSED ORDINANCE #2017-302

Subject **Re: Public comments for Proposed Ordinance #2017-302**
From Amanda Stroud <astroud@ransonwv.us>
To Jennifer King, RAD Chair <chair@radwv.org>
Date 2020-06-16 16:27

Good Afternoon. Thank you for taking the time to share your thoughts on Ordinance #2017-302 with me.

Sincerely,
Amanda Stroud
Ranson City Council At-Large

From: Jennifer King, RAD Chair <chair@radwv.org>
Sent: Tuesday, June 16, 2020 4:23 PM
To: Stacey Pfaltzgraff <SPfaltzgraff@ransonwv.us>; Gene Taylor <gtaylor@ransonwv.us>; (b) (6) Privacy, (b) (7)(C) Enforcement Privacy; (b) (6) Privacy, (b) (7)(C) Enforcement Privacy Amanda Stroud <astroud@ransonwv.us>
Subject: Public comments for Proposed Ordinance #2017-302

CAUTION: External Email

Dear Council Members,

Please find attached Rural Agricultural Defenders' public comments for Proposed Ordinance #2017-302.

Thank you,
Jennifer King, Chair
Rural Agricultural Defenders (RAD)
PO Box 445, Kearneysville, WV 25430
304-283-0032
https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fwww.radwv.org&c=E,1,fclEJ6iYwtMy4YzezeqMs5M5FVxUNOdlB-qnn-Ps0mEHoYGqv_ACUJ2aJY9fPTIw7SpdupaYwDHyp7HPQYBYD_md40z_qE8WsHycjTtYKKN4eLk,&typo=1
chair@radwv.org

EXHIBIT MM - JUNE 21, 2020, RAD NOTIFYING CoR OF RAD'S PUBLIC COMMENT OMISSION

Chair, Rural Agricultural Defenders

From: "Chair, Rural Agricultural Defenders" <chair@radwv.org>
Date: Sunday, June 21, 2020 8:49 PM
To: <SPfaltzgraff@ransonwv.us>; <gtaylor@ransonwv.us>; (b) (6) Privacy, (b) (7)(C) Enforcement Privacy (b) (6) Privacy, (b) (7)(C) Enforcement Privacy; <astroud@ransonwv.us>
Attach: Pfaltzgraff response RE_ Request to Speak at Public Hearing on June 23rd for Proposed Ordinance #2017-302.pdf, RAD email __ Public comments for Proposed Ordinance #2017-302.pdf; stroud response Re_ Public comments for Proposed Ordinance #2017-302.pdf; RADs Public Comments for Proposed Ordinance #2017-302.pdf
Subject: Rural Agricultural Defenders comments not included in public comments for the June 23rd Proposed Ordinance #2017-302 hearing

Dear Ms. Pfaltzgraff and Ranson Council Members,

I have reviewed the public comments in Ranson's Agenda Packet for the June 23rd Proposed Ordinance #2017-302 hearing. It appears my comments for Rural Agricultural Defenders (RAD) I submitted on June 16th were not included in the records for public comment. I sincerely hope this is an oversight.

I have verified that the correct email address was used for submission. I've included a response from Ms. Pfaltzgraff to my request to speak on June 23rd; same email address was used for public comment submission. Also, Councilwoman Stroud was courteous to send a reply that the comments were received by her. Please find my original emails attached and RAD's public comment. Please add RAD's public comment to the June 23rd Proposed Ordinance #2017-302 Agenda Packet for the record.

Best regards,
Jennifer King
Chair, Rural Agricultural Defenders (RAD)
P.O. 445
Kearneysville, WV 25430
www.radwv.org
www.facebook.com/RADWV

EXHIBIT NN - JUNE 22, 2020, COR CLERK, MS. PFALTZGRAFF RESPONSE TO RAD'S PUBLIC COMMENT OMISSION

Subject: **Re: Rural Agricultural Defenders comments not included in public comments for the June 23rd Proposed Ordinance #2017-302 hearing**
From: Jennifer King, RAD Chair <chair@radwv.org>
To: Stacey Pfaltzgraff <SPfaltzgraff@ransonwv.us>
Cc: Gene Taylor <gtaylor@ransonwv.us>, (b) (6) Privacy, (b) (7)(C) Enforcement Privacy
(b) (6) Privacy, (b) (7)(C) Enforcement Privacy Amanda Stroud <astroud@ransonwv.us>
Date: 2020-06-23 12:31

Hi Ms. Pfaltzgraff,

I see there are more comments added to the Agenda Packet for tonight's meeting, however, I'm still not seeing my comment for RAD. If I'm missing it, please let me know what page it's on. Or please add to the Packet if it's not there.

Thank you,
Jennifer

Jennifer King, Chair
Rural Agricultural Defenders (RAD)
PO Box 445, Kearneysville, WV 25430
304-283-0082
www.radwv.org
chair@radwv.org

-------- Original Message --------
Subject: Re: Rural Agricultural Defenders comments not included in public comments for the June 23rd Proposed Ordinance #2017-302 hearing
Date: 2020-06-22 05:41
From: Stacey Pfaltzgraff <SPfaltzgraff@ransonwv.us>
To: "Chair, Rural Agricultural Defenders' <chair@radwv.org>

Good morning Jennifer. My sincere apologies... Yes, this was an oversight. Thank you for bringing this to my attention. I will search my email tomorrow when I return to the office for your attachment; and make sure Council has a copy and it is included for the record.

Stacey A. Pfaltzgraff

Sent from my iPhone

> On Jun 21, 2020, at 8:51 PM, Chair, Rural Agricultural Defenders <chair@radwv.org> wrote:
>
> CAUTION: External Email
>
> Dear Ms. Pfaltzgraff and Ranson Council Members,
>
> I have reviewed the public comments in Ranson's Agenda Packet for the June 23rd Proposed Ordinance #2017-302 hearing. It appears my comments for Rural Agricultural Defenders (RAD) I submitted on June 16th were not included in the records for public comment. I sincerely hope this is an oversight.
>
> I have verified that the correct email address was used for submission. I've included a response from Ms. Pfaltzgraff to my request to speak on June 23rd; same email address was used for public comment submission. Also, Councilwoman Stroud was courteous to send a reply that the comments were received by her. Please find my original emails attached and RAD's public comment. Please add RAD's public comment to the June 23rd Proposed Ordinance #2017-302 Agenda Packet for the record.
>
> Best regards,
> Jennifer King
> Chair, Rural Agricultural Defenders (RAD)
> P.O. 445
> Kearneysville, WV 25430
> https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fwww.radwv.org&c=E,1,Stpq-f-rCCBjdC1W1kX7S5iCHiFv-ZD87WwG8Kr9hJF_a11XYHoq3e3fFDNUBArBtrUFW83GtuQgjO1a9tds7DeC1c-1Dm7
> www.facebook.com/RADWV
> <PFaltzgraff response RE_ Request to Speak at Public Hearing on June 23rd for Proposed Ordinance #2017-302.pdf>
> <RAD email __ Public comments for Proposed Ordinance #2017-302.pdf>
> <stroud response Re_ Public comments for Proposed Ordinance #2017-302.pdf>
> <RADs Public Comments for Proposed Ordinance #2017-302.pdf>

EXHIBIT OO - COR RESCHEDULING OF 06/23/2020 PUBLIC HEARING TO 06/30/2020 DUE TO TECHNICAL DIFFICULTIES

City of Ranson

Office of The Mayor

312 South Mildred Street
Ranson, West Virginia 25438-1621
Phone (304) 725-1010 | Fax (304) 728-8579
Email: dpierson@ransonwv.us

Keith D. Pierson - Mayor

Council Members:
Mike Anderson
Dave Cheshire
Scott Coulter
Donnie Haines
Amanda Stroud
Gene Taylor

June 24, 2020 4:00 PM

FOR IMMEDIATE RELEASE

During and following the Ranson City Council special meeting on June 23rd, I discovered that the remote meeting technology used for this meeting did not facilitate full and fair public discussion and public deliberation. Although Council could hear audio from remote participants, remote participants could not hear audio from the council room for a portion of the meeting. This resulted in several speakers not hearing their turn to speak and remote listeners not hearing the Council's conclusion. Because of these shortcomings, Council does not consider the vote taken last night as a final action on the proposed ordinance, and the City will not act in reliance upon that vote.

Accordingly, Council will reconvene on Tuesday, June 30 at 7:00 PM to continue this remote special meeting. In preparation for this meeting, City Staff will contact speakers who:

1. Signed up to speak by the original deadline;
2. Was online when their name was called to speak during the 6/23 meeting; and
3. Was unable to be heard by Council.

Staff will provide these individuals with instructions on how to be heard when the 6/23 meeting is reconvened.

Following receipt and consideration of the remaining comments, Council will vote on the second reading of the proposed ordinance.

If you would like to listen to the meeting please register: https://cityofransonwv.net/rccsm
Instructions to connect will be sent to you after you register. Previous links will not connect you to this meeting.

POC is City Manager Tony Grant, tgrant@ransonwv.us 304-724-3872

Keith D. Pierson

Mayor Duke Pierson

EXHIBIT PP - CoR CITY MANAGER, ANDY BLAKE, TO JEFFERSON ORCHARDS OWNER, MARK RALSTON; MR. BLAKE DESCRIBED HOW FEDERAL FUNDS WERE USED TO BENEFIT ROCKWOOL

From: Andy Blake
To: Duke Pierson
Subject: Fwd: Jefferson Orchards
Date: Monday, May 14, 2018 6:53:23 PM

Get Outlook for iOS

From: Andy Blake
Sent: Monday, May 14, 2018 6:11:14 PM
To: Mark Ralston; [redacted]
Cc: Edward Erfurt
Subject: Jefferson Orchards

Good afternoon Mark:

[redacted] has informed us that you are coming to town next week and would like to meet. You had mentioned that you were coming to town. We will make ourselves available. I think it would be most productive if we had an agenda of what specifics you would like to speak about to make it productive. I see a couple of issues as we have previously discussed:

1. Northern orphaned parcel: This parcel is now part of Rockwool so that the northern piece isn't orphaned with the intent to be deeded back to the Orchards. This parcel needs to be merged with your newly acquired piece through a merger plat. It then can be rededicated back to the Orchards. The newly acquired piece should be annexed. This is a simple process that requires your consultants to simply turn in the application and required paperwork.

2. Planning – As you know, in 2012, Jefferson Orchards was selected for a complete rezoning and land development plan free of charge to the landowner through a federal and local HUD Challenge Planning Grant. The site was envisioned and planned as a transit oriented development with about a 1/3 zoned special district industrial. This is the zoning that Rockwool took advantage of and probably consisted of about $100,000 in free planning that resulted in a completely vested and approved plan by the Planning Commission and Council. It's the plan that still exists today. There has been an expressed a desire by you to allow industrial on the entire remaining parcel. While this may be possible with an ordinance change, zoning is just one aspect of the two step planning process within the City. The City requires underlying zoning plus a land development plan. The land development plan is the vested land use document that goes to public hearing and sets out road networks, utility corridors, environmentally sensitive areas, land bays utilizing best land use analysis. The best example of this is your own land development plan. Simply, it requires a vision – providing enough flexibility to allow uses while setting up some certainly and flexibility. There are planning firms across the country that focuses on this type of development and process. The same type of process needs to occur again if you plan on re-entitling the property to another plan.

While the City isn't able to pony up additional funds to once again plan Jefferson Orchards, we learned last week that the City does have the ability to apply for 2 grants that could plan the Orchard and surrounding site. Our consultant is currently writing a summary of the process for applying for these grants. One grant is through the US EDA up to $300,000 to conduct a market study and land planners plan the Orchards, Tackley Mill, Blackford Village presenting a fully vested plan that is publicly vetted and development ready. This grant has a rolling deadline and does require a match.. The City would be willing to administer this but would be looking or a monetary contribution by the

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EXHIBIT PP - CoR CITY MANAGER, ANDY BLAKE, TO JEFFERSON ORCHARDS OWNER, MARK RALSTON; MR. BLAKE DESCRIBED HOW FEDERAL FUNDS WERE USED TO BENEFIT ROCKWOOL

land owner(s). The second grant is called BUILD (formerly TIGER Planning Grant) which could be applied for to design and engineer the rest of the road, bike path and the train station (if it is found feasible by the market study and analysis).

I have spoken to City Council and the Planning Commission about this area. They are open to ideas, but consistent with our land use regulations, it requires a plan. The Council would like to see a wholistic approach that takes into consideration your land along with surrounding properties. It's almost 1,500 acres of land. Some properties could be ripe for larger scale manufacturing. Other areas not so much- which can serve as support uses for the larger scale manufacturing. The Council (along with myself) isn't necessarily keen on calling the area an industrial park especially given the City's two decade history of cleaning up turn of the century dirty industrial sites and the fact that development patterns that focus solely on industrial parks have changed in the last 20 years. The Council is very much accommodating to high-tech and clean manufacturing and research – like Rockwool and the potential user to Rockwool's north- along with other compatible uses.

But, to put it as simply as we can, we need a solid vision and plan.

Many thanks

Andy

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